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CERTIFIED TRUE COPY OF THE

**ORIGINAL**

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

FRANK BLACK

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Transcript of the Oral Reasons for Sentence of The Honourable Judge R.M. Bourassa, sitting in Yellowknife, in the Northwest Territories, on the 28th day of September, A.D. 1999.

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APPEARANCES:

Ms. S. Aitken:

Counsel for the Crown

Mr. G. Watt:

Counsel for the Defence

1 THE COURT: The whole criminal justice system,  
2 some may argue, is predicated on a learning  
3 experience; one commits a crime and, by the sentence,  
4 presumably learns not to commit that crime. But that  
5 doesn't apply with Mr. Black.

6 One can only assume that he's a chronic  
7 alcoholic. This is his eighth and ninth, I believe,  
8 convictions for impaired driving or drinking and  
9 driving offences. He's also been convicted for  
10 driving without a license. Regardless of what  
11 happens in court, he continues on that path. In  
12 fact, court process appears to have almost or  
13 virtually no effect on him. He was in court on the  
14 first set of charges and back in court a few days  
15 later on a second set of charges.

16 In my respectful view, it is just a miracle,  
17 pure chance, fortune, that over the years and the  
18 bottles that he hasn't struck or killed someone.  
19 Pure chance. Four o'clock in the afternoon, drunk  
20 driving in the town of Rae. The children would be  
21 out on the streets from school, people would be  
22 wandering around...

23 My obligation is clearly to protect the public.  
24 One can have a great deal of sympathy for Mr. Black,  
25 in one way, I suppose, he's a victim of alcoholism.  
26 Unable to control it, unable to get a handle on it.

27 But, and it's a very big "but," he is a danger

1 to the public. It's inevitable, if this continues,  
2 that he's going to hurt someone with his vehicle. My  
3 obligation is to the public and to protect them.

4 Only last week the Court heard a case of a  
5 head-on collision on the road to Rae - one of the  
6 drivers was impaired. The other vehicle, in its own  
7 lane, was struck head on and the driver badly  
8 injured.

9 In my years in going to Rae I'm aware of a half  
10 a dozen, if not more, cases of drivers being killed  
11 or killing others on that road as a result of  
12 drinking and driving.

13 I think it's going to be sort of embarrassing  
14 for Mr. Black in a Federal penitentiary, where he's  
15 going to be with some really tough apples, that he's  
16 there for impaired. However, he's a danger to the  
17 public and we can't wait for him to stop drinking  
18 anymore.

19 Stand up, Mr. Black. Is there anything you want  
20 to say before I impose sentence?

21 MR. WATT: No, Sir.

22 THE COURT: On the charge of the 14th of July, two  
23 years in the Federal penitentiary. On the charge --  
24 that's of operating a vehicle while impaired. On the  
25 charge on the 23rd of July, operating a vehicle -- or  
26 having care and control, two years in the Federal  
27 penitentiary concurrent. On the charge of resisting

1           arrest, well, my sentence will speak on the Court's  
2           view of that conduct, four months in jail  
3           consecutive. And on the charge of operating a  
4           vehicle while -- I'm sorry, refusing to provide a  
5           sample of his breath, that will be two months  
6           consecutive.

7           I've taken into account his plea of guilty, I've  
8           taken into account totality in producing some of  
9           those sentences. It's a total of 30 months.

10           He'll be prohibited from operating a motor  
11           vehicle on any street or highway in Canada for a  
12           period of five years.

13       MS. AITKEN:           And that will be from his release from  
14           imprisonment I take it, Sir?

15       THE COURT:           Yes.

16       MS. AITKEN:           Thank you.

17       MR. WATT:             Sir, just --

18       THE COURT:           Oh one other thing, I'm sorry Mr.  
19           Watt, the other thing is I'm going to endorse on the  
20           warrant a judicial recommendation that he be exposed  
21           to intensive alcohol abuse, counselling, or  
22           programming.

23       MR. WATT:             Sir, just one submission with respect  
24           to the format of the driving prohibition order.

25           My friend indicated the date of release from  
26           custody. The problem with that is that it leads to  
27           some ambiguity as he could, in theory, receive some

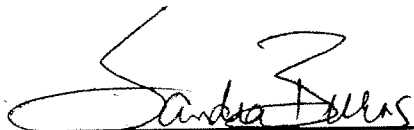
1 sort of day pass and various other forms of release,  
2 and the way the Code actually reads, I believe, is  
3 that the prohibition is in effect for the length of  
4 the sentence plus a driving prohibition on top of  
5 that. The date of release is too ambiguous, Sir.

6 THE COURT: Well, certainly for the accused. All  
7 right, the prohibition date then will be six years  
8 from today.

9 MR. WATT: Thank you, Sir.

10 THE COURT: Thank you, Mr. Watt.

11 -----  
12 **Certified correct to the best of my skill**  
13 **and ability (Subject to Editing by Presiding**  
14 **Judge) .**

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16 **Sandra Burns C.S.R. (A)**  
17 **Court Reporter**