Citation: *R.* v. *Lougheed a.k.a. Robinson,* 2006 YKTC 78 Date: 20060630
Docket: T.C. 05-00327C
Registry: Whitehorse

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

REGINA

v.
ADAM JOHN LOUGHEED
(a.k.a. ROBINSON)

Appearances:
Noel Sinclair Counsel for Crown
Jamie Van Wart Counsel for Defence

REASONS FOR SENTENCING

[1] LILLES T.C.J. (Oral): The number and seriousness of these offences taken together constitute an aggravating situation: six break and enters, for which the maximum punishment, as pointed out by Crown counsel, is potentially very high. On the other hand, there have been guilty pleas. I accept and place considerable weight on the fact that there are several charges that the Crown would have had difficulty in establishing. I am not saying could not have, but they would have had difficulty. Mr. Van Wart suggests there may be a *Charter* issue or two that might have been argued as well. So the guilty pleas are taken in that context and must, therefore, be given a lot of weight.

[2] We are dealing with a young man with a long addiction to crack cocaine. This is a devastating drug. I wish that Mr. Lougheed could spend time talking to young people about his experiences with crack cocaine and, thus, deter them from experimenting with the same drugs. I do not mean to put the addiction forward as a mitigating or aggravating circumstance, but it certainly adds context. I acknowledge that once an individual is addicted to crack cocaine, a lot of his actions are no longer voluntary in the sense that we often ascribe to that term outside of legal circles.

[3] The recommended sentence by counsel is acceptable in the circumstances. I would certainly say that a very strong argument could be made that this would be on the low side, but in the range. I hesitate in saying that it is on low side, largely because of Mr. Lougheed's age. I am not prepared to say that it is definitely on the low side. He is a young man and there is lots of reason to be careful and modest in the sentence imposed because of his youthfulness.

[4] Madam Clerk, I think you can sort this out, but if you need any assistance, I will do that. There are a number of charges that he has pled guilty to. Some are indictable and some are summary. Let me say beforehand, that the sentence I am going to impose takes into account 84 days pre-trial custody, which I gross up by a factor of 1.5, and perhaps by way of approximation, I can say that he is being given four months credit in total for pre-trial custody.

[5] With that background, the appropriate way, unless counsel objects, would be to impose a period of custody of 30 days concurrent on each of the summary conviction offences. With respect to the indictable offences, I am imposing a sentence of two

years concurrent for each indictable. So the total sentence will be two years. So the indictable offences are concurrent to each other and concurrent to the summary. The summary convictions are concurrent to each other and concurrent to the indictable offences. The maximum total sentence is two years.

[6] As recommended by counsel, I am attaching a three-year probation order to the two-year custodial sentence. That is a sentence that will be served in the penitentiary. The terms of that probation are the statutory terms:

1. Report to a probation officer within five working days of your release from custody and thereafter when and in the manner directed by your probation officer.

2. For the first three months of this order you are to by abide by a curfew by remaining within your place of residence between the hours of 9:00 p.m. and 6:30 a.m., except with the prior written permission of your probation officer and except in the actual presence of a responsible adult, approved in advance by your probation officer.

3. Present yourself at the door or answer the telephone during reasonable hours for curfew checks; failure to do so will be a presumptive breach of this condition.

4. Abstain absolutely from the possession and consumption of alcohol and controlled drugs and substances, except in

accordance with a prescription given to you by a qualified medical practitioner.

5. Provide samples of your breath and your urine for the purpose of analysis upon demand by a peace officer who has reason to believe that you may have failed to comply with this condition.

6. Not attend any bar, tavern, off sales or any other commercial premises whose primary purpose is the sale of alcohol.

[7] You may attend licensed restaurants; you may not consume alcohol there. You may not go to a bar or tavern because their primary purpose is the sale of alcohol. The other reason is, it is well known, of course, that some bars and tavern are places where illicit drugs are trafficked and you need not be exposed to that temptation.

7. Have no contact directly or indirectly with Joey Vaneltsi, James Campbell and Paul Middleton.

[8] You know who those individuals are?

[9] THE ACCUSED: Yes.

[10] You indicated to me earlier that that would be no problem for you not having any contact directly or indirectly with them. Did I provide drug and alcohol programming?

[11] THE CLERK: No.

8. Take such alcohol and drug assessment, counseling and programming as directed by your probation officer.

9. Attend and complete a residential treatment program as directed by your probation officer.

10. Provide your probation officer with consents to release information with regard to your participation in any programming, counseling, employment or educational activities that you have been directed to do pursuant to this order.

[12] Mr. Sinclair, is there anything else that you think should be there? This sounds like a lot of terms, but actually, these are the barebones terms that would go with this particular kind of case.

[13] MR. SINCLAIR: Just let me go through my checklist.

[14] THE COURT: Well, I have gone through my checklist and I think I have covered all the matters that seem to relate to Mr. Lougheed's needs. Mr. Lougheed, good luck to you.

[15] MR. SINCLAIR: DNA and firearms?

[16] THE COURT: Sorry, you are quite right. Any submissions with respect to DNA?

[17] MR. VAN WART: No, no submissions.

[18] THE COURT: That order will go. With respect to firearms, do you own any firearms?

[19] THE ACCUSED: No.

[20] THE COURT: No. Do you hunt for a living?

[21] THE ACCUSED: Yeah.

[22] THE COURT: Do you? Are you a First Nation's person?

[23] THE ACCUSED: No.

[24] THE COURT: No. Is this a mandatory 10 year?

[25] MR. SINCLAIR: As I understand it, a discretionary order under -- let me just check under s.110. I understand why you think it might be. It was an indictable offence. Section 96 is not included in the s.109 mandatory order provisions.

[26] THE COURT: It is not?

[27] MR. SINCLAIR: No, s.95 is included and s.99, but not s.96.

[28] THE COURT: There will be a fire year firearm prohibition in the usual terms. That prohibition begins when he is released from custody. The DNA, firearm, is there anything else? That was it?

[29] MR. SINCLAIR: Yes, sir.

[30] THE COURT: Thank you. Again, good luck to you, sir. As you heard me say earlier, you are a young man and I really hope that you take advantage of this. It may not sound right to call this an opportunity, but it is. It really is an opportunity and I sincerely hope that you can turn things around. I do not fully understand the addiction, but I have talked to enough young people to know that it is a very sinister

addiction and it is not going to be easy. You are going to have to fight it very hard and you are going to need to seek out all the support you can. I hope you can do that and I wish you the best of luck.

[31] THE ACCUSED: Thank you.

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LILLES T.C.J.