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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

DAVID JOHN MENACHO

Transcript of the oral judgement delivered by His Honour, Judge
T. B. Davis, sitting at Fort Norman in the Northwest Territories,
on Thursday, September 6th, A.D., 1984.

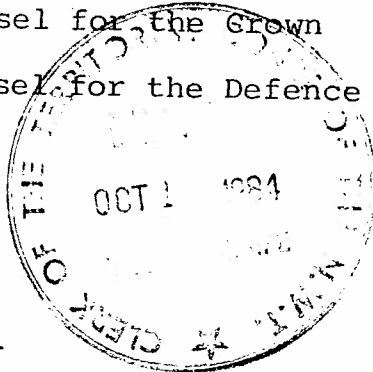
APPEARANCES:

MR. D. GATES:

Counsel for the Crown

MR. A. WRIGHT:

Counsel for the Defence



1 THE COURT: Mr. David John Menacho has entered a plea
2 of guilty on a charge that he committed mischief by breaking
3 a window in a property when he and the occupant of the property
4 entered into an argument and he also pleads guilty today by
5 doing so, violating Section 666 of the Criminal Code, because
6 he was on probation at the time that he committed the mischief,
7 and therefore, violated the probation order.

8 The accused in this instance had obeyed part of the probation
9 order that was put into effect by Judge Smith when he dealt
10 very leniently with the accused in April of 1984, because he
11 did attend at the program at Delta House, acknowledging that he
12 has had an alcohol problem and as a result of attendance, was
13 able to stay away from alcohol for a period of a month.

14 It's unfortunate that this incident has occurred because
15 I see no alternative but to impose a substantial penalty, but
16 I am able to take into account the fact that Mr. Menacho has
17 made some efforts at his own rehabilitation and has taken the
18 course and stayed away from alcohol, which appears to be a
19 substantial effort after considering and reviewing the record
20 of criminal convictions of the accused.

21 I therefore am in a position where I do not have to do
22 what I thought would be necessary and that was to consider the
23 maximum penalty in jail for the accused, since he's been advised
24 now through his lawyer that he has to make some efforts. He
25 also did make restitution and paid for the damage done to the
26 window of the victim.

27 The accused is on and will remain on probation for the

1 balance of the two year period from April of 1984 and will
2 still be required to report to the Probation Officer whenever
3 he is directed to do so, so as to indicate to the accused and
4 others that they must refrain from committing mischief, even if
5 the value of the damage done is not substantial.

6 I'm going to impose a fine on the accused on that charge
7 in the amount of \$150 or in default thereof, five days in jail
8 On the second charge, which Crown Counsel has properly pointed
9 out to be the more serious matter, I'm going to impose a short
10 term in jail, being short compared to what I otherwise would
11 have imposed, because of the reasons I have mentioned. The
12 jail term is being imposed so that Mr. Menacho and others re-
13 alize that if a Court orders that a person keep the peace and
14 be of good behaviour, some punishment must be imposed upon
15 failure to obey. I notice that in the past, the accused has
16 been in jail for breaches of probation on various occasions,
17 but rather than a six month period which I was considering,
18 I'm going to impose a term in jail of 45 days in this instance
19 giving him as much credit as possible for his own efforts at
20 rehabilitation. That will run consecutive with any default, so
21 the five days in jail, if there is default, would be consecutive
22 on the probation order violation which is 45 days.

23 THE CLERK: 45 days on the breach of probation and five
24 days consecutive on the fine?

25 THE COURT: Yes, if there is failure to pay the fine.
26 How long will the accused require in order to pay a fine?

27 MR. WRIGHT: Two months should be sufficient, sir.

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THE COURT: Thank you. The accused will be allowed two months in which to pay the fine.

(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

Certified a correct transcript,

Brenda MacDougall

Brenda MacDougall
Court Reporter