

Citation: *R. v. Webb*, 2026 YKTC 11

Date: 20260227
Docket: 24-00434
Registry: Whitehorse

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

REX

v.

BRANDON LEE WEBB

Appearances:
David A. King
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): Brandon Webb was convicted after trial on three counts as follows:

Count #1: On or about the 25th day of June in the year 2024 at or near the City of Whitehorse in the Yukon Territory, did operate a conveyance while prohibited from doing so by reason of an order pursuant to Section 320.24 of the Criminal Code. contrary to section 320.18(1)(a) of the Criminal Code.

Count #2: On or about the 25th day of June in the year 2024 at or near the City of Whitehorse in the Yukon Territory, while operating a motor vehicle and being pursued by a peace officer, did fail without reasonable excuse to stop his

vehicle as soon as was reasonable in the circumstances, contrary to Section 320.17 of the Criminal Code.

Count #3: On or about the 25th day of June in the year 2024 at or near the City of Whitehorse in the Yukon Territory, did while bound by a probation order made by Judge M. COZENS on the 5th day of April, 2024, fail without reasonable excuse to comply with such order, to wit: keep the peace and be of good behaviour, contrary to Section 733.1(1) of the Criminal Code.

[2] Mr. Webb was released from custody in the morning of June 25, 2024.

According to his testimony at trial, he met up with his father and together they consumed alcohol throughout the afternoon. At approximately 10:00 p.m., he was discovered by an RCMP member in the driver's seat of a truck parked on Front Street. The officer was driving past when he saw Mr. Webb, knew he was prohibited from driving, and proceeded to execute a U-turn in order to address Mr. Webb.

[3] As the officer was executing the U-turn, Mr. Webb sped off along Front Street. He proceeded through the stop sign on Main Street, left on Jarvis Street, through the stop sign on 2nd Avenue, continuing through 3rd Avenue and the stop sign on 4th Avenue, all at a high speed captured on the RCMP Watchguard video.

[4] The RCMP member drove at a fast but safe speed in pursuit but could not catch the truck. He had the emergency lights and siren activated. He accelerated to over 70 kilometres per hour at points.

[5] Mr. Webb turned off of Jarvis Street onto 7th Avenue going south and abandoned the truck shortly thereafter. There was a pedestrian near Jarvis Street and 7th Avenue who pointed out the direction of the truck to the police officer.

[6] Mr. Webb and his passenger were apprehended approximately 30 minutes later, having fled to a downtown residence.

[7] Of note, there was light traffic at that time of day in downtown Whitehorse, and both 2nd Avenue and 4th Avenue are main roads in the downtown area with increased traffic. Additionally, the truck travelled into a primarily residential area where pedestrians would be expected and, in fact, the one assisted the RCMP.

[8] Mr. Webb was on a probation order for one year that began on his release on June 25, 2024. I note from the order before the Court he had been sentenced to 11 *Criminal Code* offences, including impaired driving and a driving while prohibited that gave rise to that probation order. Mr. Webb was subject to a 10-year driving prohibition imposed on August 11, 2017.

[9] A criminal record was filed with the Court, and on a relatively quick review, I note that he has 41 convictions as a youth and 70 convictions as an adult. His priors include 17 driving-related offences. Within the 17 driving-related offences are six prior s. 320.18 offences and two prior offences contrary to s. 320.17 of the *Criminal Code*. The most recent s. 320.18 offence was in April 2024, and I note he has received up to 11 months in custody on the same offence, which was in 2020.

[10] He also has four outstanding files with the Court from April 24 and 25, 2025 and August 8 and August 9, 2025. These files have not yet been proven against him and are only relevant in assessing his need for rehabilitation. That is, Mr. Webb, as he articulated in the *Gladue* report filed with the court, does indeed require rehabilitation.

[17] From the *Gladue* report that was filed with the Court, I note that Mr. Webb is 32 years old. He is a citizen of the Kwanlin Dün First Nation. He is in a stable relationship, but he has no children. He has had employment and as stated on page 2 of the *Gladue* report, and I quote:

Brandon is currently seasonally employed with Solvest Inc. and has done well with the company. [Quoted from Mr. Webb] “I work full-time (in season) as a lead hand solar technician and have been with them for about 3 1/2 years.” Brandon’s work season will begin March for the 2026 season.

[11] There is some contradiction regarding the time that Mr. Webb has spent with Solvest Inc. and an indication that perhaps it was only last season that he worked for the company, contradicting the author of the *Gladue* report. I note that the author of the *Gladue* report does not address the interactions with the justice system and the courts in the 2025 work season, so the extent of his employment in 2025 is not clear.

