

Citation: *R. v. Gignac*, 2023 YKTC 27

Date: 20230530
Docket: 22-06130
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before Her Worship Justice of the Peace Morrison

REX

v.

MICHEL GIGNAC

Appearances:

Lee L. Kirkpatrick

Gregory Johannson-Koptyev

Counsel for the Territorial Crown

Duty Counsel for the Defence

REASONS FOR SENTENCE

[1] MORRISON J.P.T.C. (Oral): This is the matter of Michel Gignac. This matter commenced on May 2, 2023, for sentencing and I reserved and adjourned to today for my decision.

[2] Mr. Gignac is before the Court having pleaded guilty to one offence, contrary to s. 6 of the *Wildlife Act*, RSY 2002, c. 229 (the “*Act*”) hunting a species or type of wildlife, to wit: sheep, at a time in an area when the hunting by him was not permitted.

[3] There has been an Admissions of Fact filed and read into the record, and the circumstances of Count 2 on the Information have been read in as aggravating factors, and that was a count contrary to s. 15(1) of the *Act*, kill a greater number of wildlife, to wit: sheep, that is permitted for that period of time for that species.

[4] Mr. Gignac's work history includes work as a hunting guide. With that previous experience, he would know the importance of reading the regulations and the diligence required to ensure he was hunting in a permitted legal zone.

[5] On page 65 of the *Yukon Hunting Regulations Summary, 2022-2023*, which has also been submitted, under the heading "Male sheep", line 1 lists numerous zones as "CLOSED". Line 2 indicates numerous zones with a season date of "Aug 1 to Oct 31" with a one bag limit. Line 3 indicates numerous zones with the season date of "Aug 1 to Oct 31" with the additional Permit Hunt Authorization ("PHA") lottery only (see pages 8 to 10).

[6] Mr. Gignac's explanation for being in the wrong zone is that he read the word "to" as a comma so that subzones 20 and 27 is where you were required to have a PHA and did not include subzone 24 where he was hunting.

[7] In my view, a diligent individual — especially one with Mr. Gignac's experience — would then have looked carefully at the above two lines to locate his zone to ensure he was going to be in a legal zone and not a closed zone.

[8] There is further information in paras. 8, 9, and 10 of the Admissions of Fact that Mr. Gignac's hunting partner did a double-check on an application that he had on his phone and misinformed Mr. Gignac that they were in a legal zone. Although this may go to an honest mistake, Mr. Gignac's due diligence failed when planning the hunt and reading the regulations.

[9] Paragraphs 4 and 5 set out the circumstances of killing two sheep, which have been read in as aggravating factors. As an aggravating factor, the Crown argues that Mr. Gignac waited only five seconds before taking a second shot that killed the second sheep, and that the second kill was absolutely unnecessary if he had paused to ensure whether or not the first shot was successful. Mr. Johansson argues that the five seconds is a mitigating factor. In essence, if the animal runs, you want to shoot again immediately to ensure there is an immediate kill and that the animal is simply not wounded.

[10] I am unable to make any finding as to whether a shot should be fired immediately or if a hunter should wait versus a specific period of time. In any event, it does not change the amount of the fine that I would impose, but it is an aggravating factor that two sheep were killed.

[11] Mr. Gignac has entered a guilty plea and taken responsibility for the offence. There was an immediate reporting of the killing of two sheep. Mr. Gignac had cell service from the area where the kill took place and within minutes of the event, he called it in. It was at this time he became aware that he was in a required PHA zone. By self-reporting, Mr. Gignac spared the Crown the expense of a lengthy and difficult investigation that these matters often require. Mr. Gignac was extremely cooperative and remorseful. He began field dressing the sheep at the request of Conservation Officer Henderson and all meat, horns, and cape were salvaged from both sheep.

[12] While not a mitigating factor, I think it is important to note that there were 12 PHA authorizations available for zone 724 and 12 were issued. A total of five sheep were

harvested from that zone, including the two illegal kills of Mr. Gignac. Mr. Gignac has no history of any wildlife infractions.

[13] Mr. Gignac has filed letters of support and a newspaper article from 2015. Mr. Johansson has summarized the letters and I have had an opportunity to read them. I think it is fair to say that Mr. Gignac is regarded as a valuable member of his community. He is described as a kind and respectful man, not having a bad bone in his body, and that he treads lightly on the earth, mindful of his actions that affect future generations. He is described as taking the ethics of hunting very seriously and he cares deeply about the wild things in the places they inhabit.

[14] Mr. Gignac addressed the Court, and it is clear that he is extremely remorseful. He has described his work as a hunting guide and his reasons for leaving that work. His hunting is based on the need to provide for his daughter and a belief that he should be the one to provide it so that it is done in an ethical manner. He decided on a sheep hunt and researched it thoroughly. He describes his two mistakes (improperly reading the manual and shooting twice resulting in the killing of two sheep) as something that will weigh on his conscience for the rest of his life. Mr. Gignac is of limited financial means and the fine the Crown is seeking is 1/6 of his household annual income and will create a significant financial burden.

[15] In my view, the primary principle this sentence must address is one of general deterrence, and the Crown agrees that specific deterrence is not an issue in this specific case.

[16] The Crown is seeking a \$5,000 fine and argues that it is inconceivable that the Court would impose a \$1,500 fine, given the totality of the carelessness and the lack of due diligence.

[17] Mr. Gignac should be given significant credit for self-reporting, the fact that no meat was wasted, and his guilty plea. However, I agree with the Crown that a \$1,500 fine is not an appropriate amount and, in my view, does not address general deterrence. The lack of due diligence which put Mr. Gignac in a zone that he should not have been hunting, plus the additional killing of two sheep, must be addressed by a fine greater than \$1,500.

[18] Given the mitigating circumstances I have taken into account, I impose a \$3,000 fine. I am prepared to waive the surcharge, given the financial circumstances of Mr. Gignac.

[19] In addition, there will be ancillary orders.

[20] There will be a two-year hunting prohibition. Mr. Gignac will not be able to obtain a sheep hunting seal until such time that he has attended and successfully completed the sheep hunting workshop and he may not obtain or apply for a hunting licence or permit until such time as the fine is paid in full.

[DISCUSSIONS]

[21] There will be an order of the forfeiture of the sheep. I understand it has already been forfeited and distributed, but the order will be on record.

[22] Mr. Johansson and Mr. Gignac, it is a \$3,000 fine.

[DISCUSSIONS]

[23] One year time to pay.

[24] Mr. Gignac, if you are unable to pay that amount in a year you can simply attend at the Court Registry and make an application to extend the time to pay.

[25] With respect to the remaining counts?

[26] MS. KIRKPATRICK: Stay of proceedings.

[27] THE COURT: Stay of proceedings.

MORRISON J.P.T.C.