

NORTHERN JUSTICE

Journey to Justice

TRAVELING WITH THE COURT PARTY ON CIRCUIT IN THE NORTHWEST TERRITORIES

by Niko Homberg

Two bumps jolt me out of an uncertain snooze. I find myself comfortably strapped in a Beechcraft King Air twin-turbo prop aircraft and I realize we must have touched down at the destination. As the aircraft taxis to a small shack-like building, I look outside the little cabin window and I see an alien landscape of rocks and car sized boulders strewn about the landscape in a haphazard fashion. There is little vegetation other than the patches of short tundra grass and moss covering the ground, and patches of colourful liken algae covering the boulders. There is a slight dusting of snow on the ground, like sugar powder, and tiny snow flakes are whirling about the aircraft. The sign above the shack-like building reads “Ulukhaktok, NWT”.

I left my hotel in Inuvik at 0755 hrs with my colleague, Mr. Khan, a fellow criminal defence lawyer from Yellowknife, and a crate full of files. We are presently on the fourth day of a week long court circuit to service Inuvik, which boasts the most northerly permanent court house in North America, if not the world, and the two remote Inuvialuit communities of Paulatuk and Ulukhaktok.

This is the second week of back-to-back court circuits for me. Last week I was in the Sahtu region, servicing four communities along the Mackenzie River Valley. In between the two circuits, I had about 40 hours of downtime in Yellowknife to drop off that week’s files, pick up the Beaufort Delta Inuvik files, grab a fresh change of clothes and get some much needed shut-eye.

At 0805 hours, we arrived at the Inuvik airport and joined the rest of the court party to wait for the departure of our two-hour flight to the small community of Ulukhaktok, located on the western side of Victoria Island, in the Canadian high arctic. There are about eight in our party,

including a judge of the Territorial Court of the Northwest Territories, a court clerk, a court reporter, a sheriff, a crown prosecutor and two defence lawyers. The weather is quite mild on this September morning and the King Air left on time at about 0830 hours. As there is no bathroom on this type of aircraft, I did not have any coffee earlier and the monotonous drone of the turbo props quickly lulled me to sleep high above the arctic tundra.

After deplaning, the court party piles into two vans and an RCMP truck that were eagerly awaiting the arrival of the court party. I take the front seat in one of the vans and, thinking I would have to give directions to the Inuvialuk driver as to where we want to go, I can only manage, “take me to your leader”; an utterance undoubtedly made because of the alien geographical environment that I find myself in. I quickly regret having said that, but everybody has a chuckle and the tension seems to be broken. It dawns on me later that Mr. Khan, my colleague, is an immigrant with an accent, the crown prosecutor is a Palestinian immigrant from Lebanon and I am also an immigrant with an accent. The community members of Ulukhaktok must be thinking that we three are the aliens who are visiting their native community.

The community of Ulukhaktok is quite pretty, nestled along a beach in a quiet bay on the shores of the Amundsen Gulf in the Beaufort Sea. The water is still open and calm today, and there are only a few small snowflakes whirling about that are indicators of what is to come in a few weeks. Small fishing boats are sitting on the beach waiting for their captains to take them out to sea one more time to harvest arctic char or chase the white beluga whale before freeze-up. It is almost too quiet though; there is not a soul in sight. Mr.



ALL ABOARD: The Court Party poses on the tarmac in the Sahtu Region, NWT (August 2009)

Khan asks the driver, “where is everybody?” The Inuvialuk man smiles and looks at Mr. Khan: “Oh, everybody is already waiting for you at court. You are 20 minutes late.”

Sure enough, as we enter the little community hall that serves as the court house for the day, every single seat is occupied and not a sound is heard as what seems to be the entire population of Ulukhaktok waiting in anticipation for the court to commence and for the administration of justice to do what it does.

This day is often the first and only time the lawyers meet the individuals involved in a matter before the court in person. The communities of Ulukhaktok and Paulatuk are simply too remote to justify a visit prior to the actual court day. For the defence lawyers, knowledge of the contents of their files, quick thinking and smooth communication with clients to obtain instructions will be the order of the day. For the

crown prosecutors, information from local RCMP, communication with complainants and witnesses, being familiar with their many files and making quick decisions will be crucial to presenting their cases to the court. The judges work tirelessly at listening to counsel’s positions and decide what are just dispositions, rule on issues of credibility of the witnesses and admissibility of evidence during trials, and make findings of guilt or not. All the while the members of the community sit quietly in the body of the court and listen intently and sometimes critically as justice is being served in their remote community.

As the day progresses, negotiations continue between the defence counsel and the crown prosecutor. Because the facilities of the community halls in these outlying communities are lacking the private space of separate offices where counsel can meet in confidence, the negotiations often take place in hockey team change rooms or in the communal

kitchen. But the results are the same as anywhere else: Some charges are dropped in exchange for guilty pleas to lesser charges. Trials are stayed. Some trials proceed and accused are convicted or acquitted. Offenders are sentenced and some of those offenders receive custodial terms to be served in a correctional facility thousands of miles away from their community. For those that must leave their community to serve a term of incarceration in Yellowknife, the journey to justice is long and lonely.

For counsel, the day passes quickly as there is little room to breathe or take a break. When court finally closes, many members of the community stand and show their respect and appreciation to counsel by shaking hands on the way out and wishing them farewell. "Thank you for coming to our community" says a stout Inuvialuk man to Mr. Khan. Mr. Khan responds by shaking the man's hand "Thank you for having me, it was my pleasure".

The King Air arrives back in Inuvik at 1830 and by 1915, Mr. Khan and I sit down for a supper at the Chivers lounge in the Mackenzie Hotel. After a hearty meal, we return to our hotel rooms to prepare for the next day of court. Sleep comes quickly once I retire to my quarters, but during my night, I am haunted by a phalanx of files that chases me over the barren lands of the endless tundra.

The journey finally ends upon our return to Yellowknife. I barely make it inside the door of my house, I am ready to collapse. Tonight, I will sleep like a mummy.

Although the workload on some of the court circuits can be heavy, the experience of being part of a court circuit as defence counsel is very rewarding. I would not trade this experience for anything in the world and I can honestly say that it is a privilege to be part of a court circuit in the Northwest Territories.

Niko Homberg articulated in Yellowknife with Bayly Williams in 1994. He is a member of the Alberta bar as well as the Law Society of the Northwest Territories. Mr. Homberg practices exclusively criminal law and will return to active practice in Yellowknife in December 2011.

Ms. Sheila M. MacPherson

President, Law Society of the Northwest Territories

AND

Ms. Malinda A. Kellett

President, Canadian Bar Association - NWT Branch

WELCOME SPECIAL GUESTS

Ms. Laura K. Stevens, QC

Partner, Dawson Stevens & Shaigec

AND

The Hon. Judge Janet L. Dixon

Provincial Court of Alberta

AND CORDIALLY INVITE ALL MEMBERS
TO THE SIXTH ANNUAL

Presidents' Dinner

ON

Saturday, September 24, 2011

Reception at 6:00 pm - Dinner at 7:00 pm

AT

The Champagne Room

2nd Floor, 5004 - 50th Avenue, Yellowknife



LAW SOCIETY OF THE
NORTHWEST TERRITORIES



THE CANADIAN
BAR ASSOCIATION
Northwest Territories Branch

All members have been sent invitations to this event. For more information and to purchase tickets, or if you have not received your invitation, please contact the Law Society at (867) 873-3828 or email communications@lawsociety.nt.ca.