

Citation: *R. v. Crowther*, 2008 YKTC 70

Date: 20051019
Docket: 05-00233
Registry: Whitehorse
Heard: Carmacks

IN THE TERRITORIAL COURT OF YUKON
Before: Her Honour Judge Ruddy

REGINA

v.

LAWRENCE JAMES CROWTHER

Appearances:
Tony Brown
Malcolm Campbell

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] RUDDY T.C.J. (Oral): Lawrence James Crowther is before me having entered a plea of guilty in relation to an offence contrary to s. 94 of the *Criminal Code*.

[2] The offence arose on the 31 of May, 2005. An RCMP member was on patrol in the Braeburn area following Mr. Crowther's vehicle, which he noted to cross the centre line several times. He stopped the vehicle as a result and spoke to Mr. Crowther who was the driver. At that time, the officer noted three boxes of ammunition in the rear of the vehicle and asked about whether there were any firearms present in the vehicle. Mr. Crowther opened the trunk, in which was located a semi-automatic pistol, which is a

restricted weapon. Mr. Crowther was not in possession of documentation as required in terms of registration of that particular firearm.

[3] There is a joint submission before me in relation to this matter suggesting that it be appropriate to resolve it by way of a conditional discharge and a donation, as well as a two-year firearms prohibition.

[4] While it is unusual to resolve the matter by way of a conditional discharge, it appears that Mr. Crowther has an employment opportunity in Greenland which would be hindered by a criminal record. There is no prior criminal record before me. In the circumstances, I cannot say that the joint submission is unreasonable, therefore I am prepared to accept it.

[5] There will be a conditional discharge which will have attached to it a probation order for a period of two months with the statutory conditions requiring him to:

1. keep the peace and be of good behaviour, and;
2. appear before the court when required to do so;

[6] Is it necessary to have a reporting condition simply so that we have got somebody that can ensure that the money is paid?

[7] MR. CAMPBELL: That is fine.

[8] THE COURT: I am not envisioning something that would be regular reporting so much as somebody that can just confirm that it was paid.

[9] MR. BROWN: Yes, we can do that, Your Honour.

[10] THE COURT: Okay. There will also be a condition that Mr. Crowther:

3. notify the probation officer in advance of any change of name or address, and promptly notify the probation officer of any change of employment or occupation;

4. he is to report to a probation officer forthwith -

she's present today, so you can speak to her

- and thereafter when required by the probation officer, and in the manner directed by the probation officer;

[11] And as I said, Mr. Crowther, that is so that I have an individual that is going to make sure you pay the money, okay?

[12] And the only remaining condition will be that you:

5. make a donation in the amount of \$500 to Biathlon Yukon within that two-month period.

[13] THE ACCUSED: Okay.

[14] THE COURT: Okay? You will need to remain here to sign the probation order that will be attached to your conditional discharge.

[15] Provided you comply with all of those conditions, at the end of the two-month period your discharge will become absolute.

[16] If you fail to do so, or breach any of these conditions, that is not going to be the case. You can be brought back and you would be looking at a record at that point.

[17] THE CLERK: Is the donation to be paid directly to them?

[18] THE COURT: Sorry, with respect to the donation, is the notion that it would be paid directly? I think if we have the probation officer it should be paid directly to, and then you can provide her with the receipt, satisfying her that it was done.

[19] THE CLERK: Directly to the Biathlon Yukon.

[20] THE COURT: Yes. Okay. Sorry, there will also be the firearms prohibition of two years.

[21] MR. BROWN: Sorry, Your Honour?

[22] THE COURT: Firearms prohibition of two years as per the joint submission.

[23] MR. BROWN: Yes.

[24] THE COURT: Is Mr. Crowther working at this particular point in time?

[25] MR. CAMPBELL: Not at this point, no.

[26] THE COURT: No. Any submissions on the victim fine surcharge?

[27] MR. BROWN: No, Your Honour.

[28] THE COURT: Given that he's making a hefty donation, we will waive that.

[29] Is the intention that the firearms prohibition will include everything? Firearms, crossbows, prohibited weapons?

[30] MR. CAMPBELL: Perhaps not explosives.

[31] MR. BROWN: Firearms prohibition is a firearms prohibition and --

[32] THE COURT: What is that?

[33] MR. BROWN: I think it would include everything.

[34] THE COURT: Okay.

[35] MR. CAMPBELL: Perhaps not explosives; he is a hard-rock miner.

[36] THE COURT: Okay. Any issue on the explosives?

[37] MR. BROWN: No. No, if he needs to use explosives in his job; does he?

[38] MR. CAMPBELL: Yes.

[39] MR. BROWN: Fine.

[40] THE COURT: Yes. Okay, the prohibition will include everything but explosive substances which he requires for the purposes of his employment.

[41] MR. BROWN: Would that be specified in the order? The substances?

[42] THE COURT: Can we specify that in the order?

[43] MR. BROWN: The explosive substances as required by his employment. I don't want him running around the Yukon with explosive substances in the trunk of his car. He is not working.

[44] THE COURT: It is ordered and adjudged that the offender be prohibited from having in his possession any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition, or explosive substance except --

[45] MR BROWN: Except as necessary.

[46] THE COURT: -- explosive substances as necessary for his employment.

[47] MR. BROWN: Yes.

[48] THE COURT: For a period of two years.

[49] MR. BROWN: Thank you.

[50] THE COURT: You are not seeking forfeiture or surrender of any of the firearms?

[51] MR. BROWN: Not at this time, no.

[52] THE COURT: Okay, thank you.

RUDDY T.C.J.