

Citation: *R. v. Danroth*, 2014 YKTC 8

Date: 20140129
Docket: 13-00350B
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Judge Faulkner

REGINA

v.

WELDON JAMES DANROTH

Appearances:
Terri Nguyen
Robert Dick

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Weldon James Danroth has entered a plea of guilty to a charge that he, on the August 10, 2013, at Burwash Landing, Yukon Territory, did break and enter a certain place to wit, the residence of Derek Johnson, situated at 401 Copper Joe Road Subdivision, Burwash Landing, Yukon Territory, and did commit therein the indictable offence of assault causing bodily harm, contrary to Section 348(1)(b) of the *Criminal Code*.

[2] Counsel filed an Agreed Statement of Facts, which has been marked as Exhibit 1. I will not repeat those facts in total. In essence, what occurred was that Mr. Danroth

was a friend of one Collin Johnson. Shortly before this offence occurred, Collin Johnson told the accused that he, Collin, had been attacked in his own home by two armed men, Derek Johnson and Wilfred Sheldon. Mr. Danroth felt that Collin would not report what had happened to the police and nothing would be done. In consequence, he and Randy Johnson decided to take matters into their own hands and deal with Mr. Johnson, that is Derek Johnson, themselves.

[3] In the early morning hours of August 10, 2013, Randy Johnson and the accused went to Derek Johnson's house, broke down the door and attacked Derek Johnson with an aluminium baseball bat. Derek Johnson, who had been asleep at the time of the attack, suffered serious injuries, which required that he be medevaced out of the community, but fortunately the injuries were not permanent.

[4] This bare recitation of what occurred leaves out a great deal of the context. The context is that Burwash Landing has no RCMP detachment and it appeared to Mr. Danroth, and others, perhaps, that certain individuals had taken advantage of the situation to engage in a campaign of intimidation or victimization of other residents. In particular, Mr. Danroth believed Derek Johnson to be a bully, and Collin Johnson to be one of his victims, who would not fight back, and as a result, the situation would not change.

[5] During the course of the sentencing proceeding I was informed that tragically, between last August and now, Collin Johnson has, in fact, taken his own life.

[6] As I have said, Mr. Danroth decided to take matters into his own hands, and it was clearly wrong, as he acknowledges himself. It must be noted that there is no

evidence that he was prone to such action; quite the contrary, he has no criminal record and the Pre-Sentence Report is a positive one. It is also evident, from what was said this morning and from the persons who were in attendance, that he enjoys a significant degree of support in the community. I further note that he was completely cooperative with the police investigation and entered a very early guilty plea, and accepted responsibility for what had occurred.

[7] I should also mention that among the sorry circumstances of this case is the fact that Mr. Danroth, it appears, will have to face the consequences of this incident alone. I was advised that his co-conspirator, Randy Johnson, had also been charged but the charges against him have been stayed, for various reasons, including, I gather, the non-cooperation of Derek Johnson and the death of Collin Johnson.

[8] In any event, and with all that said in Mr. Danroth's favour, the fact remains that this incident can fairly be characterized as a home invasion. The only difference is that the usual motives, that of robbery or the settling of accounts, were not present. However, deciding to engage in vigilante justice is hardly better and just as certainly to be denounced. Still, the apparently hopeless situation of Mr. Danroth's friend, Collin Johnson, and his perception of the general situation in the community leads, not to acceptance of what he did, but, at least, to some understanding of how an otherwise decent and law-abiding man might decide to do what Mr. Danroth did.

[9] I need not take the time to recite the cases with respect to home invasions; they are well known. Suffice it to say that almost invariably such cases attract lengthy penitentiary sentences. In this particular case, and obviously in recognition of some of

the circumstances that I have outlined, the Crown quite reasonably sought a two-year sentence plus three years' probation. On behalf of the accused, Mr. Dick suggested that a substantially shorter territorial sentence would suffice.

[10] This is not an easy case in which to balance the need for denunciation and deterrence with the need to see to the rehabilitation of the offender. In giving as much weight as I can to Mr. Danroth's lack of record, his remorse, his complete acceptance of responsibility, his other personal circumstances, and certainly not forgetting the circumstances he found himself in, but keeping in mind that vigilantism cannot be condoned, the sentence of the Court is that you will be imprisoned for a period of 18 months.

[11] Following your release from imprisonment you will be subject to a probation order for an additional period of 18 months. The terms of the order will be that:

1. You will keep the peace and be of good behaviour; and appear before the Court when required to do so;
2. You will report to your Probation Officer immediately upon your release from custody and thereafter as, when and in the manner required by the Probation Officer;
3. You will notify the Probation Officer in advance of any change of name or address, and promptly notify the Probation Officer of any change of occupation or employment;
4. You will have no contact directly or indirectly or communicate in any way with Derek Johnson, except with the prior written permission of your

Probation Officer;

5. You will participate in the victim reconciliation process as directed by your Probation Officer in consultation with the Kluane First Nation;
6. You will take such assessment and counseling as directed;

[12] Additionally, you will pay a Victim Fine Surcharge, which, having regard to the date of the offence, will be \$100. That will be payable forthwith.

[13] Additionally, there will be an order whereby you will provide samples for the purpose of DNA analysis and banking.

[14] Finally, I think it appropriate to impose, and do impose, an order prohibiting you from possessing firearms, ammunition, explosive substances or similar items more fully enumerated in the *Criminal Code*, for a period of ten years following your release from imprisonment.

[15] The remaining counts, Ms. Nguyen?

[16] MS. NGUYEN: They are all withdrawn.

[17] THE COURT: Any objection?

[18] MR. DICK: No objection.

[19] THE COURT: Withdrawn at the request of the Crown.