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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

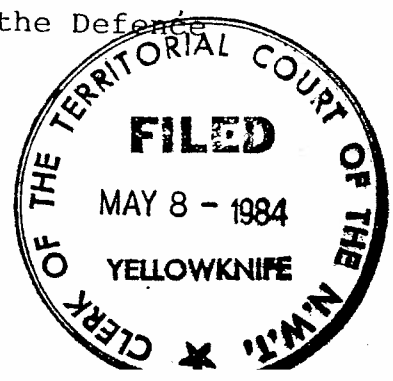
DALE ALEXANDER CARLSON

Transcript of the Oral Sentencing delivered by His Honour Judge R. M. Bourassa, sitting at Yellowknife, in the Northwest Territories, on Wednesday, December 14, A.D. 1983.

APPEARANCES:

MS N. BOILLAT On behalf of the Crown

MR. L. SEBERT On behalf of the Defence





1 THE COURT: Dale Alexander Carlson is to be sentenced on an
2 offence contrary to Section 236 of the Criminal Code. As
3 has often been stated, there is usually no great difficulty
4 in addressing or identifying the particular factors to be
5 considered in sentencing, but it is always difficult in trying to weigh
6 which factor should be the most important and most signifi-
7 cant and to achieve a balance that hopefully will have as
8 its goal one or more of the goals set out by Mr. Justice
9 Cullitin in Morrisette.

10 This accused presents a challenge. He is con-
11 victed of an offence of driving over eighty milligrams of
12 alcohol in his blood. He was observed by the police on
13 patrol on Saturday night in Yellowknife, well into the
14 evening, pulling out from a side road and then proceeding
15 down the main street in Yellowknife with his lights off, and
16 running a stop sign, before he was pulled over. He was
17 unable to produce evidence of insurance or a driver's
18 licence. Two tests on the Borkenstein breathalyzer
19 resulted in readings of a hundred and forty, and a hundred
20 and fifty.

21 The accused is thirty-five years old; and from
22 1964, until 1980, he was almost continuously involved in
23 confrontations with the law. It is admitted in the sub-
24 missions that during that period he had a gross problem with
25 drugs and alcohol, and that is certainly reflected in his
26 criminal record with a number of offences of break and
27 enter, possession of a narcotic, and the like. I am not



1 too concerned about that aspect of the man's record, it
2 doesn't really have much to do with what I have to deal with
3 today. What I am concerned about is that in 1978, he was
4 convicted of driving while suspended; in 1979, he was con-
5 victed of driving while his ability was impaired, refusing
6 to provide a breath sample, and driving while disqualified.
7 Again, in 1979, a few days later, he was convicted of
8 driving while his ability was impaired, and again driving
9 while suspended. In 1980, in Edmonton, he was convicted of
10 another criminal offence.

11 The accused, I don't know how long he has been
12 in Yellowknife, but I am advised that after some time in
13 Yellowknife he has finally managed to secure a job which he
14 has held now for a week and a half; and he asks the Court
15 to impose some sentence that will enable him to continue in
16 that employment. I am sympathetic to that plea, however, I
17 wonder how far a Court can go in protecting an individual
18 from the consequences of his own acts. I think Mr. Carlson
19 must clearly understand that whatever happens today is not
20 my doing, it's his own doing; and all the Court is doing
21 today is telling him what he has done to himself. I don't
22 think that in some instances it is appropriate for the
23 Court to try and protect people from the consequences of
24 their own acts. That only leaves them to continue their
25 belief in a fictional state of affairs that there perhaps
26 are no serious consequences for their activities. The
27 activity of driving around by a person whose ability is

1 impaired or driving with over eighty milligrams of alcohol
2 in their blood is a crime. It is treated like that, it is
3 described like that, and it is becoming an even more signi-
4 ficant problem. It is treated as a crime because of the
5 potential for injury to innocent members of the public. On
6 a Saturday night, there could have been children or adults
7 walking the street that could have been injured, killed, or
8 maimed as a result of this kind of driving.

