

Citation: *R. v. M.T.*, 2018 YKTC 3

Date: 20180201
Docket: 16-00348C
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Judge Cozens

REGINA

v.

M.T.

Appearances:
Ludovic Gouaillier
Norah Mooney

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] On January 3, 2018, M.T. entered guilty pleas to having committed offences contrary to ss. 267(b) and 349(1) of the *Criminal Code*. Crown counsel proceeded by summary election.

[2] There was a joint submission before me for sentencing. The joint submission was for a global sentence of two years less one day to be served conditionally in the community, to be followed by one year of probation. The joint submission included recognition of the 71 days M.T. spent in custody on remand before being released on a recognizance on September 6, 2016, without any credit actually being apportioned for this time in custody.

[3] I acceded to the joint submission and sentenced M.T. accordingly. The sentence was 18 months for the s. 267(b) offence and six months less one day consecutive for the s. 349(1) offence, both to be served conditionally in the community. The one-year probation order is attached to both files.

[4] I indicated at the time that I would provide written reasons for sentence. These are those reasons. The Conditional Sentence Orders and the Probation Order, as redacted, are attached as an Appendix to these Reasons for Sentence.

[5] These charges arose out of an incident that occurred on July 21, 2016 in which M.T., J.S. and D.A. entered the residence of A.D., without permission, and assaulted him, causing him to suffer bodily harm.

[6] On the trial date of May 17, 2017, M.T. and J.S. entered guilty pleas to two of the numerous charges they faced. D.A. proceeded to trial on all of the charges he faced.

[7] On January 3, 2018, new Information was laid and M.T. entered guilty pleas to the two offences noted above. A stay of proceedings was entered on all the remaining charges against M.T.

[8] D.A. was convicted after trial. The convictions were based primarily on my acceptance of the testimony of A.D. as to the events that occurred. A detailed description of events, as testified to by A.D., including the participation of M.T., is set out in *R. v. [D.J.A.]*, 2017 YKTC 49.

[9] M.T. indicated that she accepts her role in the incident as described by A.D. Further, even in regard to the aspects of the incident in which she was not directly

involved, she accepts responsibility as being a party with J.S. and D.A. to the entirety of the incident.

[10] In brief, M.T. and J.S. entered the residence of A.D. and assaulted him in his bedroom by punching and kicking him, including to the head area. The assault continued into the living room, where he was also choked, and then into the spare bedroom, where A.D. was confined in a dog cage, further kicked and punched, subjected to threats, and stabbed in the leg with a knife by J.S.

[11] M.T. was directly involved in punching and kicking A.S. and, at one point, bit him on the arm. She has, as stated, accepted responsibility for the actions of J.S. and D.A., as a party to the incident.

[12] A.D. lost a chunk of skin from his little finger. He continues to experience headaches. He has scars down his side and on his arm and leg. He has a bite-mark scar on his arm. He received 15 stitches for the cuts to his head. He stated that his house was left bloody. A bookshelf, a television, a vacuum and the dog cage were destroyed. His refrigerator was ransacked. He never returned to his residence after the assault. His possessions were retrieved by his wife and his father and mother-in-law.

[13] The impact upon A.D. and his spouse, who was not at home of the time of the incident, was significant. I repeat what I stated in *R. v. D.J.A.*, 2017 YKTC 56 when sentencing D.A.

Victim Impact

[13] Victim Impact Statements were filed by Mr. D.'s spouse and her mother.

[14] Mr. D.'s spouse spoke about the emotional impact this incident has had on her. Certainly her sense of trust and safety in her own home was undermined. Some of the people involved in the overall incident were people she knew, and she feels betrayed by their actions. She and Mr. D. lost time from work and endured the financial impact of that. Further, a number of items in their home were damaged or stolen. While D.A. cannot be held responsible for the theft of property and all the damage that occurred, as there were numerous other individuals inside the residence, the assaultive incident that that he was involved in appears to be the triggering event that led to the loss and damage.

[15] Mr. D.'s mother-in-law spoke about how this assault has changed her view of the community that she was born in and that she had raised her children in. She spoke of the fear while waiting to see how serious the injuries to Mr. D. were. She continues to have nightmares about the incident, in particular in regard to what could have happened if her daughter had been at home. She notes the impact this has had on the daughter and son-in-law and states that Mr. D. and her daughter have left the community as a result of the incident. She also speaks of the impact on them of having to relive the incident by testifying at trial.

[16] Mr. D. did not provide a Victim Impact Statement. However, in his testimony at trial he stated that the incident was traumatic and frightening. I have no doubt that it was, and that the incident has had a considerable impact on him.