[12] From the report, I note that Mr. Webb’s mother and father were both interviewed. There is residential school history on both sides of his family. Both parents admit to issues parenting Mr. Webb and there is some indication that his father was abusive when he had to stay with him, the parents having separated when Mr. Webb was young.

[13] Mr. Webb’s partner was also interviewed, and she sees positives in him, and I quote from the report at page 13 as follows:

Natalia believes Brandon is ready to make significant changes in his life. “Me and Brandon have been back and forth together for a period of time. We have had a rocky

road, but Brandon is changing. I have seen many positive things in his life during this time. He has been doing programs and counselling at WCC and wants to change. He does not want to be in the system anymore.”

[14] The author of the report received information from the Whitehorse Correctional Centre (“WCC”) with respect to programming as follows, noted on page 14, and I quote:

Brandon’s acting WCC case manager, Matthew Lovatt listed the following programs and services Brandon has participated in since he has been incarcerated:

In 2026

- 6 Individual support sessions with First Nations Liaison Officer
- 1 Talking Circle
- 1 health promotion session
- Active attendance at Yukon University
- 2 sessions of trauma-informed yoga

In 2025/26

- 4 Forensic Complex Care Team (FCCT) counselling sessions attended
- 4 FCCT group sessions attended resulting in a certificate from the Good Lives Program
- 4 FCCT sessions declined

[15] The report continues:

Brandon added while in WCC, he has been taking university courses [quoting from him] “I’ve got all my WHMS Tickets, H2S Alive, Hazardous, First Ai[d], CPR Level One, Food Safe Level One, Fall/Arrest (roof safety), and Transportation of Dangerous Goods.”

[16] Regarding next steps, the author of the report notes at page 16, and I quote:

Nathan said that Brandon wants to focus on his work, developing a relationship with his partner and repairing his relationship with his Mother. Nathan is prepared to continue working with Brandon whether he is home or remains incarcerated.

Brandon said he can feel the change in himself, “My character is developing. My mind is maturing more. I feel really good. I need to continue what I’ve been learning. I have been learning all I can about ADHD; I have done a lot of research.”

[17] The Nathan referred to in that last quote is Nathan Schultz from Mental Wellness and Substance Use Services. He is a clinical counsellor and has been seeing Mr. Webb since September 2020, having had approximately 57 individual sessions together. There is a letter from Mr. Schultz and he indicates:

...More recently, in the period immediately preceding his most recent detention, his engagement was exceptional with far fewer missed appointments.

[18] The Crown’s position on sentencing is a global sentence of 12 to 18 months. They relied on two Yukon cases which I will refer to shortly. Crown noted that s. 320.14(5) of the *Criminal Code* allows for a driving prohibition for up to three years and they indicated that and agreed with defence counsel that time served is 223 actual days, which would gross up to 335 days.

[19] Defence counsel highlighted the *Gladue* report, noted the support of Mr. Webb’s partner and the indication of work that Mr. Webb has to go to. I do note that there is an absence of confirmation with respect to that work. It was notably not verified by the author of the *Gladue* report, and I do not have any information before me with respect to

what the work would entail, when it would occur, the circumstances of supervision while at work or the tolerance of the employer with respect to programming that Mr. Webb would otherwise be subject to.

[20] Defence also highlighted the work that was done with Mr. Schultz that I have just referenced. He is in agreement with the time served calculation with the Crown. He suggested a 12-month conditional sentence order followed by two years of probation.

[21] The proposed conditional sentence order does not have considerable detail. There is a residence noted for Mr. Webb to reside at, the circumstances of which have not been provided to the Court. There is a suggestion that he would abide by house arrest, abstain from alcohol and drugs, attend at programming and not attend any business whose primary purpose is the sale of alcohol. That is essentially the extent of the plan put forward with respect to the conditional sentence.

[22] Counsel suggests similar terms absent the house arrest for a probation order.

[23] Mr. Webb himself spoke to the Court. He apologized to the Court. He indicated that programming at WCC has been helping him. He recognized that at his age of 32 years old, it is time to change. He indicated his desire to work on his relationship with his partner moving forward.

[24] There are some mitigating factors with respect to sentencing, Mr. Webb's admission that he needs to address his addictions, of course, being one of them. Mr. Webb has reduced moral culpability given the *Gladue* factors set out in the *Gladue* report filed with the Court. He has done some counselling with mental wellness and

substance use services as set out in the letter from Mr. Schultz and in the *Gladue* report itself.

[25] Aggravating factors that the Court needs to balance are the extensive nature of the criminal record that is before the Court, which I have already gone through. The fact that he had been released from jail on the very day that he committed the offences before the Court and while he was on probationary conditions and, set out in my summary of the facts, the fact that the flight included high speeds and dangerous intersection crossings placing drivers and pedestrians in the downtown core at risk.

