

Citation: *R. v. Vandrie*, 2021 YKTC 52

Date: 20211020  
Docket: 20-00830  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before His Honour Judge Brooks

REGINA

v.

KESSIE ANN VANDRIE

Appearances:  
David Hainey  
André Roothman

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCE**

[1] BROOKS T.C.J. (Oral): Ms. Vandrie has pled guilty to the offence that between the 28th day of July in 2014 and the 11th day of July in 2016, here in Whitehorse, she did defraud Oscar's Electric Limited of money in excess of \$5,000.

[2] I am going to refer to the circumstances very briefly of the offence, and then I am going to refer very briefly to the circumstances of Ms. Vandrie, and then come to the main issue, the joint submission which has been put before me.

[3] The offence relates to a time at which Ms. Vandrie worked as a bookkeeper in charge of the accounting system of a small electric company here in Whitehorse. The company is a family-owned business and a business in which the family has

participated. I take it, as a fair inference, that there has been a lot of hard work and a lot of determination to try and build this business, as best it can, to support the members of the family and to provide a service to the people of Whitehorse.

[4] During the time that Ms. Vandrie worked for Oscar's Electric, she clearly came to be very close to some of the members of that business. It is fair to say that there was a personal relationship that built up and, indeed, it appears from all the material, a strong relationship with Bert Hadvick, who started Oscar's Electric Ltd., if I understand that correctly.

[5] During the time that she worked there and within the time set out in the Information, Ms. Vandrie set up a system whereby payments would be made from the company account to her, approximately 63 transfers, as I understand it, with nearly half of them having as a cover to hide from detection the creation of false invoices. The total amount involved is \$137,520.42, which, for a small business, is a very large sum of money. So, the offence is very serious. There is no question about that.

[6] The offence is one in which, without question, there has been stress and I am sure anguish from the family that have suffered as a result of this, and probably a sense of disbelief that this could happen with somebody who was so close to the members of the family. And that is fully understandable because it is difficult to imagine how a person even walks into work and says "Hi" to everybody and talks to everybody and this is going on. So, the breach of trust is at a very high level. There is no question about that and I understand that to be accepted by both counsel. So as I say, a very serious offence.

[7] Every sentencing has to consider the circumstances of the offender and I have read closely the Pre-Sentence Report which goes through Ms. Vandrie's background. There are clearly some difficulties there. There are some events which are extremely difficult for her and I am sure have effected her to her core. So, I do take that into account as well.

[8] I agree with Crown that the fact of the commission of another offence of another employer, albeit roughly at the same time as this one, is a very serious aggravating factor.

[9] So, I come to the joint submission, and the joint submission recognizes what our laws are quite clear about: if one is in a position of trust and one violates that trust — in this circumstance by fraudulently taking a considerable amount of money — unless there are exceptional circumstances, the response of the criminal justice system is jail, and that is the response in this case, as it clearly ought to be.

[10] The amount of time in jail is a significant period of time. It is 20 months as a sentence. That is something that will bring home to Ms. Vandrie and one hopes anybody else who might think that they would behave in this terrible way that they ought not to do this and behave like this. While I am of the view that it is at the lower end of that range, it is clearly within the range.

[11] I need to say something about joint submissions so that it is clearly understood. The Supreme Court of Canada has told me, as a trial court judge, for reasons they set out very well and very eloquently that I should accept joint submissions when they are made. There are many, many reasons for that. But the rule they have set down is that I

am only to depart from a joint submission in circumstances in which to allow the joint submission to succeed would almost amount to a breakdown of the justice system as perceived by a reasonable person. In other words, the Supreme Court of Canada is very clear with me: absent something very dramatic, I should accept the joint submission.

[12] In this case, I do accept the joint submission. It is given to me by experienced counsel who clearly have worked very hard at this matter in getting it to this point. There are other aspects of the sentence which are also involved which are also punishments and which are significant punishments that add to the totality of the circumstances of the sentence imposed.

[13] So, I do sentence the accused to 20 months in custody.

[14] Pursuant to s. 380.2(1), I sentence Ms. Vandrie that she is prohibited to engaging in the employment or the volunteer activities that involve "having authority over [the] real property, money or valuable security" as that wording is used in s. 380.2 of the *Criminal Code*, with an exception that she is permitted to perform work for her mother as long as she is being directly supervised in that work by her mother.

[15] There is also, pursuant to s. 738(1), an order for restitution in the amount of \$137,520.42 payable to Oscar's Electric Ltd. I do not believe I have to put a time to pay on it. It is simply an outstanding order that she is required to pay.

[16] In the circumstances, I do not think there is value of a surcharge being imposed. Any funds that exist in this matter should be going to the victims of this offence. The victim surcharge in these circumstances is waived.

[17] THE CLERK: And the remaining count?

[18] MR. HAINEY: The Crown directs a stay on Count 1.

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BROOKS T.C.J.