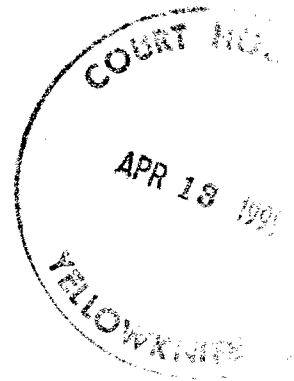


IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES
IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

HANK MARK LAFFERTY



filed Mar 25/99

Transcript of a Ruling delivered by The Honourable Judge
R.M. Bourassa, sitting at Yellowknife, in the Northwest
Territories, on Friday, November 27, A.D. 1998.

APPEARANCES:

Mr. M. Scrivens: On behalf of the Crown
Mr. C. Rehn: On behalf of the Defence

(Charges under ss. 249(1), 264.1(1)(a), 266(1)(a) x 2, and
430(4)(a) of the Criminal Code)

1 THE COURT:

2 Well, if an accused has a right in
3 law to demand and obtain a new trial as a result of a
4 falling-out with his counsel at any stage in a trial,
5 then that right would logically continue into the
6 second trial and the third trial and the fourth trial.
7 I can't see that, quite frankly, as being under one of
8 the list of rights of an accused in considering full
9 answer and defence and the rules of natural justice.

10 In my view, what we are really discussing here
11 today is trial tactics and a disagreement between an
12 accused and a counsel on trial tactics. As a result of
13 that disagreement, counsel is discharged and new
14 counsel are retained. Clearly, new counsel may work
15 under some disadvantage, and I underline "may".

16 Courts of Appeal have no difficulty in coming to
17 conclusions based on transcripts. I don't see that in
18 this case in particular, and I am not trying to make a
19 general rule, but in this case in particular that the
20 accused's right to full answer and defence is
21 particularly compromised. It may be made more
22 difficult, it may have aspects added that were not
23 present earlier as a result of his decision to change
24 counsel, but, in my view, his right has not been
25 compromised to make full answer and defence in any
26 way.

27 I am unpersuaded to grant a mistrial or recommence
the proceedings all over again. We are at a position

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in the trial as a result of accused's decisions, and,
as I say, I am unpersuaded.

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Certified Pursuant to Rule 723
of the Rules of Court



Jane Romanowich
Court Reporter