

Citation: *R. v. Verdin*, 2025 YKTC 58

Date: 20251211
Docket: 25-10044
Registry: Watson Lake
Heard: Whitehorse

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

REX

v.

MAXIMILLIAN KARL VERDIN

Publication, broadcast or transmission of any information that could identify the complainant or a witness is prohibited pursuant to s. 486 of the *Criminal Code*.

Appearances:

Neil Thomson

Francesca J. Savard

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): Maximilian Karl Verdin is before the Court having pled guilty to a single count, being that:

On or about the 6th day of June in the year 2025 at Watson Lake in the Yukon Territory, wilfully did an indecent act to wit exposing his penis at [redacted] with intent thereby to offend [redacted] contrary to Section 173(1) of the Criminal Code.

[2] The facts with respect to the offence are brief. Mr. Verdin responded to a Facebook post by the victim who was selling an item. He attended at her home and when he did, she had music playing on her computer. She opened the door and then went to the computer to turn down the music. As she was doing this, she noticed Mr. Verdin had followed her in. She looked at him and he was holding his penis in his hand exposed to her. The victim, a 65-year-old female living alone, managed to get him to immediately leave her home.

[3] The victim prepared a Victim Impact Statement (“VIS”). It was read out loud in court by the Crown. There is no question that this offence had a significant impact on her.

[4] I note the following from the VIS:

After this incident in my home, I do not feel safe here and it doesn't feel like home anymore. Before this incident occurred, I was not so fearful and I enjoyed socializing and group activities.

After the incident in my home, I became fearful of the dark and I was not afraid of the dark previously. I also became afraid when people are behaving inappropriately or having strange behaviour.

I have shared this incident with only a few people. I am isolated due to this incident. I don't trust people as much as I used to.

Thinking about this incident creates anxiety in me. I feel depressed and my self esteem really took a hit when this occurred.

[5] She states the following later in the VIS:

I was never very fearful of most people that I have encountered throughout my life. I am a people person and I have known many many people. Strangers and acquaintances have shared some of their most secret things with me and I have many stories and lessons that I have learned from them. After this incident, I don't spend as much time with those suffering from mental illness that I used to, I am not as tolerant as I used to be.

[6] Mr. Verdin is 38 years old. He is married and comes before the Court with no prior criminal record. Documents were filed with the Court that support his position that he felt immediate remorse for his actions.

[7] There is a letter from Mental Wellness and Substance Use Services confirming that he attended for rapid access counselling shortly after the incident on June 11, again on June 18, and then on July 3, 2025.

[8] There is also a letter that has been filed from Little Nest Counselling confirming that he started counselling there on June 19 and continued as recently as November 28, 2025, completing 11 sessions in total. The letter states as follows:

Throughout our work, I have witnessed Max take responsibility for his actions and demonstrate genuine remorse for the harm caused. While I am not condoning the behaviour in any way, I can speak clinically to the fact that the incident appears connected to unresolved traumatic experiences that we have been actively processing in therapy. This context helps explain his state of mind at the time but does not excuse the impact of his actions.

Based on all of my interactions with him, I do not view Max as a threat to the community. He remains committed to his healing, demonstrates growing emotional insight, and continues to build the skills necessary to prevent future harm. His progress has been steady and sincere.

[9] I note that the reference to “unresolved traumatic experiences that we have been actively processing” seems to indicate that there is a need for ongoing work to address the underlying cause for the incident before the Court.

[10] There is also a letter from his spouse, who has known him since 1999. She speaks to his kindness and his compassion. She confirms that he took accountability from Day 1, noting as follows:

What I know to be true is that what happened on June 8th of this year was shocking to him and to everyone around him. A part of him that neither of us had ever seen before showed itself. I saw Max break into pieces in the days and weeks that followed the incident. He could not eat for days; he was ridden with guilt and shame; he was unable to return to work for weeks; and he has been haunted by panic attacks up to the present day.

[11] She indicates that she has seen the benefit of counselling in him and his coping mechanisms and confirms that the act before the Court was out of character.

[12] Mr. Verdin prepared and read a letter in to Court. He takes full responsibility for his actions. He sets out his sincere remorse for his conduct. He explains that he was very stressed from life circumstances at the time of the incident, and he wrote the following with respect to the victim:

If I try to see the situation through [redacted] eyes, I understand that what I did must have felt truly wrong and frightening — especially in her own home, where she had every right to feel completely safe. She was kind, polite, and warm in every interaction, and she did not deserve to experience fear, discomfort, or violation. I am deeply sorry for putting her in such a situation.

[13] He continues later in the letter to state:

To her, I offer my deepest and most sincere apology. I am truly sorry for the fear, distress, and harm I caused.

[14] The Crown's position with respect to sentencing is for a suspended sentence and 15 months' probation, with the probation to be focused on counselling and protective terms for the victim in this matter. Crown points out that, given the circumstances of the offender and the offence, they are not seeking the discretionary SOIRA (*Sex Offender Information Registration Act*, S.C. 2004, c. 10), order in this case. However, given the nature of the offence, the Crown's position is that it is appropriate for Mr. Verdin to have a criminal record as an outcome of this proceeding.

[15] Defence counsel suggests that an absolute discharge is appropriate.

[16] The test for a discharge has two primary questions.

[17] The first is if it would be in the best interests of Mr. Verdin to receive a discharge. The Supreme Court of Yukon addressed this question in *R. v. Martin*, 2017 YKSC 61, at para. 23, as follows:

As for the best interests of the accused, normally that person will be of good character, or at least of such character that the entry of a conviction against him or her may have significant repercussions. The reason for requiring that the accused be of good character is so that the sentencing court can be satisfied that there is little or no need for specific deterrence to prevent the accused from reoffending.

