

THE PROVINCIAL COURT OF MANITOBA

BETWEEN:

HER MAJESTY THE QUEEN,

- and -

DEREK GRANT HARVEYMORDENZENK,  
also known as DEREK GRANT HARVEY-ZENK,

Accused.

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TRANSCRIPT OF PROCEEDINGS before The Honourable  
Chief Judge Wyant, held at the Law Courts Complex, 408 York  
Avenue, in the City of Winnipeg, Province of Manitoba, on  
the 17th day of July, 2007.

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APPEARANCES:

MR. M. MINUK, for the Crown.

R. WOLSON, Q.C. for the Accused.

1 JULY 17, 2007

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3 THE CLERK: Court is now open, Chief Judge Wyant  
4 presiding.

5 THE COURT: Mr. Minuk?

6 MR. MINUK: Yes, Your Honour. I don't have a  
7 docket in front of me but there's a matter that Mr.  
8 Wolson's appearing on, which is the matter of Mr. Zenk.

9 MR. WOLSON: Number 2.

10 THE COURT: Yes.

11 MR. MINUK: Mr. Zenk's present with Mr. Wolson,  
12 and --

13 THE COURT: Right.

14 MR. MINUK: -- with respect to the charge of  
15 dangerous driving causing death, the Crown is proceeding on  
16 that matter by way of indictment --

17 THE COURT: Yes.

18 MR. MINUK: -- and, I understand that Mr. Wolson  
19 will be speaking to that matter.

20 MR. WOLSON: Yes, may it --

21 THE COURT: Yes.

22 MR. WOLSON: -- please Your Honour, there are a  
23 number of charges on the docket, but to this charge, the  
24 dangerous causing death, Derek Harvey-Zenk is going to  
25 enter a guilty plea, elect to be tried in this court before  
26 Your Honour and set a date for sentencing.

27 I can advise you that I've met numerous times  
28 with him. He understands the nature and quality of the  
29 allegations. He takes responsibility for the accident. He  
30 understands that by pleading guilty he gives up the right  
31 to have a trial and the plea is a voluntary plea and he  
32 understands the circumstances of the plea.

33 He also understands that, irrespective of counsel  
34 submissions, Your Honour has full jurisdiction in the issue

1 of sentencing and sentence is up to you and knowing all of  
2 that, he enters his plea voluntarily. He is prepared to  
3 waive the reading of the charge and he is prepared to take  
4 responsibility for that allegation.

5 THE COURT: The, Mr. Minuk mentioned he's  
6 proceeding by way of indictment, do you need the elections  
7 section read --

8 MR. WOLSON: Not at all --

9 THE COURT: -- or are you prepared to waive  
10 reading of the election?

11 MR. WOLSON: -- we'll waive that the election is  
12 before you.

13 THE COURT: All right. And waive reading of the  
14 charge and the plea is guilty?

15 MR. WOLSON: That is so, yes.

16 THE COURT: Is that correct, sir?

17 THE ACCUSED: Yes, Your Honour.

18 THE COURT: You understand, as Mr. Wolson said,  
19 that there's a plea inquiry process to go through. By  
20 entering a guilty plea, you understand that you're  
21 admitting to the offence of dangerous driving causing  
22 death; do you understand that, sir?

23 THE ACCUSED: Yes, I do, Your Honour.

24 THE COURT: All right. You've seen the police  
25 report? Or seen the allegations?

26 THE ACCUSED: Yes, I have.

27 THE COURT: All right. You've had the opportunity  
28 to speak to counsel, to Mr. Wolson extensively, I assume?

29 THE ACCUSED: I have, Your Honour.

30 THE COURT: All right. Do you make this plea  
31 voluntarily or do you feel at all coerced or pressured to  
32 enter the plea?

33 THE ACCUSED: (Inaudible).

34 THE COURT: All right. You understand, as Mr.

1 Wolson said, that by entering the plea and there may be,  
2 there will be representations by counsel, they may even  
3 dovetail and be made in a joint fashion, but ultimately the  
4 sentence to be imposed is, as Mr. Wolson said, up to the  
5 court?

6 THE ACCUSED: Yes, it is, Your Honour.

7 THE COURT: All right. I'm satisfied, based on  
8 your comments, Mr. Wolson, and the answers that your  
9 client's given, that the plea is entered free and  
10 voluntarily --

11 MR. WOLSON: Of course.

12 THE COURT: -- pursuant to the Criminal Code and  
13 I'll accept the plea and the election and record a guilty  
14 plea to the charge of dangerous driving cause death.

15 MR. WOLSON: Now, we've checked with the person  
16 that deals with dates and the 22nd of August at 9:00 is a  
17 time when I believe you will be available, according to  
18 that person --

19 THE COURT: Yes.

20 MR. WOLSON: -- and that date is a date which  
21 works for us.

22 THE COURT: Is it, was there a courtroom given?

23 MR. MINUK: The courtroom that I was informed of  
24 at the moment, or perhaps as of today's date, is 408. Ms.  
25 Dyson indicated to me that, depending on the logistics of  
26 that morning, if we need a larger courtroom, arrangement  
27 will be made that morning by posting a sign on the  
28 courtroom, but for the time being to put it into courtroom  
29 408.

30 THE COURT: All right, I, I mean, Madam Clerk has  
31 informed me there are a number of people here for this  
32 matter today and unfortunately several had to stand and I  
33 apologize for that, but we'll set it in courtroom 408 but  
34 we'll attempt to have a courtroom that will be suitable for

1 9:00 a.m., 408. I'll await the receipt of information from  
2 counsel and at that point in time we'll proceed to hear  
3 submissions.

4 MR. WOLSON: Morning, thank you.

5 THE COURT: Good morning, thank you.

6 MR. MINUK: Your Honour, with respect to the  
7 other matters, the Crown will be entering stays of  
8 proceedings.

9 THE COURT: Yes, counts 1, refuse to provide  
10 breath sample, count 2 impaired driving causing death and  
11 crim neg cause death, count 4, are all stayed.

12 MR. MINUK: Just on the matter of materials, all  
13 that the Crown will be supplying to you is a casebook which  
14 essentially sets out all of the most recent Manitoba  
15 decisions in this particular offence, and I expect that  
16 you'll have that very shortly, since I've done all the  
17 research already.

18 THE COURT: Thank you. Thanks very much.

19 MR. WOLSON: Morning.

20 THE COURT: Good morning.

21 MR. MINUK: Thank you, good morning.

22

23 (PROCEEDINGS ADJOURNED TO AUGUST  
24 22, 2007)

#### CERTIFICATE OF TRANSCRIPT

I hereby certify the foregoing pages of printed matter,  
numbered 1 to 5, are a true and accurate transcript of the  
proceedings, transcribed by me to the best of my skill and  
ability.

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PAMELA M. MOORE  
COURT TRANSCRIBER