

Citation: *R. v. Gork*, 2025 YKTC 61

Date: 20251211
Docket: 25-00367
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before Her Honour Judge K. L. McLeod

REX

v.

KEIRAN JOHN KEITH GORK

Appearances:

Elmer B. Brillantes
Peterson Ndlovu

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] McLEOD T.C.J. (Oral): The principles of sentencing tell me that I have to impose what is called a proportionate sentence — that is that it is a fair sentence, that it is a just sentence, and it takes into account the seriousness of the offences and the circumstances of the offender, which here is you.

[2] In order to come to the right decision, I have to look at the objectives of sentencing, and that those objectives that really apply to your offences: the first of which is called general deterrence — that is sending a message to the public that guns in our society, whatever society in which you reside, are not acceptable unless you have a licence and permission. The second is specific deterrence — what is going to change

your mind, about how you live your life. I have to decide how in this sentence I, as the judge, can deter you from wanting to be back where you are right now; and, finally, denunciation — essentially, in common language, emphasizing how wrong these crimes are.

[3] I also have to, as I said, take into account of who you are and what you are. I see a couple of things in your criminal background. There is something called the step principle, and that is when you first commit an offence, you start at the bottom of the ladder, and you receive, in this case, a fine. The next offence, you received a couple days in custody, and the sentences increased with the next offence, and then the next offence, and the next offence, and now we have the most serious set of crimes, other than murder and serious aggravated assaults. You have stepped up all the way, and you are getting very close to the top of that staircase.

[4] There is another principle that I see, and that is that I must look at who you are and what you are. What I see is a young man who grew up in a one-parent household, who is repeating the same mistakes that his father made, in some ways — that is ignoring his children — and who ended up in various foster homes. Your mother sounds like she was a wonderful person, a hardworking person, but with the number of children she had, she could not do it all. When you go into the foster system, it is a tough system to be in. I take into account the damage that all of that has done to you.

[5] I am not here to talk about your past crimes. I am here to talk about this crime, and I am here to talk about your lifestyle and how that is going to change by what I tell you. I know all the cases. Indeed, as I read through these cases which I received this

morning that Mr. Brillantes went through very kindly because I wanted you to know not only what the principles of sentencing are, but I know some of the names in these cases are still in jail today. You probably know them. You have heard those names before. I know them in my limited exposure as to what is going on in the Yukon — I know these names. You look around, and you have been in jail with these people who are just going round and round and round the system here. Obviously, you have said to yourself, “I do not want to be with these guys anymore. They do not want to get out of this, but I think I do”.

[6] I look at your children: you have three lovely young boys, obviously, who are in the most formative years of their life. Where is their dad? Sitting in jail. They may or may not know that, but if they do, do you want them to be where you are? Do you want them to be somebody who can contribute to society and feel good about themselves? No doubt, your mother, when she had to give up her kids, must have been tortured because she obviously cared about people. Do you want them to follow in your footsteps? No, of course you do not.

[7] It is a privilege for us to have children, but it is a right of a child to have a parent who cares and who is present, and you are not doing that. These are three young boys who just, with the right influence, could end up doing great things. Part of the influence you have would be to show them you have the strength to move out of those people that you know in Whitehorse Correctional Centre and change your life and join the other many thousands of hardworking people that live in your community, but that comes down to you.

[8] There is nothing that I can do or say which would help you make that decision. All I can do is give you a lens through which to look at the rest of your life. You are 33 years old. That is a kid to me, and you still have a whole life ahead of you.

[9] Why am I accepting this joint submission? These cases are from 2017 and 2022, and the numbers just go up. When I sat in the judicial pre-trial conference with both lawyers, both the Crown and the defence, and talked about the numbers, I told Mr. Ndlovu that I thought the Crown's position was more than reasonable and that it had better be a joint submission, because what a joint submission means is that I have to follow the law of joint submissions, which is that unless it brings the administration of justice into disrepute, I have to accept it.

[10] The reasons I am accepting this joint submission is because I do not believe it brings the administration of justice into disrepute. I can see the *Charter* motions. I have been a long-time judge, and before that, I was a defence counsel. I can see the *Charter* motions that could be argued here. I can see the fact that there were two other people in the car. I can see what defences you may have raised. I thought it was unlikely that you would win a *Charter* motion, but you said, "I am not even going to try; I want to move on with my life". And because of that, and because you are pleading guilty, not at an early stage of the proceedings in terms of your being in custody for all this time, but because the disclosure took a while, our discussions took a while, and here we are. You have not embarked down the road of "I want to have a preliminary inquiry; I want to have a trial". You have not gone down that road, and I accept that and consider it an indication of true remorse.

[11] All of that leads me — it is a long way around of saying look at yourself. Look in the mirror. It is time to grow up and move on and be a father to those children and be somebody who can, who is obviously smart enough to get work and be somebody in their lives so they do not look at you as you looked at your father, because they do not deserve that, and you do not either.

[12] The long and the short of that is I accept this joint submission.

[13] On the s. 95(1) *Criminal Code* charge, the possession of the loaded prohibited weapon, a sentence of two years.

[14] On the breach of the prohibition — you have about three or four prohibitions; they are there for a reason; it is a separate charge and a separate crime — there will be a sentence of six months consecutive.

[15] On the s. 91(1) *Criminal Code* charge, the other firearm, the other gun, there will be a two-year concurrent sentence.

[16] I will give you credit for five months and 15 days of that time served. Therefore, there will be a sentence of two years and 15 days going forward.

[17] The victim surcharge will be waived.

[18] There will further be another lifetime prohibition of you having in your possession any firearms or any weapons whatsoever. Do you understand? That is for the rest of your life. That does not mean that you cannot take a hammer to work or a knife to work.

It means that you cannot turn any of those tools into a weapon, and you certainly cannot have firearms.

[19] You are at the top of that staircase. That is what is called the true crime staircase. It is a long way down to the bottom with no crime, but I suspect that you are [indiscernible] enough to do it.

[20] There will be a DNA order. You might have given DNA in the past, but if you have not, there will be a DNA — it is primary designated offence.

[DISCUSSIONS]

[21] MR. BRILLANTES: The remaining charges can be withdrawn, please.

[22] THE COURT: Withdrawn, thank you.

MCLEOD T.C.J.