[18] The Court continues as follows at paras. 26 to 28:

26 The requirement for evidence to determine whether an offender is a good character was repeated in *R. v. Rogers*, [1987] Y.J. No. 79 (T.C.) where Lilles J., who is also the sentencing judge in this case, stated that “one should not speculate that a person is of good character because he or she has no criminal record”.

27 In the case at bar, there is little evidence about the offender’s character. All we know is that the sentencing judge was impressed that Mr. Martin did not have any criminal record at the age of 28 years and was able to abide by the terms of his recognizance, which he had been on since August 26, 2016, without any adverse incidents. The judge also recognized that the offender had been previously employed, although he had not been working since March 31, 2017.

28 Further, there was absolutely no evidence that the offender would suffer disproportionate consequences from a criminal conviction for assault causing bodily harm. While it may be arguable that a discharge, and the consequent absence of a criminal conviction, will always be in the accused’s best interest, even defence counsel concedes that is not the test. Rather, there must be some evidence that the offender may suffer significant repercussions from the conviction. There is no such evidence in this case.

[19] The evidentiary burden, as is explained in *Martin*, is in relation to the need to address specific deterrence, in this case, specific deterrence for Mr. Verdin.

[20] General deterrence is addressed in the second question, that is, that the discharge not to be contrary to the public interest. This question is addressed also by *Martin* as stated in para. 31:

The need for general deterrence and denunciation is particularly pronounced when an offence arises in a context of domestic violence. In *R. v. Mackenzie*, 2013 YKSC 64 (“*Mackenzie*”) Veale J. of this Court accepted this premise and went on to state that when deciding whether general deterrence of others is necessary, courts are to consider:

- 1) the gravity of the offence;
- 2) the prevalence of the offence in the community;
- 3) public attitudes towards the offence; and
- 4) public confidence in the effective enforcement of the criminal law.

[21] I am satisfied on the first question, based on the letter from his spouse, that Mr. Verdin is of good character. More information about his work and volunteer history, if any, would have helped on this question. I do not have evidence before me regarding the impact a criminal record would have on Mr. Verdin.

[22] That said, the letter from his counsellor and from his spouse do satisfy me by the slightest of margins that it would be in his best interests to receive a discharge.

[23] As to the second question, counsel for Mr. Verdin downplayed the severity of this offence, arguing that it was not conducted in public and that it was brief in nature.

[24] I disagree with counsel's assessment. A person's home is their castle. It is their safe place. People retreat to the sanctity of their home to be secure. Entering someone's home, in this case the home of a vulnerable elderly female, and committing an offence such as the one before the Court is very serious. The gravity of the offence is high.

[25] With respect to the second point, being the prevalence of the offence in the community, I agree with counsel's position that this particular offending is not highly prevalent in the Yukon Territory.

[26] With respect to the public's attitude towards the offence, the Crown is correct that it would not be positive, given that it was sexual in nature and committed against an elderly female vulnerable victim.

[27] Finally, with respect to the public confidence in the effective enforcement of the criminal law, I do find that there would be confidence if the public were fully informed of the underlying issues as well as the outcome of the proceeding here today.

[28] Overall, I am satisfied that it would not be contrary to the public interest for Mr. Verdin to receive a discharge today. That said, it will not be an absolute discharge.

[29] The *Criminal Code* sets out the purpose of sentencing in s. 718 as follows:

The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

[30] I believe that the objectives of this section can be met by the imposition of a probationary period attached to the conditional discharge, the purpose being that I believe that he requires more work to earn a discharge and the probation order will permit him the opportunity to do so.

[31] Mr. Verdin, the good news is, today, I am granting the discharge, but it is going to be conditional. It is going to require you to abide by certain terms for a period of 18 months. Those 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 your Probation Officer in advance of any change of name or address and promptly of any change in employment or occupation;
4. Have no contact directly or indirectly or communication in any way with [redacted] except with the prior written permission of your Probation Officer and with the consent of [redacted] in consultation with Victim Services;

[32] I pause here to say that the exceptions are because you indicated the desire to address [redacted] directly through a restorative process. Perhaps over the next 18 months she will have a change of heart and there will be that opportunity, so I will provide those exceptions for that purpose.

5. Not go to any known place of residence, employment, or education of [redacted];
6. Remain within the Yukon unless you obtain written permission from your Probation Officer;
7. Report to a Probation Officer by 4:00 p.m. on December 12, 2025, and thereafter, when and in the manner directed by your Probation Officer.
8. Attend and actively participate in all assessment and counselling programs as directed by your Probation Officer and complete them to the satisfaction of your Probation Officer to address any issues identified by your Probation Officer and provide consents to release information to your Probation Officer regarding your participation in any program you have been directed to do pursuant to this condition. For clarity, this condition is to include continued counselling with Little Nest Counselling on a schedule as recommended by Erin Peacock, which will be in addition to any other direction from your Probation Officer;

[33] To address reparation to the community, you will:

9. Perform 80 hours of community work service as directed by your Probation Officer or such other person as your Probation Officer may designate. This community service is to be completed on a schedule of not less than 25 hours every four months until the hours are complete.

[34] That will be for the period of 18 months. Your counsel will explain to you what happens after 18 months but if you abide by them and complete them to the satisfaction of your Probation Officer and you do not come before the Court for the failure to do so, you will not end up with a criminal record arising out of this incident, which I have already indicated I have found would be to your benefit.

[35] There is a victim surcharge attached to this single count. However, I think I have enough information before me regarding the impact of this incident on you as well as the expense you have gone through to attend counselling of your own accord, and I am going to waive the victim surcharge.

PHELPS C.J.T.C.