

Citation: *R. v. Dickson*, 2012 YKTC 1

Date: 20110921
Docket: 11-00045
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Lilles

REGINA

v.

LEAHANNA DICKSON

Appearances:
Ludovic Gouaillier
Brook Land-Murphy

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT

[1] LILLES T.C.J. (Oral): This matter is set for decision arising out of the Carcross circuit that was held yesterday; it is the matter of Leahanna Dickson. Ms. Dickson has entered not guilty pleas to two charges in relation to an incident that occurred on April 20, 2011, as follows:

... that: she did in committing an assault on [K.J.], threaten to use a weapon, to wit: knife and shovel, contrary to s. 267(a) of the Criminal Code.

In relation to the same incident:

... did commit an offence in that: she did carry a weapon, to wit: knife and shovel, for a purpose dangerous to the public peace, contrary to s. 88 of the Criminal Code.

[2] [K.J.] is the 16-year-old complainant in this matter. It is worth noting that [K.J.] is

a sturdy 16-year-old who could easily be mistaken for an adult. [K.J.] knows the accused through his mother, and because his house is next to hers he often helped chop and stack wood for her and assist with other chores around the house.

Notwithstanding their age difference, she is 30 years old, he said she used to be his best friend, or at least one of them.

[3] On the day in question, he sought her out by calling her at Crystal's (phonetic) house, a neighbour. He asked if he could come over to watch TV and, according to him, she agreed. When he arrived, Ms. Dickson had returned home. She had taken off her shirt and was wearing pants and a bra. He said she had been drinking and was intoxicated. He, on the other hand, was sober. Ms. Dickson's house had several televisions, including one in the living room and one in her bedroom. He lay down on the bed in her bedroom to watch television, he said an old movie.

[4] I inferred from his evidence that she was beside him on the bed, still in her bra. After 15 or 20 minutes, Ms. Dickson started asking him about "other girls." I note, not girls or girlfriends, but other girls. She got on top of him and pinned him on the bed with her knees on either side of his waist and her elbows beside his head. She suddenly slapped him and then punched him in the face. He pushed her off and she fell on the floor at the end of the bed. He tried to get up out of the bed and she hit him again. He ran out of the bedroom by the kitchen to the door to escape. She chased after him and somehow picked up a knife and a fireplace shovel, or trowel, in either hand. When he ran out of the door and looked back, he saw her with the knife and shovel in the doorway. She yelled at him and called him a rapist and a thief. He yelled back that he

would call the cops on her. He said he was scared as he had almost been stabbed by the knife when she chased him.

[5] He went to his sister's house nearby and called the police. When he saw them arrive, he approached them and told them his version of the story. One of the officers took photos of his face, which [K.J.] said was red and bruised.

[6] There are difficulties with [K.J.] evidence. On several occasions, he contradicted himself. A few examples would suffice: One, he initially said he called her, and later on cross-examination said she called him. Then he said that they called each other back and forth. Two, on cross-examination he added to his original evidence that she also kicked him in the face a couple of times, and then that it could have happened earlier in the day, and then he said he did not see her earlier in the day; finally, he said he was kicked in the face when he was wrestling with her to get away from her in the bed.

Three, he had difficulty with the details of the story. He said the questions were "Mixing him up." Four, he said he received three good punches to the face, a couple of slaps, and some kicks to the face. They were hard enough for him to see stars. I examined the photos taken by the police. The photos, in my opinion, were inconsistent with his version of the altercation. Five, when he was shown his criminal record, he could not identify it. The record consisted of 11 entries. When I had asked him if he remembered the last entries in early 2010, he did not. He said something about remembering being on probation, but he apparently did not remember the mischief and three breach convictions a little over a year ago. I note, as well, that no knife or fireplace shovel or trowel were entered into evidence or identified by [K.J.].

[7] Finally, I would state that [K.J.] description of his visit and watching TV in bed with Ms. Dickson while she was partially undressed is objectively inconsistent with the platonic relationship.

[8] Ms. Dickson testified on her own behalf. She described the events earlier that day that included drinking at her friend Crystal's house. Between three people, they drank a mickey of vodka and a 15-pack of beer. She could not be certain how much she drank. Her version of the incident bears little resemblance to that recounted by [K.J.]. She said there were no earlier phone calls between them. When the drinks were consumed at Crystal's house, she said she had enough, she was done, and went home to sleep. When she arrived home, she took off her shirt and started making something to eat. [K.J.] suddenly came into her house yelling. She said she did not want to hear any of it, threw his shoes off the porch and pushed him outside and locked the door. [K.J.] was in her house only briefly. She lay down in bed to go to sleep.

[9] She heard the RCMP enter, saw them come into her bedroom with guns drawn. They jumped her and handcuffed her on the floor. She believed she was being arrested for drinking in breach of her undertaking and only later understood that it involved charges of assault against [K.J.].

[10] Ms. Dickson had an opportunity to speak to duty counsel before she was interviewed by the police. She was told not to say anything. Nevertheless, she spoke to the police. She says that her history with the RCMP and the circumstances of her arrest that day made her afraid of the police. She told the police that she had blacked out and did not remember anything after she left Crystal's and until they arrived.

Initially, her position was that this was a lie and it was her way to get them to stop questioning her so she would not have to answer their questions, as advised by her duty counsel.

[11] Then her story changed in that she was not lying to the police. She said that at the time she did not remember what happened. A day or two later when she thought about it more carefully, she started remembering what actually happened.

Conclusion:

[12] I have considered the evidence of Ms. Dickson, including the manner in which she gave it, very carefully. I have come to the conclusion that I do not believe her version of the events in question. I have also considered the evidence of [K.J.]. I have already identified a number of inconsistencies in his evidence. He was easily confused on a number of important facts. One is easily confused when the facts are made up. His version is also inconsistent with the only objective evidence in this case, the photos of his face. I find that the numerous inconsistencies in his evidence raise a reasonable doubt as to exactly what happened and to the guilt of the accused. I find Ms. Dickson not guilty of the charges before the Court.

LILLES T.C.J.