

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Overend

REGINA

v.

STEPHEN HAGA

Appearances:

Kevin Drolet

Malcolm Campbell

Appearing for Crown

Appearing for Defence

REASONS FOR SENTENCING

[1] OVEREND T.C.J. (Oral): The accused has entered a plea of guilty to escaping from lawful custody at the Whitehorse Correctional Centre. He was in the exercise yard with other prisoners and went through a hole in the fence, and then went over three additional fences to affect his escape.

[2] Counsel for Mr. Haga said, "It doesn't really matter whether you go over one or ten, it is still an escape."

[3] It is not terribly significant but I do take into consideration that having gone out through the fence, Mr. Haga had time to reconsider before he was entirely at large, and so there is some greater degree of probability, minor though it may be, of having affected his escape by going over or through four fences.

[4] The most significant part of the considerations, in determining the appropriate sentence, is Mr. Haga's record.

[5] Mr. Haga is now 37 years of age. He has for his whole adult life been involved in crime. He started committing crimes in 1982, in Slave Lake, Alberta, and has had a, basically, continuous history of criminal offences since that time. As Crown counsel has pointed out, a number of those offences involve the administration of justice, such as failing to comply with, failing to appear in court, failing to -- there is a breach of a statutory release, failing to comply with the recognizance.

[6] Most significant among the offences, as far as this disposition is concerned, is the fact that in 1991 he was convicted of being unlawfully at large and in 2002 was convicted of escaping lawful custody.

[7] In 1991, he was sentenced to a term of imprisonment of one month consecutive. In 2002, he was sentenced to six months consecutive to the unexpired portion of any sentence he was then serving.

[8] As the courts have pointed out, general deterrence is the primary consideration in offences of this kind. I must always, of course, consider a convicted person's possibility of rehabilitation. Rehabilitation is very low on the scale of things to be considered in this case, given Mr. Haga's history of breaches of the law. He is a scoff law.

[9] The Crown has put before me a number of cases ranging from seven days imprisonment for an unlawful escape, to 18 months. The Crown suggests in this case that I should give Mr. Haga a term of imprisonment of nine months. His counsel suggests that the cases that have been referred to by the Crown do not reflect the kinds of dispositions that are imposed in the Yukon.

[10] That may well be, but I do not know, in the Yukon, whether or not the court was dealing with persons who had two previous convictions; one of being unlawfully at large and one of a prior escaping lawful custody.

[11] I know that, in this case, that Mr. Haga has those convictions together with many multiple other offences.

[12] His most recent conviction, for escaping lawful custody, is only last year, 18 months ago. Six months imprisonment at that time did not get the message to Mr. Haga.

[13] Mr. Haga, would you stand please. Mr. Haga, I am sentencing you to a term of imprisonment of nine months. Counsel for the Crown has suggested that I give you credit for the time you have spent in custody. I decline to do that. You are in custody on other offences as well. It will be nine months.

OVEREND T.C.J.