[26] Defence filed one case in support of their position, being *R. v. Lavergne*, 2018 ONCJ 902, involving the sentencing of an individual for driving while disqualified and breaching release conditions. The matter did proceed to trial.

[27] Mr. Lavergne had a significant criminal record, including prior driving while disqualified and other driving offences. He was before the Court with a *Gladue* report and had support letters from his mother, the mother of his child, and the John Howard Society. I note particularly that within the *Gladue* report, which was referenced in paras. 24 and 25 of the decision, the following:

24 The Gladue Report recommends the inclusion of the following elements in their sentencing plan. It should be noted that these resources are found in Ottawa and serve the indigenous community in that city.

- Attend anger management and counselling at the Wabano Health Centre;
- Attend Kagita Mikam Employment and Training for assessment and training;

- Attend I am a Kind Man Cultural program at the Odawa Native Friendship Centre for one-on-one participation;
- Work with an Aboriginal Legal Services caseworker.

25 In Ms. Henderson's affidavit, she outlined the steps that she and Mr. Lavergne have taken to formulate a plan. She submits that:

- Mr. Lavergne will reside with her, her son, and their daughter;
- He will attend the Men's Circle once a week at the Wabano Centre for Aboriginal Health; at that centre, he can also have meetings with an adult and family support worker and also undergo mental health counselling there.
- Kagita Mikam Employment and Training
- Further employment opportunities through Higher Power at the John Howard Society.

[28] In other words, the circumstances of the individual being sentenced in this case was substantially different with respect to the proposed plan being put forward supported by the *Gladue* report and other affidavit evidence.

[29] The Crown filed two cases, the first being *R. v. Silverfox*, 2024 YKTC 47. It involved sentencing for a driving while prohibited and breach of an undertaking. It was a joint submission on plea. I note Chief Justice Duncan's comments at paras. 10 through 12 as follows:

10 The goal of denunciation and deterrence for an offence under s. 320.18, driving while prohibited, must be emphasized given the direction of the Supreme Court in *R. v. Friesen*, 2020 SCC 9, and the amendments in Bill C-46. I

note that this is Mr. Silverfox's 10th driving while disqualified conviction.

11 For the s. 145 offence, the goals of denunciation, deterrence, and also promoting a sense of responsibility in the offender of his obligation to the Court are relevant. I note that for the last conviction under s. 145 of Mr. Silverfox, he received 60 days; and in his criminal record, I note that there are 23 breaches of undertaking.

12 However, as I noted in the October decision, Mr. Silverfox has — especially recently — demonstrated commendable rehabilitation efforts and he continues to do so. As his counsel said today, he is taking or has completed a course on personal growth at the Whitehorse Correctional Centre ("WCC") since his last conviction in October; he has been working as a server in the kitchen; and he has recommenced counselling sessions with a very experienced counsellor. I continue to congratulate you and commend you, Mr. Silverfox, on your rehabilitative efforts. I hope they continue. I encourage you to continue on this path. You have been consistent for the last three years, at least, and it is commendable. You are on the right path; keep going.

[30] She proceeded to sentence Mr. Silverfox along with the joint submission for 12 months in custody, 60 days concurrent on the breach. She did so after noting the *Gladue* factors that were before the Court.

[31] The second case, *R. v. Bernhardt*, 2017 YKTC 27, also a driving while disqualified case. Mr. Bernhardt had nine priors. In this decision, the judge refers to a number of cases which start at para. 10 as follows:

10 *R. v. Taylor*, 2008 YKCA 1. It was a decision of the Yukon Court of Appeal upholding a sentence of eight months' imprisonment for driving while disqualified. It was Mr. Taylor's second conviction for driving while disqualified. He was in the final year of a 10-year prohibition that was ordered as a result of an earlier conviction for causing death while his ability to drive was impaired by alcohol. Aggravating factors included the seriousness of the

predicate offence, the fact of two instances of driving in a 24-hour period, and that he had been warned earlier by a neighbour not to drive but dismissed that warning. The Court of Appeal upheld the sentence of eight months' incarceration, noting that specific deterrence and public safety were important sentencing principles on these facts.

11 *R. v. Hindmarch*, 2010 BCSC 1257 resulted in a sentence of 21 months' imprisonment less time served. Although only 30 years old, Mr. Hindmarch had a lengthy criminal record consisting of 56 criminal convictions, of which 15 were motor vehicle-related, including three driving while prohibited, four dangerous driving, and three impaireds over 0.08. Denunciation and deterrence were identified by the Court as relevant sentencing principles.

12 In *R. v. Melanson*, 2009 NBCA 41, the accused had a record of 25 offences, which included four convictions for driving while disqualified. He received a sentence of 14 months' incarceration followed by three years' probation.

