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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

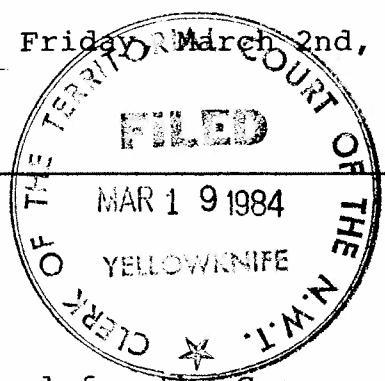
IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

FRANK MERCREDI

Transcript of the Oral Sentencing Delivered by His Honour Judge R. M. Bourassa, sitting at Yellowknife in the Northwest Territories, on Friday March 2nd, A.D., 1984.



APPEARANCES:

MR. J. SHIPLEY: Counsel for the Crown

MR. D. COOPER: Counsel for the Defence



1 THE COURT: Frank Mercredi is convicted of two offences,
2 one under Section 666, and one under Section 133(3), and
3 I want you to listen carefully to what I say, because I
4 am not saying it to the walls. I am saying it to you.

5 Normally, in almost every instance, when someone
6 has wilfully breached a probation order or an undertaking,
7 which is just a fancy word for promise, the courts take
8 that as being virtually a contempt of court. It is a
9 refusal to comply with a court order, and a jail term
10 almost invariably results.

11 Frank Mercredi is, in my estimation, eligible for a jail term.
12 He has been placed on probation in the past and has
13 been convicted of breach of probation in the past. He
14 has been fined to bring home the seriousness of
15 probation, but that didn't work, and he was given a jail
16 term of ten days, and that didn't work.

17 In my view, a jail term in the neighborhood of a
18 month consecutive on each charge would be appropriate, and
19 I say that to you because I want you to understand how
20 seriously the court looks at this matter. You may not like
21 reporting, but you have forfeited your right to live your
22 life without the court looking over your shoulder. You
23 forfeited that right when you got involved in criminal
24 activities. If you stay out of criminal activities, then
25 you will be able to live your life without people looking
26 over your shoulder.

27 In November of 1982 when you were convicted of assault



1 and placed on probation for two years, as I say, in the
2 court's wisdom at that time the probation order was deemed
3 to be appropriate, and for the next two years at least
4 you forfeited your right to live your life without
5 accounting to the court.

6 I point out to you, as I am sure your lawyer can
7 confirm and provide you with the details, that if a person
8 is subject to a probation order and circumstances arise
9 where the probation order may no longer be wholly
10 appropriate, application can be made to vary the orders terms.
11 You should be taking steps like that instead of ignoring
12 your obligations.

13 I am hard pressed to find any good reason why you
14 shouldn't be sentenced to a term of imprisonment. The
15 breach of probation was a straight forward decision by
16 you that it was inappropriate for you to report because
17 you didn't like what happened, but that is no longer in
18 your control whether you like the things that happen or
19 not.

20 The failure to report to the police, again, that is
21 a serious matter. It is an order by the court that you
22 report to the police, and babysitting an eleven year old is
23 no excuse. As Mr. Cooper has suggested, you would have
24 been far wiser to phone up the officer in charge and
25 make a note of his name, make a note of what you had told
26 him, and then gone to report later that day or the next
27 day, but to simply walk away from your obligations that you



1 are subject to is no answer, and if it is going to mean
2 jail terms to bring that lesson home to you, it is indeed
3 unfortunate, but that is going to have to be.

4 No court, no judge, likes to send people to jail, but
5 if they don't live up to their obligations, jail may be the
6 only way of bringing home to them that those obligations
7 are real.

8 I take into account the Crown's position in this
9 matter, and I take into account what your lawyer has said
10 on your behalf, and I take into account that your lawyer
11 has indicated to me that you are promising that this
12 won't happen again. I will accept that assurance on this
13 one occasion.

14 I am going to direct the reporter here who is taking
15 down everything that I am saying to make a copy of these
16 reasons and make them available for your file, and if you
17 are back before the courts again on a breach of probation
18 or a failure to comply with a promise, the next judge, if
19 it is a different judge who is hearing the case if it
20 comes to a sentence, will clearly understand that what
21 I am doing today I consider to be an exception to the
22 normal way that these offences are treated, and that
23 you are being treated extremely leniently at least as far
24 as I am concerned. That leniency may not be available to
25 you again in the future. You are getting a second chance,
26 as it were, more than a second chance. I am taking you
27 up on your promise, but I want to caution you, Mr. Mercredi,



1 that your promises aren't going to mean very much if you
2 are back before the court for similar offences.

3 On the charge of breach of probation, there will be
4 a fine of \$300, in default, thirty days in jail. On the
5 charge of failing to comply with your undertaking, there
6 will be a fine of \$300, in default, thirty days in jail
7 consecutive. How long does the accused require to pay,
8 Mr. Cooper?

9 MR. COOPER: In the circumstances, sir, I would think
10 four months would be appropriate.

11 THE COURT: Well, I will give the accused three months
12 to pay the fines. If the circumstances warrant, there
13 is the possibility that the court can extend the terms
14 for payment.

15 MR. COOPER: Thank you, sir.

16
17 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)
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21 Certified a correct transcript,

22 *Laurie Ann Young*
23 Laurie Ann Young
24 Court Reporter
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