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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

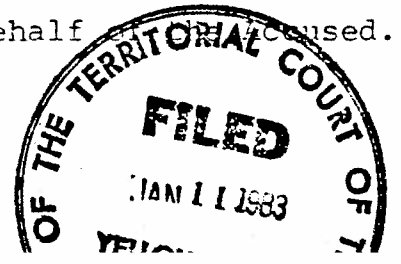
LESLIE JOHN ROCHER

Transcript of oral judgment delivered by His Honour
Judge T. B. Davis, sitting in Yellowknife, in the
Northwest Territories, on Wednesday, the 17th day
of November, 1982.

APPEARANCES:

L. COOPER: Appeared on behalf of the Crown.
T. RICHARD: Appeared on behalf of the accused.

* * * * *





1 Leslie John Rocher, on November 3, 1982, appeared in
2 this court to answer a charge of attempting to obstruct or
3 defeat the course of justice by attempting, by a bribe, to
4 dissuade Debbie Collins from giving evidence at a judicial
5 proceeding contrary to 127 of the Criminal Code.

6 Subparagraph 3; "everyone is deemed to be wilfully
7 attempting to obstruct justice if an attempt to bribe a witness
8 is made."

9 Corroboration of evidence is not required under this
10 section of the Code as noted in The Queen v. Moore (1980), 53
11 C.C.C. at page 202. The words "the course of justice" are to
12 be given a broad interpretation by a court as designated by
13 The Queen v. Zeck (1980), 53 C.C.C. at page 551, according to
14 the Ontario Court of Appeal. Courts have dismissed charges
15 under this particular section, given an approach to a witness
16 was to protest an injustice and not to obstruct justice,
17 according to The Queen v. Belliveau (1978) (N.B.C.A.). If no
18 evidence is presented to show such an innocent intent of the
19 accused, the presumption under subsection 3 of Section 127 acts
20 against the accused.

21 Evidence was given before me at the trial by one Debbie
22 Collins, who was to be a witness in a judicial proceeding in-
23 volving the accused. Her evidence, which was admitted by the
24 accused, was to the effect that she, while employed as a bar-
25 maid on August 31, 1982, at about 9 p.m. in the evening, was
26 approached by the accused with whom she had a conversation.
27 Thereafter, the evidence of the witness and the accused vary



1 somewhat, mainly in the understanding of what was meant by what
2 was said.

3 Miss Collins was emphatic that the accused wanted her
4 to, and that he asked her, to leave town for the day if she were
5 summoned to court to give evidence at his trial on three charges.
6 She said the sum of \$400, which stuck so plainly in her
7 mind, could be provided by the accused and one Ray Whitbread to
8 assist her in travelling to her home in British Columbia. It
9 appears that the accused discussed the subpoena and told Miss
10 Collins that she had no choice but to obey the subpoena or get
11 in trouble.

12 In evidence, the accused explained the discussion about
13 the money as an indication to Miss Collins that he could arrange
14 a loan of \$400 if she had decided that she was not going to
15 attend in court, although her failure to obey a subpoena could
16 get her in trouble.

17 The evidence of both witnesses confirm that Debbie
18 Collins had said she did not want to be involved with the court
19 hearings and that she had made statements that she wanted to
20 leave the area to go south on a number of previous occasions.

21 Mr. Rocher's direct evidence admits that he said words
22 to the effect that, "If you want to visit your parents, I can
23 lend you some money." and, "I can give you a couple of hundred,
24 and maybe Ray could do something, but if he is not working,
25 then probably not." Mr. Rocher, in evidence, also admits that
26 he told Debbie that he would talk to Sam, her employer, for her,
27 which confirmed her earlier direct testimony on that point. He



1 also stated, in cross-examination, that he does not deny
2 suggesting that she leave town and visit her parents if she did
3 not want to go to court.

4 Although there was some conflicting evidence of when
5 the discussion took place and when the report was made by Miss
6 Collins and her employer to the police, I am prepared to
7 acknowledge the likelihood of closer accuracy in dates from the
8 written report of Miss Collins than the estimates given by
9 witnesses who were somewhat vague in recollection of time and
10 events.

11 The Court must, therefore, determine what a reasonable
12 person would understand to have been the intention of the
13 accused and the normal reaction of Miss Collins to the discussion
14 which is the subject of this charge. It does not appear to me
15 to be rational that the accused could admit to offering cash
16 funds to Miss Collins, to speak to her employer, and to have
17 her out of town when she was to be a witness for the Crown on
18 charges against him without concluding that such offer was not
19 a bribe under the terms of the Criminal Code.

20 It has been proven that such actions took place when
21 the accused was aware of the impending court proceedings in
22 which Debbie Collins would likely be a witness. I am led to
23 the conclusion that such actions can be determined as nothing
24 other than an attempt to dissuade a witness from giving evidence
25 in the technical terms of the presumption of Section 127 of the
26 Criminal Code. Evidence of the proposed witness show that she
27 was substantially upset at the approach and the conversation.



1 I would find that even without being so upset that she believed
2 the proposal was to stop her from attending in court as a
3 witness, it would still be classified as a bribe under Section
4 127 of the Code.

5 Under those circumstances, I have no alternative, there-
6 fore, but to find the accused guilty as charged.

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