

Citation: *R. v. Amos*, 2014 YKTC 62

Date: 20141119  
Docket: 14-00136A  
13-00341C  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before His Honour Judge Luther

REGINA

v.

ALAN DOUGLAS AMOS

Appearances:  
Ludovic Gouaillier  
Alan Douglas Amos

Counsel for the Crown  
Appearing on his own behalf

**REASONS FOR SENTENCING**

[1] LUTHER T.C.J. (Oral): This afternoon, I am about to sentence Alan Douglas Amos for four counts: Information 14-00136A, Count #1, a breach of s. 264(2)(b) of the *Criminal Code*; Count #2, a breach of s. 145(3) of the *Criminal Code*; and then on Court file 13-00341C, Counts #1 and #3.

[2] Mr. Amos was convicted on September 23, 2014, following a trial which took us most of the day on September the 22nd. The reasons for the convictions were succinctly stated in my oral decision of September 23, 2014.

[3] Without going over all those reasons again, this was a situation where Joanne Murphy was protecting her friend, Shannon Knowles, by keeping her location secret

from the offender. In fact, she told us that this case was not about her, but it was all about Shannon Knowles.

[4] The three aspects of the case that led rise to the conviction under s. 264(2)(b) had to do with:

[5] The defendant calling Joanne Murphy at work from her own house phone and referring to her in the most disgusting and degrading of terms;

[6] Secondly, the defendant actually going to her workplace and speaking in an aggressive manner with the acting supervisor to tell him that she was selling drugs to her co-workers. The acting supervisor, Mr. Nehring, was an excellent witness and very balanced in his approach. He indicated how agitated and abnormal Mr. Amos was;

[7] And thirdly, the defendant repeatedly telling Mr. Szulinszky, Joanne Murphy's partner, that Joanne Murphy was meeting men all the time and having an affair.

[8] The Court paid no attention to the offences alleged in Atlin, Carcross and Wolf Creek because they were not proven, not even close to proven, but the three instances that I have already referred to, both in detail on September the 23rd and today, were proven. Based on the cases, I was satisfied to register a conviction under s. 264(2)(b) of the *Criminal Code*.

[9] It is unfortunate that we do not have the benefit of a Pre-Sentence Report. I have been a judge now for well over 30 years and this is the first occasion, either here in the Yukon or in the Northwest Territories or in my home province of Newfoundland, where a person has basically refused to cooperate with the probation authorities. It

could have been an instance where I could have remanded him in custody and ordered it to be done against his will, but I am not sure that much would have been accomplished by taking that approach. I was able to glean from Mr. Amos that his parents died at a young age; that he was actively involved in pursuing a livelihood in natural resources in both British Columbia and Alberta; and that he appears to be an industrious individual who has supported himself for his whole life, and, probably most importantly, the fact that he does not have a criminal record.

[10] The principles of sentencing are clearly set out in the *Criminal Code* and in numerous cases from this Court, various appeal courts, and so on. If we take a look at s. 718 of the *Criminal Code*, one can readily see what the appropriate purpose and principles are in this particular instance:

[11] One, we have to denounce this unlawful conduct;

[12] We have to deter this offender and other persons from committing these types of offences; and

[13] We have to assist in rehabilitating the offenders and promote a sense of responsibility in offenders, and an acknowledgment of the harm done to the victims.

[14] If we take a look at the mitigating factors in this case, quite clearly they involve the fact that Mr. Amos has no record; that he has been a productive member of society; and that despite his large size and potential intimidating presence, there was no physical violence in this particular case.

[15] In aggravation, we have the persistent nasty and inexcusable verbiage; we have a lack of acknowledgment of responsibility by his constantly deflecting his own personal role and raising a number of side issues, some or most of which have not been proven; and, of course, as I already referred to, the unwillingness to cooperate with Probation Services.

[16] The truth is that regardless of what relations he has with the RCMP, there was no satisfactory reason given for not cooperating with Probation Services in preparing the Report.

