

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

*(Sentence increased by 1 day  
fine on appeal)*

BETWEEN:

HER MAJESTY THE QUEEN,

Complainant

- and -

NICK BAKOVICH,

Defendant

02-Nov-1966

W. G. MORROW  
JUDGE  
NORTHWEST TERRITORIES  
KAMUSIYUK  
- 1966

O R A L

REASONS FOR JUDGMENT OF THE HONOURABLE MR. JUSTICE W. G. MORROW

I want to first, <sup>I want to</sup> thank counsel for both the Crown and the Defence for their assistance in this case and for their spirit of co-operation in facilitating getting to the issues.

The issues in this case are relatively simple in that they evolve about and concern the questions and answers given on approximately two and one-half, or probably less than two and one-half, pages of transcript on a previous hearing before Magistrate Parker.

There is no question in my mind that the answers that were given by the accused were false. The remaining elements with respect to the essentials of a conviction of perjury are the question of whether the accused knew them to be false and whether there was an intention to mislead.

Without going into complete detail I find it impossible to take any other construction of the evidence and particularly,

here I am giving consideration to the manner in which the accused gave his testimony here today. I find it impossible to believe that he did not understand that he was being asked about an offence, or a conviction involving liquor outside the Territories.

If there was ever any confusion in the first part of his examination on the previous trial I think by the time Mr. Neilson came to ask him: "What about anywhere else?", and his answer was, "No.", <sup>and then?</sup> "Are you sure?", and ~~then~~ he went into the refuge that one sometimes finds with people in trouble - "I don't remember.", <sup>and to the next question?</sup> "You don't remember." "No.", <sup>the answer was?</sup> But then the Prosecutor continued and said, "Any place in Alberta?", <sup>now,</sup> at that point, it seems to me it was quite clear what was being talked about, <sup>and the answer was?</sup> "No, I wasn't. I was there about two years." It is clear by now that the accused knew he was dealing with Alberta, and that's the time that he was in Alberta. <sup>the prosecutor continued,</sup> "Never been convicted there?", <sup>and the answer was,</sup> "No." Then he goes on to say, "Drinking in a car with open whiskey - yes."

How he could remember that detail and not remember at least the offence that put him behind bars for four months I find has not been explained to my satisfaction.

I think the Crown has satisfied its burden, <sup>of proof</sup> in this respect here. I think that this man knew he was giving false testimony, and I think that his whole intent here was to mislead the Court. I do not accept the explanation that he gave here in the Court today. ~~He attempted,~~ <sup>he attempted</sup> I think, almost to

ride two horses. He tried to get refuge in the use of the word "bootleg", but it is quite clear from observing him in the box today and listening to his testimony that he, as an experienced taxi driver, knows what the word "bootleg" means in many senses, and he certainly knew it was referring to liquor charges in the case in hand. When ~~he~~, shall we say, <sup>he</sup> took the other line of his defence here today he said well he was really excited.

I am satisfied on the evidence before me that all the three requirements have been met by the Crown beyond doubt. I find the accused guilty of the offence charged.

Do you wish to say anything as to sentence, Mr. Wuttunee?

~~(Mr. Wuttunee addressed the Court as to sentence.)~~

~~(Mr. Troy addressed the Court as to sentence.)~~

*(Counsel addressed the Court as to sentence.)*

The Court:

Will you stand up, Mr. Bakovich.

Mr. Bakovich, just as the Crown Prosecutor has pointed out, perjury is considered one of the more serious offences under our law because the whole course of the administration of justice is dependent upon getting at the truth in these proceedings. Do you understand that?

-A Yes.

*Answered "Yes"*

~~The Court:~~

*To tell the truth in Court*

People are expected, under the solemnity of the oath, in Court, to tell the truth. If they do not, as I have found in your case, the Government of Canada has seen fit to impose

a very heavy penalty, or at least the possibility of a very heavy penalty.

Now in view of your background and the statements that your counsel has given here today, I am making what possibly is an exception to what ~~normally~~ <sup>normally</sup> I would do, and I am going to give you a chance in the sense that I am going to give you the option of paying a fine on your first occasion. I hope it will be your last. I am ~~fining~~ <sup>imposing a fine of</sup> you \$600.00, or on failure of payment, two months in gaol.

Hay River, Northwest Territories,  
November 2nd, 1966.