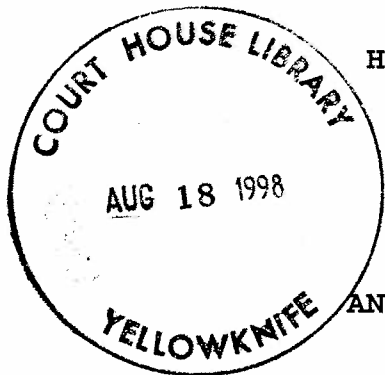
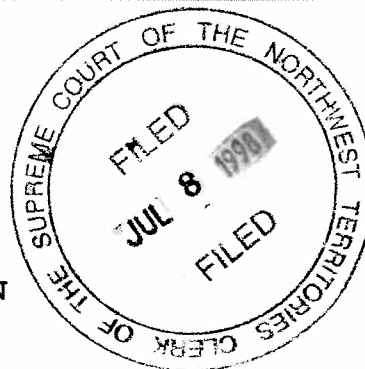


CR 03619

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:



HER MAJESTY THE QUEEN

- v -

ANTHONY VIRGIL ANTOINE

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Transcript of the Sentencing Hearing held before The Honourable Chief Judge R.W. Halifax, sitting in Yellowknife, in the Northwest Territories, on the 16th day of June, A.D. 1998.

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APPEARANCES:

Ms. S. Aitken: Counsel for the Crown  
Mr. J. Lemouel: For the Defence

1 THE CLERK: Anthony Virgil Antoine?  
2 THE COURT: How is the Crown proceeding?  
3 MS. AITKEN: Summarily, Sir.  
4 THE COURT: Read the charges please.  
5 THE CLERK: Anthony Virgil Antoine, you stand  
6 charged that on or about the 20th day of April, 1998,  
7 at or near the City of Yellowknife, in the Northwest  
8 Territories, while his ability to operate a motor  
9 vehicle was impaired by alcohol, did operate a motor  
10 vehicle contrary to Section 253(a) of the Criminal Code  
11 of Canada. And further that on or about the 20th day  
12 of April, 1998, at or near the City of Yellowknife, in  
13 the Northwest Territories, having consumed alcohol in  
14 such a quantity that the concentration thereof in his  
15 blood exceeded 80 milligrams of alcohol in 100  
16 milliliters of blood, did operate a motor vehicle  
17 contrary to Section 253(b) of the Criminal Code of  
18 Canada.  
19 THE COURT: Do you understand those two charges?  
20 THE ACCUSED: Yes, I do.  
21 THE COURT: Are you prepared to enter pleas at this  
22 time?  
23 MR. LEMOUEL: We're prepared to enter a plea to the  
24 253(b) I believe.  
25 THE COURT: The over .08 charge?  
26 MS. AITKEN: That's agreeable, Sir.  
27 THE COURT: Okay, stand up please. How do you

1 plead, guilty or not guilty?

2 THE ACCUSED: I plead guilty.

3 THE COURT: A plea of guilty is noted. With regard  
4 to Count 1?

5 MS. AITKEN: That will be withdrawn upon conviction,  
6 Sir.

7 THE COURT: Very well. Are you prepared to deal  
8 with this matter now?

9 MR. LEMOUEL: Yes we are, Your Honour.

10 THE COURT: Okay, have a chair and listen  
11 carefully. I'll hear the circumstances please.

12 MS. AITKEN: Yes, Sir. In the early morning of  
13 April 20th of this year, the police received an  
14 anonymous complaint of an impaired driver in the  
15 trailer court. A patrol was made to the area. Upon  
16 coming to the intersection in the park, a vehicle was  
17 observed part way through the stop sign failing to stop  
18 until the driver apparently realized that another  
19 vehicle was coming. The driver was almost a full car  
20 length through the stop sign and slammed on his  
21 brakes.

22 This vehicle was stopped by the police, the driver  
23 was Anthony Antoine. When speaking to the police  
24 officer when the window was rolled down, the officer  
25 noted a strong odor of liquor coming from him and when  
26 he spoke, a smell of liquor was coming from his  
27 breath.

1           At that point this was 4:01 a.m., he was advised  
2           that he was under investigation for impaired driving  
3           and he was given his rights.

4           He was asked to perform a couple of sobriety  
5           tests, he complied, he had difficulty with them.

6           At 4:06 a.m. he was read the breathalyzer demand.  
7           He was taken to the detachment and given an opportunity  
8           to speak to a lawyer, he did not wish to do so.

9           He told the officer that he did not think he would  
10          be over as he had only had a 26 during the day and  
11          hadn't drank for six hours.

12          At 4:25 a.m. his first reading was 130 milligrams  
13          of alcohol in 100 milliliters of blood and the second  
14          reading was at 4:45 a.m. with a reading of 140  
15          milligrams. Those are the circumstances, Sir.

16          THE COURT:                With regard to those circumstances?

17          MR. LEMOUEL:             They're admitted, Your Honour.

18          THE COURT:             Very well, for the record I accept the  
19          guilty plea. Count number 1 will be withdrawn.