[17] I have taken a look at the cases presented by the Crown. This case is less serious than the case of *R. v. Q.C.*, 2012 BCSC 904 for example, where Q.C. had a significant record of crimes against the victim, and this was about the third or fourth occasion that she was victimized by the same individual. He was sentenced to two years less a day, and three years probation.

[18] It is also less serious than the case of *R. v. Stewart*, 2003 YKTC 48. Mr. Stewart had an extensive criminal record. Obviously it is far less serious than the case of *R. v. Ho* (1998) 104 BCAC 1, where there was some effort to have the victim killed.

[19] There was another case, *R. v. Vibert*, 2002 YKTC 85. This case is more serious than the case of *Vibert*. In that case, the offender was 50 years old, had no prior record, and set up a false anonymous email account and sent, as the judge said, "false and scurrilous messages" to former co-workers. In that case, Robert Vibert was given a conditional discharge.

[20] There will be no conditional discharge in this case because the facts do not warrant it.

[21] Furthermore, I do not think it is necessary to separate this offender from society. I think that, given the fact that he has no prior record, that he did not use any physical violence, and that he has been a productive member of society, we can deal with this in another way and still bring the message home to him.

[22] So what I am going to do on Count #1, that is the breach of s. 264(2)(b) of the *Criminal Code*, I am going to suspend the passing of sentence on that one and impose a period of probation for one year. Probation might have been considered to be longer in this case, but in view of the fact that he has been on conditions, both on these charges and charges from back in 2013, as told to me by the Crown, I think that one year probation will be sufficient.

[23] There will be a victim surcharge of \$300 on this particular count, and I will give him six months to pay that.

[24] The probation conditions are as follows:

1. You are to keep the peace and be of good behaviour;
2. You are to appear before the Court when required to do so by the Court;
3. You are to notify your probation officer in advance of any change of name or address, and promptly of any change in employment or occupation;

4. You are to have no contact directly or indirectly or communication in any manner with Joanne Murphy and Shannon Knowles;
5. You are to remain 200 metres away from any known residence, place of employment or education of Joanne Murphy and Shannon Knowles.

[25] Very important to this case, in light of allegations raised by Mr. Amos, I am ordering that

6. You are to advise the probation officer within 72 hours of any contact or attempted contact by Joanne Murphy to yourself.

In other words, if, as you say, she is going around contacting you, taking pictures of you, and so on, you are under an obligation by means of this probation order to report that to the Probation Services. It would then be my direction for them to report that to the police because we do not want to have anybody going around taunting someone to breach a probation order, and that is what that would be if that were to take place;

7. You are to report to the probation officer within two working days and thereafter when and in the manner directed by the probation officer;
8. You are to attend and actively participate in all assessments and counselling programs as directed by your probation officer and complete them to the satisfaction of your probation officer for the following issues: anger management, psychological issues, or any other issues identified by your probation officer; and

- 9 You are to provide consents to release information to the probation officer regarding your participation in any program you have been directed to do pursuant to this order.

[26] As I indicated before, Mr. Amos has been a productive, hardworking member of society, and one way that he can help address the concerns of society is to perform some community service work.

10. You are to perform 40 hours of community service work as directed by the probation officer, or such other person as the probation officer may designate. The community service is to be completed by April 1, 2015;
11. You are not to possess any firearm, ammunition, explosive substance, or any weapon as defined by the *Criminal Code*.
12. You are to remain within the Yukon unless you obtain the written permission from the probation officer.

[27] As to Count #2 on this Information, the Court is going to impose a fine of \$200, plus a \$60 victim surcharge. There will be one year to pay that.

[28] As to the other Information where I registered convictions on Counts #1 and #3, the Court will impose a fine on each of \$200, plus a victim surcharge on each of \$60, and I will give one year to pay those fines and victim surcharges.

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LUTHER T.C.J.