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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER:

HER MAJESTY THE QUEEN

VS

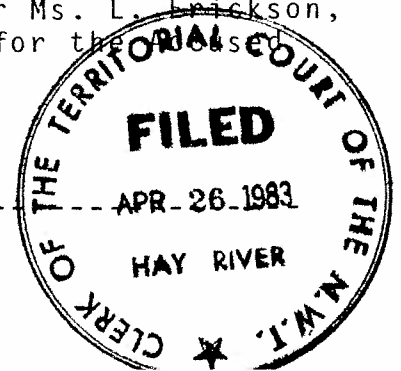
JOHN DIADENTA

Transcript of an Oral Judgment given by His Honour
Judge R. W. HALIFAX, sitting at Fort Liard in the
Northwest Territories on Friday, April 8, A.D. 1983.

APPEARANCES:

MR. J. SHIPLEY Counsel for the Crown

MR. N. SIBBESTON Agent for Ms. L. Erickson,
Counsel for the Respondent





1 THE CLERK OF THE COURT: John Diadenta.

2 MR. SHIPLEY: Our information, Your Honour, is that
3 Mr. Diadenta is in Fort Nelson, B.C., at the moment.

4 THE COURT: You're appearing on this matter, Mr. Sibbeston?

5 MR. SIBBESTON: Yes, sir, I'm appearing as agent.

6 THE COURT: It's a summary conviction matter, so you can
7 appear as agent.

8 MR. SIBBESTON: Your Worship, I'm appearing as agent for Miss
9 Erickson in this matter.

10 THE COURT: She was appointed by the Court to act on
11 behalf of Mr. Diadenta.

12 Okay, it is a matter for judgment with regard
13 to the issue raised of a loss of jurisdiction. The circum-
14 stances arising were that the matter had been adjourned on
15 a couple of occasions to December 1, 1982, at 11 a.m. in
16 Fort Liard, Northwest Territories, on a charge that he did
17 unlawfully hunt Wood Bison, contrary to Section 13(a) of the
18 Wildlife General Regulations made pursuant to the Wildlife
19 Ordinance of the Northwest Territories.

20 On that day, due to aircraft mechanical prob-
21 lems, the court party was unable to arrive in Fort Liard.
22 There was a message passed ahead to the R.C.M. Police that
23 there was going to be a delay and, eventually, that the court
24 party would not be able to attend.

25 The Justice of the Peace heard several of the
26 matters on the docket and adjourned them to a further date.
27 However, the Diadenta matter did not appear on the docket.



1 It was not called nor was the accused John Diadenta present.
2 The Information was not before the Justice of the Peace which,
3 in my view, is not a necessity.

4 The issue comes down to whether or not as a
5 result of nothing being done on the 1st of December, in these
6 circumstances, there is a loss of jurisdiction.

7 Now, I have had the written argument provided
8 by Miss Erickson and on behalf of the Crown which I have had
9 an opportunity to review. It seems to me, however, after
10 consideration of all the circumstances, that we are in a
11 situation that has been referred to by the Supreme Court of
12 Canada in the Krannenburg case, a judgment of Mr. Justice
13 Dickson; and I just wish to refer to two parts of that case
14 which is found in 1980, 51 Canadian Criminal Cases, Second
15 Edition and, firstly, at page 209 where Mr. Justice Dickson
16 in the Supreme Court of Canada stated:

17
18 It should be observed at the outset
19 that this case approximates the sit-
20 uation in Trenholm . . .

21 which is the Krannenburg case:

22
23 . . . where "nothing is done", rather
24 than in Doyle . . . where there was a
25 clear contravention of a specific
26 provision of the Code relating to
27 adjournments. Doyle did nothing to
erode the view expressed in Trenholm
that when the assigned date passes,
without action taken, jurisdiction is
lost.



1 was not adjourned by the Justice of the Peace. As a result,
2 in my view, there is a loss of jurisdiction. That being so,
3 the matter is a nullity. The charge, in my view, is there-
4 fore dismissed.

5 I appreciate that this causes some problems in
6 the Northwest Territories where we have problems with weather
7 conditions; we have problems with aircraft mechanical dif-
8 ficulties from time to time. In summary conviction matters,
9 it causes loss of jurisdiction which cannot be cured if it
10 is past the limitation period as in this case occurred.

11 The offense is one that occurred on the 1st
12 day of July. By the time the matter came before the Court
13 again in January, it was past the limitation period of six
14 months. As a result, there can be no further charge laid
15 against the accused John Diadenta.

16 As a result, the charge will be dismissed.
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Certified Correct:

Margaret Andruniak
Court Reporter