9 The accused has not responded to his obligations
10 in the past. He shows--at least in 1978 and 1979--a total
11 disregard to his obligations as a citizen while piloting a ton
12 of steel. He showed a total disregard to the requirements for
13 licencing and whatever suspensions were placed on him at that time

14 I would take it in this case that my primary
15 responsibility is to the general members of the public who
16 are entitled to walk the streets or drive the streets on a
17 Saturday night without worrying about men such as the
18 accused running stop signs or driving with lights off,
19 putting all members of the public in jeopardy.

20 Had the Crown Attorney served a notice of pre-
21 vious convictions, this accused would be looking at a very
22 lengthy time in jail. It's unfortunate, I don't believe I
23 have any choice but to impose a term of imprisonment. It is
24 unfortunate that this means that the accused is going to
25 lose his job, but he should have thought of that before he
26 bent his elbow, before he got into his car, before he
27 scooted down the streets of Yellowknife.

1 MR. SEBERT: Your Honour, if the Court is going to impose a
2 sentence, would you consider an intermittent sentence?

3 THE COURT: Thank you, Mr. Sebert.

4 It's given that the accused, since 1980, has not
5 been involved in any criminal activity and has no convictions
6 for that period; and that he realized in 1980, that he had
7 to grow up. If that is in fact the case, then hopefully
8 his appearance in court today is but an aberration in this
9 new-found maturity, and I can only hope that this new-found
10 maturity continues. But in the event that it doesn't, and
11 in order to bring home to the accused--not necessarily bring
12 home to him only because he has had ample opportunity to have
13 that brought him to him--and in order to protect the public,
14 a prohibition is in order, and I believe it should be a
15 lengthy prohibition.

16 The Counsel for the Defendant seeks an intermittent term
17 of imprisonment. Again, I can only assume that from the
18 accused's perspective it is a lesser evil than serving straight
19 time, and it would be some extension of leniency by the Court.
20 I am not convinced that it is appropriate under this circum-
21 stance. This accused has to learn his responsibilities when
22 he's behind the wheel of a car. I cannot protect him from the
23 consequences of his acts. No one can protect him from those
24 consequences. This Court has to be concerned about the
25 public, and I think that a short, sharp term of imprisonment,
26 if anything, may bring home to this accused that he has
27 responsibilities and obligations, and he has to live up to

1 them. If he is not going to live up to them, he will have
2 to pay the price. It's unfortunate if it's going to be a
3 severe price, and if it means his job. Were this a first
4 or even a second conviction, I might consider an intermittent
5 sentence, but his accused has had years to learn the simple
6 truth that there are consequences to criminal activities.
7 He continues to ignore them. I can't protect him from those
8 consequences any more. To do so I believe would be ultimately
9 detrimental to the accused and the public.

10 I am taking into account that there have been
11 no convictions in the last three years. I am taking into
12 account that the accused, apparently, after a long string,
13 almost fifteen years of criminal activities, he has managed
14 to stay clean.

15 Firstly, I'm going to make an order pursuant to
16 the provisions of the Vehicle's Ordinance and prohibit the
17 accused from driving in the Northwest Territories for two
18 years. I want to make it very clear to the accused that
19 if he's ever back before this Court on a conviction for
20 driving while prohibited, he can expect to be treated at
21 least as harshly as he was treated in Edmonton where he
22 received ninety days in jail for a similar offence.

23 With respect to the 236 matter, there will be a
24 term of thirty days in jail, together with a fine of five
25 hundred dollars; in default, thirty days consecutive.

26 Does the accused require time to pay the fine?

27 MR. SEBERT: Yes, he would, Your Honour. Perhaps three months.



1 THE COURT: Three months to pay the fine from today. Does
2 the accused have a driver's licence?

3 MR. SEBERT: No, he doesn't.

4 (AT WHICH TIME THIS MATTER WAS CONCLUDED.)
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7 Certified a correct transcript

8 *Edna Thiessen*
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10 Edna Thiessen, Court Reporter
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