

Citation: *R. v. Michaud*, 2007 YKTC 34

Date: 20070327  
Docket: T.C. 06-00166  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**

Before: His Honour Judge Overend

**REGINA**

v.

**JOSEPH MICHAUD**

Appearances:

Noel Sinclair

Edward Horembala, Q.C.

Counsel for Crown

Counsel for Defence

**REASONS FOR JUDGMENT**

[1] OVEREND T.C.J. (Oral): In this case the accused is charged with the offence of assault causing bodily harm. The trial proceeded in the usual course and the Crown concluded its evidence and the accused took the stand to give evidence.

[2] At the conclusion of his evidence, prior to any cross-examination, the Crown invited me to dismiss the charges against Mr. Michaud. Presumably, that was based on the Crown's belief that it would be unable to prove the charges against Mr. Michaud beyond a reasonable doubt.

[3] In this case there is no question that Mr. Michaud struck the so-called victim. His evidence is evidence that he did it in self-defence. In cases of this kind it is often difficult when there are opposing versions of events without independent corroboration, for the Crown to prove the case because it often comes down to a question of whose evidence is likely to be the better version of events.

[4] In a criminal trial it is not whose evidence I prefer, but whether or not the Crown has proved the case beyond a reasonable doubt. In this particular case, even before the accused gave evidence, there were questions in my mind arising out of the evidence of the complainant. He was, among other things, incapable of giving -- he appeared often to be incapable of giving a direct answer to a direct question. He often seemed to be over-emphasizing his evidence rather than just being straightforward in his answers. I do not suggest for a moment he was being untruthful, but he was emotionally involved in the case because of the injuries he suffered, and his emotions frequently surfaced and I believe that affected his evidence to some extent.

[5] Having had those doubts before I heard from the defendant, the defendant's evidence clearly leads me to conclude that dismissing this Information would be the appropriate course of action and, therefore, the information is dismissed.

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OVEREND T.C.J.