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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

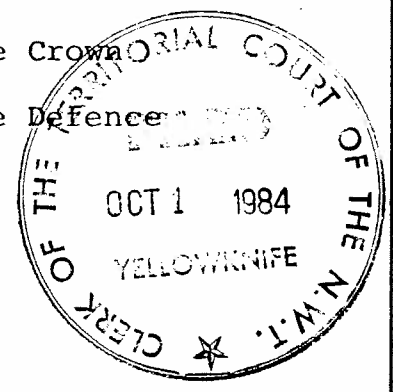
VS

FRED CHINNA

Transcript of the oral judgement delivered by His Honour, Judge
T. B. Davis, sitting at Fort Good Hope, in the Northwest Terri-
tories, on Wednesday, September 5th, A.D., 1984.

APPEARANCES:

MR. D. GATES: Counsel for the Crown
MR. A. WRIGHT: Counsel for the Defence



1 THE COURT: Fred Chinna has appeared before the Court
2 and changed his pleas from not guilty to pleas of guilty on
3 four different charges and admitting that on the 14th of April,
4 1984, he had been operating a snowmobile at a time when his
5 breathalyzer readings were 210 and 200 miligrams percent on
6 being tested.

7 He also admits that in violating Section 236 and driving
8 the motor vehicle, which is a snowmobile, in that condition, he
9 violated Section 666 of the Code, which is the probation order
10 then in effect requiring him to keep the peace and be of good
11 behaviour. Within a couple of weeks following that offence,
12 the accused appeared or was charged with failing to provide a
13 breathalyzer sample upon demand on the 1st of July, 1984, also
14 at Fort Good Hope, after he had been seen driving a motor bike
15 from the side of the road and was observed by the police as
16 driving the mini bike in an unsteady way and weaving along the
17 highway.

18 He showed the usual signs of impairment and upon the ad-
19 vice being given that he was entitled to consult with a lawyer
20 and upon demand being made after he was arrested, he refused
21 to comply with the demand and today he has admitted that he
22 has violated Section 235 of the Criminal Code. In doing so on
23 that 1st day of July, he again violated the probation order
24 that was in effect, because he broke the law on that occasion.

25 Defence has reviewed and acknowledged the existence of the
26 record of the accused which included driving over the breath-
27 lyzer limit, 1981, when in March he was fined \$500, and the

1 result on his record being an impaired driving charge from
2 1973.

3 The accused also acknowledged that he had received on the
4 16th of April, 1984, a Notice of Intent to request a greater
5 penalty, which means, that on the offence of impaired driving
6 for April the 14th, 1984, the Court must impose a minimum of
7 14 days in jail.

8 The accused also acknowledges that on the 1st of July, 1984,
9 he received a similar notice. Crown Counsel has indicated to
10 the Court that the Court must impose a minimum of 14 days, but
11 I'm not bound by the usual requirement, which would be to impose
12 a minimum of three months.

13 I appreciate Crown Counsel advising the Court on that sit-
14 uation, because I would have considered that three month min-
15 imum period for that second offence would have been in order.

16 It's helpful to have Counsel advise the Court on these
17 matters at times so that the wrong attitude, the wrong sentence
18 will not be imposed. Because of the requirement for the Court
19 to consider the protection of the public and the deterrent effect
20 on the sentencing, I must also consider what is required with
21 regard to the two offences of violating the existing probation
22 order.

23 The probation order was put into effect because of a violation
24 of possession of liquor in the community and requires that
25 the person keep the peace and be of good behaviour while the
26 order is in effect.

27 It's customary for the Courts to consider a jail term on

1 violations of any probation order and in this instance, because
2 the accused has a substantial record and certainly knows that
3 the Court must deal with these matters in a realistic basis
4 and not be indifferent about the enforcement of the law, that I
5 think a short term in jail for violation of the Probation Order
6 is also appropriate under the circumstances.

7 Because the accused is presently employed and has respon-
8 sibilities for maintainaing children and has, through Counsel,
9 indicated to the Court that he ordinarily would be hunting at
10 this time of the year so as to try and provide additional meat
11 for the family, I'm considering and will grant a time for the
12 accused to remain at work and to do some hunting on the week-
13 ends before he must appear to serve the time required in jail.

14 I'm considering, therefore, the date of the 24th or 25th
15 of September as the date when the accused must present himself
16 to serve his time and I will take further recommendations from
17 Counsel on that. In this instance on one of the offences,
18 Section 235, driving a mini bike, I'm going to cancel the driv-
19 ing privileges of the accused and cancel them absolutely for
20 a period of one year under the authority of the Vehicles Ordin-
21 ance of the Northwest Territories, and therefore, Mr. Chinna,
22 you will not be entitled to drive a motor vehicle or skiddoo
23 or motor bike or any other vehicle during that entire time.

24 I feel in this instance that's a very short time, because
25 the Court's have been directed to consider suspension of far,
26 far longer than that for second offences. Even with regard,
27 therefore, to the jail terms to be imposed on Section 236 of

1 the Code relating to the offence on April the 14th, I'm going
2 to impose 14 days in jail. On the offence relating to Section
3 666 on the same date, I'm going to impose one month in jail to
4 run consecutively.

5 On Section 235 of the Code, and that's driving the mini
6 bike, I'm going to again impose the minimum term and that's
7 14 days in jail, to run consecutively--no, I'm sorry, on that
8 offence, I'm imposing 20 days in jail to run consecutively and
9 on the charge under Section 666 (1), relating to the same day,
10 July 1st, I'm also going to impose one month in jail, but that
11 will run concurrently, so it's not additional time.

12 My intention, gentlemen, is to allow the accused to serve
13 one day by attendance in Court today and the balance of his
14 term commencing on the 24th or 25th. Would those dates be
15 inconvenient for transportation of the accused?

16 MR. GATES: No, sir.

17 THE COURT: I'm going to allow the accused to serve
18 his time intermittently, by serving one day today and the
19 balance of the term to be served from September the 24th, 1984
20 and I will require the accused to submit himself to the R.C.M.P.
21 office before 12:00 noon on that day and then commencing serving
22 the balance of your term. Do you understand that, Mr. Chinna?

23 THE ACCUSED: M-hm.

24 THE COURT: To accomplish that, the Clerk will be pre-
25 paring the probation order, the probation order that will be
26 in effect which requires you to keep the peace and be of good
27 behaviour and requires you to obey the other terms of the order

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in the form of reporting for serving your time.

THE CLERK: Your Honour, are all sentences intermitten?

THE COURT: Yes, the sentences are all going to be served intermittently. They will all, therefore, be effected by the one Probation Order, if it's possible to do that. Would this be an appropriate time to take a break?

MR. WRIGHT: Yes, sir.

(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

Certified a correct transcript,

Brenda MacDougall
Brenda MacDougall
Court Reporter