

Citation: *R. v. Cochrane*, 2008 YKTC 57

Date: 20080730
Docket: T.C. 07-00792
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Cozens

REGINA

v.

JAMIE DOUGLAS PETER COCHRANE

Appearances:
Eric Marcoux
Jamie Van Wart

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] COZENS T.C.J. (Oral): Jamie Cochrane has entered a guilty plea to a charge under s. 267(b) of the *Criminal Code*. Crown proceeded by indictment.

[2] The circumstances are that Mr. Cochrane and another individual by the name of Jared Skookum approached two 10-year-olds outside a movie theatre in Whitehorse. This was on March 29, 2008. They approached these two young boys, indicated to them that the boys were on their turf. They said they wanted money from the boys or they would beat them up. Mr. Cochrane ended up punching S.L. in the face, breaking his glasses, causing bruises and some minor scrape cuts around his right eye, sufficient to make out a bodily harm. That is certainly on the lower end of bodily harm.

[3] MR. VAN WART: Your Honour, if I could just -- do you mind if I interject?

[4] THE COURT: Please.

[5] MR. VAN WART: It was actually -- I don't know if you meant to say -- Mr. Cochrane didn't throw the punch. It was the youth that threw the punch in. He was a party to that.

[6] THE COURT: Thank you. I thank defence counsel for that correction. The punch was thrown by Mr. Skookum. Mr. Cochrane was, of course, part of the transaction that resulted in the offence. As a result, the glasses were broken of Mr. L.

[7] Subsequently, Mr. Cochrane was located downtown by the father of one of the youth, who ended up physically assaulting him, although he was not charged with any assault. Mr. Cochrane was intoxicated at the time and has no recollection of the events.

[8] There is a joint submission before me for a sentence of 12 months imprisonment, followed by six months probation. Mr. Cochrane has three prior assault convictions in 2006, and I note that there are three priors, but it appears to me that on the updated criminal record, one is one day apart from the other and they both indicate time served. So I am wondering, in fact, whether that is a duplication on the criminal record; and on the Crown's update, the RCMP file number seems to be the same.

[9] MR. MARCOUX: The same. Well, if the RCMP file's the same, then yes.

[10] THE COURT: So he has two prior assault convictions then, one in 2006, for which he received one day in jail after three months pre-trial custody, and

another one in which he received, in 2007, one day after 110 days time served, plus one year probation.

[11] As defence counsel has fairly pointed out, this could easily have been a robbery. On these facts, it certainly falls within the definition of robbery and we would be looking at, I would expect, a sentence substantially higher than 12 months, probably closer to the two year range had this been a robbery charge. So defence counsel has fairly pointed that out, and the joint submission of 12 months is appropriate in the circumstance. It is a fair disposition.

[12] So there will be a sentence of 12 months in jail. This will be followed by a probation order of six months and the terms will be to:

1. Keep the peace and be of good behaviour;
2. Appear before the Court when required to do so by the Court;
3. Notify the Court or probation officer in advance of change of name or address, and promptly notify the Court or probation officer of any change of employment or occupation;
4. Report to a probation officer immediately upon your release from custody and thereafter when and in the manner directed by the probation officer;
5. Have no contact or communication directly or indirectly with S.L. or C.B.;
6. Make restitution by paying to the Territorial Court the amount of \$75.00 in trust for S.L.

[13] There will be a mandatory s. 109 firearms prohibition that prohibits Mr. Cochrane from possessing any firearm, crossbow, prohibited weapon, restricted weapon, prohibited

device, prohibited ammunition, explosive substance for a period of 10 years. Because this is a primary designated offence there will be a DNA order. The victim fine surcharge will be waived.

[14] MR. MARCOUX: Thank you. The Crown will direct a stay of proceedings on Counts 2 and 3 of that Information. I believe there is another Information before the Court alleging a breach of probation order, s. 733. The Crown would direct a stay of proceedings as well on that charge.

[15] THE COURT: Stays of proceedings will be entered.

COZENS T.C.J.