20          MS. AITKEN:             Thank you, Sir. The Crown alleges a  
21          record, Sir.

22          MR. LEMOUEL:             The record has been reviewed and is  
23          admitted, Your Honour.

24          THE COURT:             Exhibit S-1, record of previous  
25          convictions.

26          **[EXHIBIT S-1: ACCUSED'S CRIMINAL RECORD]**

27          THE COURT:             Thank you.

1 MS. AITKEN: Your Honour will see that Mr. Antoine  
2 has a fairly lengthy criminal record dating back to  
3 1980. His most recent convictions are in January of  
4 '97. You'll see he has a variety of offences on his  
5 record, however he has nothing related to the matter  
6 before the Court so this is the first offence of this  
7 kind on his record.

8 In terms of disposition today therefore, Sir,  
9 clearly the major mitigating factor is the very early  
10 guilty plea, this is his first appearance in court and  
11 he's accepting responsibility and pleading guilty.

12 As well the fact that although he certainly is no  
13 stranger to the Court, this is the first time he's had  
14 an offence of this nature. I'd be suggesting that a  
15 fine and a driving prohibition would be in order in  
16 this case. Those are my submissions, Sir.

17 THE COURT: Thank you. Mr. Lemouel?

18 MR. LEMOUEL: Your Honour, because it doesn't mention  
19 in the Crown information but as we can see by the facts  
20 that it was -- the client was quite cooperative with  
21 the RCMP and as the Crown has said, a mitigating factor  
22 is he's pleading guilty at his first available  
23 request. So I will be asking His Honour for a small  
24 fine and on the low end of the driving suspension.

25 Mr. Antoine is 34-years-old, born in Fort Simpson  
26 and raised since he was two years old with foster  
27 parents. Anthony has a Grade 11 education from 1984

1           where he was a resident here at Akaitcho Hall attending  
2           Sir John Franklin High School.

3           Mr. Antoine is supporting three children aging  
4           from 11 years old, 13 years old and 15 years old who  
5           are all in school in Weledeh. He states he is in a  
6           common-law relationship.

7           Anthony states he makes a living by carving where  
8           his take-home pay varies from inbetween 1000 to 2000  
9           dollars a month and is living in low-cost housing where  
10          his monthly bills; groceries, power, phone cover  
11          approximately 800 to 900 monthly.

12          Subject to any questions Your Honour might have,  
13          those are my submissions. Thank you.

14          THE COURT:                 Reply from the Crown?

15          MS. AITKEN:                No, Sir.

16          THE COURT:                Would you stand up, Mr. Antoine? Do  
17          you have anything you wish to say, Mr. Antoine?

18          THE ACCUSED:               Just live and learn.

19          THE COURT:                Well it is his first offence of this  
20          nature with regard to drinking and driving and I take  
21          that into consideration, but you do have a substantial  
22          criminal record dating from 1980, almost the last 18  
23          years. And glancing through it it looks like you've  
24          been before the courts just about every year.

25          Now you should recognize of course, Mr. Antoine,  
26          that if this type of thing happens again and notice is  
27          given, there is an automatic jail term in the future.

1           Now obviously there was somebody very concerned  
2           that called the police and the police find you driving  
3           around at 4 a.m. or so in the morning under the  
4           influence with readings of 130 and 140.

5           There will be a fine in the sum of \$700 plus a 15  
6           percent victims of crime surcharge, in default of  
7           payment of the fine and the surcharge is the statutory  
8           default period consecutive.

9           You'll be prohibited from operating a motor  
10          vehicle on any road, street, highway, or other public  
11          place for a period of four months from today; do you  
12          understand that?

13       THE ACCUSED:           Yes, I do.

14       THE COURT:            Do you have your driver's licence with  
15          you?

16       THE ACCUSED:           Yes, I do.

17       THE COURT:            You can provide it to the clerk. Have  
18          a chair in the courtroom, Mr. Antoine, there will be a  
19          driving prohibition order and a fine order for you.  
20          Just don't leave until you've received it. Just have a  
21          chair.

22       MS. AITKEN:            Sir, I'm just wondering how much time  
23          he has to pay.

24       THE COURT:            Oh time to pay, sorry. How long are  
25          you going to need to pay the 700 and --

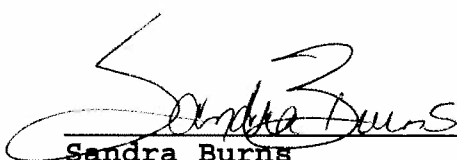
26       THE ACCUSED:           Four months.

27       THE COURT:            Four months, that will be enough?

1 THE ACCUSED: Yeah.  
2 THE COURT: Okay, four months to pay the fine.  
3 Thank you, Ms. Aitken.  
4 MR. LEMOUEL: These are all my matters, Your Honour.

5 -----

6  
7 Certified correct to the best of my skill  
8 and ability (Subject to Editing by Presiding  
9 Judge).

10   
11 Sandra Burns  
12 Court Reporter