...

14 *R. v. Hunziker*, 2016 YKTC 28, is also a Yukon case. Mr. Hunziker had four drinking and driving convictions and 11 driving while disqualified offences in addition to a significant history under the *Motor Vehicles Act*. Mr. Hunziker received a 20-month sentence.

[32] The Court continues at para. 15:

In *R. v. Johnnie*, 2009 YKSC 42, the facts are somewhat different than the case at bar. But in that case, at para. 19, Justice Gower stated:

The Crown also relies on *R. v. Taylor*, 2008 YKCA 1, a more recent decision of the Yukon Court of Appeal. That case involved a sentencing for an offence of driving while disqualified, which was the second such offence for that offender. At para. 10, the court stated:

"...The public safety concern to which the judge referred is real and pressing. Generally speaking, driving prohibitions

must be obeyed and breaches sanctioned in a meaningful way. Specific deterrence for this man is required because of his bad criminal history and somewhat casual attitude towards the driving restriction."

[33] *Gladue* factors were also present in that case. The judge continues in the decision to sentence Mr. Bernhardt to 13 months and a lifetime prohibition.

[34] I also reviewed *R. v. Battaja*, [1990] Y.J. No. 208 (Y.T. Terr. Ct.). Mr. Battaja was a first-time offender and received a 30-day sentence. The judge noted at para. 3 as follows:

With regard to the offence of driving while prohibited, the Court is obviously concerned with specific deterrence to make sure the individual obeys court orders in the future but, more importantly it is primarily one of general deterrence. Other people in the community must know that if they think that they are going to take the chance and drive while prohibited, the price that they will pay will be at least sufficient that they will think twice about so doing. That is why I indicated that in matters such as this, a gaol term is presumptive, subject of course, to the particular circumstances associated with the individual and the offence.

[35] Given the criminal record before me, the range of sentencing for each offence would be, for the s. 320.18 offence in the range of eight to 14 months, for the s. 320.17 offence in the range of six to eight months, and for the s. 733.1(1) offence in the range of 60 to 90 days. I am mindful of the purpose of sentencing as set out in s. 718 of the *Criminal Code* as well as the principles set out in s. 718.2 and have given careful consideration to s. 718.2(e).

[36] I have considered the principles of parity, restraint, and totality and I acknowledge that there is a clear need to support Mr. Webb's desire for rehabilitation and that a lengthy probation order would be appropriate. I have also factored this into the calculation of the custodial sentence.

[37] Mr. Webb, I sentence you as follows.

[38] On Count #1, which is the offence contrary to s. 320.18(1)(a) of the *Criminal Code* for operating a conveyance while prohibited, a period of custody of 12 months. Against this the time served which is calculated at 11 months will be applied, leaving one month remaining.

[39] On Count #2, the offence contrary to s. 320.17 of the *Criminal Code*, taking into account the significant aggravating factors related to that offence which occurred after the time at which you were seen by the peace officer in operation of the conveyance, a period of custody of six months consecutive.

[40] With respect to Count #3, the offence contrary to s. 733.1(1) of the *Criminal Code*, a period of custody of 90 days concurrent.

[41] There will be a probation order attached for a period of 18 months. The terms of the probation order will be:

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. Remain within the Yukon unless you obtain the written permission from your Probation Officer;
5. Report to a Probation Officer immediately upon your release from custody and thereafter when and in the manner directed by your Probation Officer;
6. Reside as approved by your Probation Officer and not change that residence without the prior written permission of your Probation Officer;
7. Not possess or consume alcohol or illegal drugs that have not been prescribed for you by a medical doctor;
8. Not attend any premises whose primary purpose is the sale of alcohol, including any liquor store, off sales, bar, pub, tavern, lounge or nightclub;
9. 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 for the following issues: substance abuse; alcohol abuse; and any other issues identification 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;

10. Perform 80 hours of community service as directed by your Probation Officer or such other person as your Probation Officer may designate. This community service is to be completed no later than 45 days before the end of this order. Any hours spent in programming may be applied to your community service at the discretion of your Probation Officer;
11. Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts; and
12. You will not drive a motor vehicle at any time.

[42] Those are the conditions of your probation order. The community work service is not meant to be onerous on you, Mr. Webb. It is meant to be an incentive for you to attend programming because your programming will count towards community work service. Given the letter that you have provided to the Court and your indication of the desire to change, the programming will serve you well in the future.

[43] Finally, you are prohibited from operating a motor vehicle pursuant to s. 320.14 of the *Criminal Code* on any street, road or highway or any other public place for a period of three years.

[44] Victim surcharges attached to these three counts will be waived.