

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

DANIEL NORRIS

Transcript of the Reasons for Sentence Delivered by
Her Honour Deputy Judge D.M.M. Hansen, sitting in
Yellowknife in the Northwest Territories, on Friday,
August 7th, A.D., 1992.

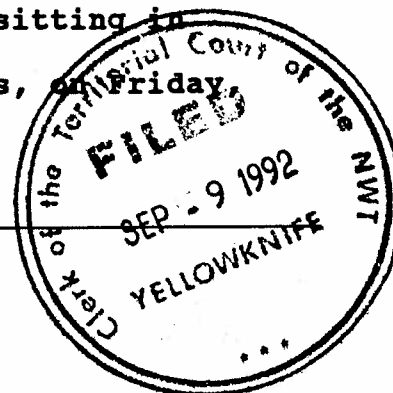
APPEARANCES:

MR. J.A. MACDONALD:

Counsel for the Crown

MR. A. MARSHALL:

Counsel for the Defence



1 THE COURT:

2 The accused has pleaded guilty to a
3 charge under Section 253(b) of the Criminal Code.
4 Without reviewing in detail the circumstances
5 surrounding the commission of the offence, the accused
6 was stopped by the R.C.M.P. at about 6:50 p.m. driving
7 home having just picked up a bike for one of his
8 children. Following a breathalyzer his blood alcohol
9 readings were 170 and 180.

10 The accused testified that the day prior to the
11 incident in question he had buried his mother, and on
12 the morning in question had consumed four or five
13 beers.

14 The accused also testified that between 1982 and
15 1990, he had not consumed alcohol as a result of being
16 diagnosed as a diabetic. In 1990 he started drinking
17 again which continued until February of 1992. He
18 described his drinking during this period of time as
19 consisting of two or three drinks during the week, and
20 two or three drinks on weekends. He stated that there
21 were periods of abstinence but that they became of
22 shorter and shorter duration.

23 In February of 1992, he voluntarily entered a
24 residential treatment program in Ontario. This was
25 prompted by his own feelings of guilt about his
26 drinking and concerns being expressed by his wife and
27 friends. At the time he attended the program in
February, he felt that he could handle his problem

1 through a combination of will power and information
2 which he received at the residential program. He
3 testified that he did not consume any alcohol
4 following his discharge from the treatment program
5 until the date in question.

6 During this period of time he also tried to
7 contact Dr. Wheeler in Yellowknife on the
8 recommendation of a Dr. Cunningham. Following the
9 incident in question, he consulted with a Dr. Wong,
10 and attended a 28 day residential treatment program in
11 British Columbia. Upon his return to Yellowknife, he
12 contacted Dr. Wheeler, a physician specializing in
13 addiction counselling, and has seen him on three
14 occasions for an approximate total of three hours.
15 Mr. Norris has acknowledged that he has a problem with
16 alcohol, and is prepared to continue in treatment.

17 The accused now applies for a conditional
18 discharge for curative treatment pursuant to Section
19 255(5) of the Criminal Code. Before granting such a
20 discharge, the court must be satisfied on a balance of
21 probabilities that the accused is in need of curative
22 treatment, and that a discharge would not be contrary
23 to the public interest.

24 In The Queen and Ashbury, the Ontario Court of
25 Appeal set out a number of considerations relevant to
26 this type of application. First the circumstances of
27 the offence. In this case there was no accident or

1 injury to any person. Second, the motivation of the
2 offender as an indication of probable benefit from
3 treatment. Mr. Norris acknowledges that he is an
4 alcoholic. He has known for some period of time that
5 he has a problem, and in fact attended a treatment
6 program prior to the incident in question. Dr.
7 Wheeler described Mr. Norris as being in a compliance
8 stage of treatment, but has not yet reached the
9 acceptance stage.

10 Three, the availability and caliber of the
11 proposed facilities for treatment and the ability of
12 the accused to complete the program. Mr. Norris has
13 already completed two residential programs and is
14 under the care of Dr. Wheeler as a follow-up to the
15 residential programs. I am satisfied that the program
16 outlined by Dr. Wheeler will certainly meet the
17 continuing treatment concerns and that Mr. Norris is
18 highly motivated to continue in treatment and will be
19 successful this his endeavor.

20 I am also satisfied that the court process has
21 brought home to Mr. Norris the seriousness of this
22 offence and the extent of his problem. While one can
23 never predict human behavior with absolute certainty,
24 I am satisfied that Mr. Norris will not drink and
25 drive again.

26 Mr. Norris does not have a prior related record.
27 But this should not preclude a court from granting a

1 discharge. A curative discharge is not limited
2 legislatively to individuals with multiple convictions
3 for alcohol related motor vehicle offences. In my
4 view, it is not a remedy of last resort. Surely it is
5 in the public interest to ensure that issues of
6 alcohol addition are addressed earlier rather than
7 later.

8 In The Queen and Ashbury, the Ontario Court of
9 Appeal stated and I quote:

10 "In those narrow circumstances where the evidence
11 demonstrates that the accused is in need of curative
12 treatment, and that his or her rehabilitation is
13 probable, that it would not be contrary to the public
14 interest to grant a discharge."

15 Crown counsel argued that Mr. Norris by his
16 own evidence was not a heavy drinker, and that his
17 evidence does not disclose an alcohol addiction.

18 In my view, Mr. Norris was minimizing the extent
19 of his drinking. The fact that his friends were
20 sufficiently concerned to have talked to him about his
21 drinking, this does not usually occur with a social
22 drinker. His blood alcohol readings, again his own
23 evidence of consumption, and the time of consumption
24 on the day in question, his voluntary attendance prior
25 to this incident at a residential treatment program,
26 in my view, these are all indicia of a person with a
27 serious problem with alcohol.

For these reasons I am prepared to grant the
conditional discharge for a curative treatment.

1 During this period, Mr. Norris will be bound by the
2 terms of a probation order. The terms of the
3 probation order are as follows. That you are to keep
4 the peace and be of good behavior. You are to report
5 to the court when required by the court. You are to
6 report to and be under the supervision of a probation
7 officer. You are to abstain absolutely from the
8 consumption of alcohol. You are to attend for as much
9 treatment and counselling as may be recommended by Dr.
10 Wheeler and the probation officer assigned. The
11 period of the discharge will be for two years.

12 Further, there will be a prohibition from driving
13 for a period of six months. Sir, I have to advise you
14 that if you were found driving during the period of
15 this prohibition, it is an indictable offence and you
16 can be charged with that offence.

17 Mr. Marshall, does Mr. Norris have his driver's
18 permit with him? If he would surrender that to the
19 clerk of the court, please.

20 MR. MARSHALL: Yes, he'll do that, Your Honour. He
21 did bring it with him today.

22 THE COURT: Thank you. Is there anything further?

23 MR. MACDONALD: Nothing further, Your Honour.

24 THE COURT: Thank you, very much.

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26 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

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Certified a correct transcript,

Laurie Ann Young
Laurie Ann Young
Court Reporter