

SUPREME COURT OF YUKON

Citation: *R. v. Atkinson*, 2010 YKSC 56

Date: 20100922
Docket S.C. No.: 10-01507
Registry: Whitehorse

BETWEEN:

HER MAJESTY THE QUEEN

AND:

WILLIAM JAMES ATKINSON

Before: Mr. Justice L.F. Gower

Appearances:
Judy Bielefeld
Malcolm Campbell

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING DELIVERED FROM THE BENCH

[1] GOWER J. (Oral): This is the sentencing of William James Atkinson. He has changed his pleas from not guilty to guilty on two counts of breaching a court order under s. 145(3) of the *Criminal Code*.

[2] He was in custody in Whitehorse Correctional Centre from October 2009 to date. Between the 25th of October, 2009 and the 19th of March, 2010, he contacted Mandy Atkinson on two occasions. I am told that one of these contacts was direct, by phone, and the other was indirect, by contacting a third party.

[3] Mr. Atkinson is 60 years old. He is a member of the Ross River Dena Council. He has a lengthy criminal record dating back to 1971, the most recent conviction before me

being in 2007. It is a very significant record in the circumstances. Notwithstanding that, he has a number of accomplishments, which have just recently been set out by defence counsel. I will not repeat them verbatim, but he has skills as a Kaska interpreter; he has had some university education; he is fluent in a number of Northern Aboriginal languages; and he participates in native language instruction and adult education in his home community of Ross River, as well as culture camps. In that sense, he has been a contributing member to his community and his First Nation.

[4] I give him credit for his guilty pleas, although they come relatively late given that he had a trial date set for October 18th, less than one month away.

[5] Both counsel are agreed that no further time is required on this offence, given that Mr. Atkinson has been in custody since last October. Where they disagree is on the notional amount of sentence that should be noted on his record. Crown seeks a total sentence of six months with credit for time served. Defence counsel suggests that the going rate for these two breaches would be 30 days each for a total of 60 days, again deemed served.

[6] In my view, something more than the going rate should be imposed on Mr. Atkinson, given the overall length and the numerous convictions on his record. It has to be brought home to Mr. Atkinson, given his record and his familiarity with the court system, that he needs to be specifically deterred if he is going to continue to breach court orders, which is a very serious matter. In my view, 45 days on each count consecutive would be appropriate, for a total of 90 days, deemed served by his time on remand.

[7] Anything further counsel?

[8] MR. CAMPBELL: Count 1. Count 1?

[9] THE COURT: Madam Clerk, are you clear on that?

[10] MS. BIELEFELD: I'm sorry, I'll stay that. I'll stay that count.

[11] THE COURT: Count 1 is stayed.

[12] THE CLERK: And any surcharges, Your Honour?

[13] THE COURT: No surcharges in the circumstances. I am appreciative to counsel at being able to work things out. Thank you.

GOWER J.