

IN THE SUPREME COURT OF THE YUKON TERRITORY

Citation: *R. v. Mason*, 2005 YKSC 44

Date: 20050725
Docket: S.C. No. 04-01538
Registry: Whitehorse

BETWEEN:

HER MAJESTY THE QUEEN

AND:

EDWARD BRUCE MASON

Before: Justice R. Foisy

Appearances:

David A. McWhinnie
Gordon R. Coffin and David J. Christie

For the Crown
For the Defence

**MEMORANDUM OF JUDGMENT
DELIVERED FROM THE BENCH**

[1] FOISY J. (Oral): Of course the primary concern is that we make sure that we help Mr. Mason to understand that he must abstain completely, it is beyond question he will need help. I am going to release him then on the following conditions:

1. That he keeps the peace and be of good behaviour.
2. That he attend court as required.
3. That he report immediately to a bail supervisor and thereafter as and when directed.

4. That he reside at the Yukon Adult Resource Centre and abide by the rules of that residence and he will not leave the grounds of the Yukon Adult Resource Centre without permission of the bail supervisor, or the person designated by the centre, and in that event only if he is accompanied by a person designated by the centre or by the bail supervisor.
5. That he will be released in due course to an employee of the Yukon Adult Resource Centre.
6. That he will abstain absolutely from the consumption, purchase and/or possession of alcohol and/or non-prescription drugs and submit to a breath or bodily fluids test upon reasonable demand from a peace officer or a bail supervisor or employee of the Yukon Adult Resource Centre who has reason to believe he may not be complying with this condition.
7. That he will not have in his possession any firearms and/or ammunition during the term of his release under this order.
8. That he in any event will not attend any premises where the primary purpose is the sale of alcohol, including bars, taverns, off sales and liquor stores.
9. He will attend mental health for assessment, counselling and referral as directed by the bail supervisor, and he will attend substance abuse assessment treatment and counselling as directed by the bail supervisor.

[2] Does that cover it then?

[3] MR. COFFIN: It does, My Lord, and will that take the form of an undertaking?

[4] THE COURT: Where they are talking about bail here, I suppose it would be an undertaking. I am in your hands there.

[5] MR. MCWHINNIE: The need for a recognizance with surety doesn't appear to be evident. Given the very tight terms and the short time span that this has contemplated today, an undertaking should suffice.

[6] THE COURT: Okay.

[7] MR. COFFIN: Thank you, My Lord.

[8] THE COURT: All right. Thank you.

[9] THE CLERK: The return date, August -- Your Lordship?

[10] MR. COFFIN: There shouldn't be a return date.

[11] THE COURT: No, he'll be there until the Review Board directs otherwise.

[12] MR. COFFIN: Yes.

[13] THE CLERK: Thank you.

[14] MR. MCWHINNIE: Which would be on or before September 2nd, according to the 45 day description of this section.

[15] THE COURT: Yes. That can be extended by application. So it will be September 2nd?

[16] MR. COFFIN: Yes.

[17] THE COURT: All right.

[18] MR. MCWHINNIE: One last just housekeeping matter, My Lord, that the exhibits seized can be disposed of after the expiry of the appeal period assuming there will be an appeal taken.

[19] MR. COFFIN: I take no issue with that, My Lord.

[20] THE COURT: So ordered.

[21] MR. MCWHINNIE: With respect to that, there is a firearm which was used in this particular matter. Under s. 491, it would be automatically forfeit to the Crown unless an application is brought. If that is entered on the record, we can wait the appeal, the same appeal period. If no application is brought, it would normally be destroyed.

[22] THE COURT: All right. I am not sure but I recall hearing somewhere in the evidence that there might be some more firearms at this particular place. If that is the case, they should be seized and disposed of as well.

[23] MR. MCWHINNIE: Yes, s. 491 provides an opportunity for someone who claims to be the lawful owner to attend and seek a relief forfeiture from the Court.

FOISY J.