

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Chief Judge Phelps

REX

v.

CHEYENNE LILLEY

Appearances:
Karlena A. Koot
Mark Chandler

Counsel for the Crown
Counsel for the Defence

This decision was delivered from the Bench in the form of Oral Reasons. The Reasons have since been edited without changing the substance.

REASONS FOR SENTENCE

[1] PHELPS C.J.T.C. (Oral): Cheyenne Lilley is before the Court for sentencing, having been found guilty after trial on one count contrary to s. 266 of the *Criminal Code*.

[2] I will note at the outset that she was found guilty of a lesser included offence, having been originally charged with an offence contrary to s. 267(a) of the *Criminal Code*, for using a weapon, to wit: an axe, in the commission of an assault. She was found not guilty of that offence and guilty of the lesser and included offence. I note that because there was a clear triable issue to be dealt with before the Court that was partially successful on her part, which explains why she took responsibility for other

offences occurring on the same date and was previously sentenced for those offences, and for which she received a sentence of four months in custody on October 1, 2025.

[3] Ms. Lilley does come before the Court with a prior criminal record. She does have related offences: one in 2017 for assaulting a peace officer for which she received a 45-day conditional sentence; another in 2017 for assault contrary to s. 266, for which she received a 30-day conditional sentence. She only has two entries on her record since 2017: one being for failing to comply with a recognizance in 2018; and another being for an impaired driving-related offence in 2021.

[4] Ms. Lilley is 29 years old, a member of the Little Salmon Carmacks First Nation, and I am told that there are some *Gladue* factors that apply to her history, particularly with members of her family attending residential school.

[5] Counsel are joining on their recommendation to the Court today on sentencing for a period of custody of seven days, followed by three months of probation. A significant underlying factor to this recommendation being that Ms. Lilley is currently unhoused and community-based sanctions would be difficult for her to comply with.

[6] Counsel for Ms. Lilley filed with the Court a letter from Melissa Milmine, a counsellor from the Kwanlin Dün First Nation, indicating that she has been engaged in regular counselling sessions with Ms. Lilley since May 14, 2025, indicating:

...She fully engages in the counselling process and self-reflection. I have continued to meet with her at Whitehorse Correctional Facility since her incarceration.

[7] Counsel also filed a document entitled Inmate Programming and Activity Summary for Ms. Lilley since her incarceration on October 1, 2025. It indicates that out of a total of programs offered and there being multiple opportunities throughout many of the days to participate in programming, Ms. Lilley participated in 197 of the offerings out of 214, which is a considerable attendance rate. Those offerings included the Substance Abuse Management program, which Ms. Lilley completed; a Courage to Change program, which she completed; and a program entitled Peer Interactions, which she completed.

[8] I note, from perusing the 197 entries of the report, that she was involved in a significant amount of cultural activities, such as smudging; sessions with respect to substance abuse, in addition to the Substance Abuse Management program; Alcoholics Anonymous; support sessions with a First Nation elder; participation in a fitness activity, which would be important to her mental health while in custody; spiritual one-on-one sessions; education sessions through the university, and numerous other activities that she should be given full credit for participating in while in custody. It is very rare that this Court sees an individual take this level of advantage of programming that is made available within the facility.

[9] I fully understand now, having challenged counsel with respect to their discussions with respect to sentencing, how they came to the proposal before the Court. Having seen the report I just mentioned and the letter that was filed, I am struggling with the need in the sentencing before me to sentence Ms. Lilley to any further incarceration.

[10] It was canvassed with counsel as to whether or not a rehabilitative probation order would be appropriate for Ms. Lilley. However, for reasons that they articulated, which I accept, there would be difficulty in crafting what was proposed.

[11] Again, I accept the rationale for what was explained and why those terms would have been problematic. What I am going to do is the following.

[12] Ms. Lilley, I am going to suspend the passing of sentence today. I am going to place you on a period probation for six months. The terms of that probation order will largely be as set out by counsel earlier, but I am going to read them to you now and I am going to add one additional clause for you. The terms will be as follows:

1. Keep the peace and be of good behaviour;
2. Appear before the court when required to do so by the court;
3. Notify the court in advance of any change of name or address and promptly of any change in employment or occupation;
4. For the first three months of this order you will have no contact, directly or indirectly, or communication in any way with Dale Thompson;
5. For the first three months of this order you will not go to any known place of residence, employment, or education of Dale Thompson;

[13] The other term is going to be as follows.

6. Continue to attend counselling sessions with Melissa Milmine, a clinical counsellor with Kwanlin Dün First Nation, at a frequency and on a

schedule as sorted out between yourself and Ms. Milmine. You will attend with Ms. Milmine within the first seven days of this order and sort out a schedule for attendance together.

[14] Those are the terms that you will be required to abide by.

[15] The victim surcharge on this count will be waived.

PHELPS C.J.T.C.