

SUPREME COURT OF YUKON

Citation: *R. v. Corcoran*, 2009 YKSC 15

Date: 20090227
Docket S.C. No.: 07-01503D
07-01503E
Registry: Whitehorse

BETWEEN:

HER MAJESTY THE QUEEN

AND:

THOMAS JOSEPH CORCORAN

Before: Mr. Justice R.S. Veale

Appearances:
Kevin Komosky
Thomas Corcoran

Appearing for the Crown
Appearing on his own behalf

REASONS FOR SENTENCING DELIVERED FROM THE BENCH

[1] VEALE J. (Oral): With respect to the sentence on the breach of conditional sentence that I have found relating to the possession of cocaine, my view of the matter is that it is extremely serious. It is not what we would call a slip of a term of a conditional sentence, but it is a very fundamental breach because the conditional sentence is a very creative opportunity for a person that has been convicted, of a drug charge in this case, to demonstrate that they can serve their sentence in the community without breaching the conditions of the sentence. When those conditions are breached, sometimes they are minor slips that the Court is prepared to say, "You have made a mistake, but carry on," because it does not go to the fundamental root of the sentence,

but in this particular case the nature of this breach, being possession of cocaine, this Court considers it to be an extremely serious matter.

[2] I find that the appropriate sentence is under s. 742.6(9)(d), which is a termination of the conditional sentence, and I direct that Mr. Corcoran be committed to custody until the expiration of the sentence.

[3] THE ACCUSED: Would that be -- what date would that be?

[4] THE COURT: You know, I am not going to get into specifics on that, but you can check that when you get back to Whitehorse Correctional Centre. They will work out the amount of time. Generally speaking, the time that you have been serving now, since you were picked up, is sort of suspended time. It does not count towards the conditional sentence, as I understand it, but that may be an issue.

[5] MR. KOMOSKY: My understanding is the technical wording states that once --

[6] THE COURT: You are at subsection (10)?

[7] MR. KOMOSKY: Yes; under subsection (12), actually. If he is ordered detained, then the time starts running again.

[8] THE COURT: Starts running again?

[9] MR. KOMOSKY: I was just checking whether such an order was made, and it appears he has been on consent remand. The Court, in another section, can take that time into account, and out of fairness to Mr. Corcoran I would suggest that he be

given credit for the time from February 4th to today.

[10] THE COURT: Thank you, Mr. Komosky. I will give you that credit, Mr. Corcoran.

[11] THE ACCUSED: Okay. Would that be -- that would be just day for day, or time or --

[12] THE COURT: Yes. In other words if you had, for sake of argument, if you had three months left to go, that continued to run from February 4.

[13] THE ACCUSED: Okay. And I've been in CCB, which is central cell block. Would they allot for time and a half or that doesn't count? Okay.

[14] THE COURT: Not on this case. Thank you very much, Mr. Corcoran and Mr. Komosky.

VEALE J.