[17] I am familiar with Mr. D., having had him before me for a sentencing hearing on January 21, 2015. Mr. D. was raised in difficult circumstances that contributed somewhat to him committing the offences for which he was being sentenced at that time. However, between the time of the offences and the time of sentencing, Mr. D., with the strong support of his spouse and her parents, had made significant and impressive steps towards changing the trajectory of his life in a positive direction. To my knowledge, Mr. D. has continued in that same positive direction.

[18] Mr. D. had moved to Carmacks as part of this change. As a result of the attack against him by D.A., in company with Mr. S. and M.T., he and his spouse, understandably, made the difficult choice to leave Carmacks, and the life they were building there, to start again. I can certainly appreciate the strain that this incident has had on Mr. D. and his spouse, as has been noted by his mother-in-law in her Victim Impact Statement. This said, I am hopeful that the strength and support in the relationship that was apparent to me over two years ago will provide a solid foundation for their future. Certainly the actions of D.A. have contributed to making that more difficult.

[14] In fairness, I note that M.T., through her willingness to accept responsibility for her actions, has done all that she could to avoid the victims being further victimized by

having to relive the incident through testifying at trial. This said, she cannot wholly avoid responsibility for this, as the need for A.D. and his spouse to testify in D.A.'s trial was nonetheless a consequence on them resulting from the occurrence of the incident in which M.T. was involved.

[15] Further, while there is no evidence directly connecting M.T. to the theft of items from the residence and other damage, in fact she denies any direct role in the thefts or damage, had she, J.S. and D.A. not committed the offences, these thefts and damage would not have occurred.

Joint Submission

[16] While a sentencing judge has the ability to interfere with a joint submission, there are limitations on his or her ability to do so.

[17] In *R. v. Anthony-Cook*, 2016 SCC 43, the Court adopted the public interest test as the correct approach when considering whether to accept or deviate from a joint submission. The Court stated the test as follows:

32 Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. But, what does this threshold mean? Two decisions from the Newfoundland and Labrador Court of Appeal are helpful in this regard.

33 In *Druken*, at para. 29, the court held that a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so "markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system". And, as stated by the same court in *R. v. B.O.2*, 2010 NLCA 19, at para. 56 (CanLII), when assessing a joint submission, trial judges should "avoid

rendering a decision that [page219] causes an informed and reasonable public to lose confidence in the institution of the courts".

34 In my view, these powerful statements capture the essence of the public interest test developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold - and for good reason, as I shall explain.

[18] After canvassing the thought processes that underlie joint submissions and the benefits offered to the administration of justice, the Court stated:

44 Finally, I note that a high threshold for departing from joint submissions is not only necessary to obtain all the benefits of joint submissions, it is appropriate. Crown and defence counsel are well placed to arrive at a joint submission that reflects the interests of both the public and the accused (Martin Committee Report, at p. 287). As a rule, they will be highly knowledgeable about the circumstances of the offender and the offence and the strengths and weaknesses of their respective positions. The Crown is charged with representing the community's interest in seeing that justice is done (*R. v. Power*, [1994] 1 S.C.R. 601, at p. 616). Defence counsel is required to act in the accused's best interests, which includes ensuring that the accused's plea is voluntary and informed (see, for example, Law Society of British Columbia, *Code of Professional Conduct for British Columbia* (online), rule 5.1-8). And both counsel are bound professionally and ethically not to mislead the court (*ibid.*, rule 2.1-2(c)). In short, they are entirely capable of arriving at resolutions that are fair and consistent with the public interest (Martin Committee Report, at p. 287).

Circumstances of M.T.

[19] A **Gladue** Report was filed, as was a Pre-Sentence Report ("PSR").

[20] As I indicated at the time of sentencing, due to the many personal details contained in the **Gladue** Report, and in light of my acceptance of the joint submission, I

will not, in these Reasons for Sentence, review the information contained in the **Gladue** Report in great detail. To the extent that some of these details are also contained in the PSR, I will also not review them.

[21] I am aware that in sentencing D.A. for his role in the events that took place, I spent considerable time setting out the information contained in the **Gladue** Report. In that case, there was a wide disparity in the sentencing submissions of Crown and defence counsel, and I felt it necessary to set out these details in order to provide sufficient information regarding the circumstances of D.A. to allow for the sentence I imposed to be better understood. I then chose to refer to all the individuals involved, in whatever capacity, by initials, notwithstanding I had not done so in the earlier trial and *voir dire* decisions. D.A. was sentenced to nine months custody to be served conditionally in the community after being given credit for 23 months' time served on remand. As a consequence of being convicted after trial, D.A. was being sentenced for the following offences: ss. 268(2), 267(a), 279(2), 349(1), 348(1)(a), 264.1(1)(a) and 430(4) of the *Criminal Code*, with the ss. 267(a) and 348(1)(b) offences having been conditionally stayed pursuant to the principle in **R. v. Kienapple**, [1975] 1 S.C.R. 729.

[22] M.T. is 42 years of age. She is a member of the Little Salmon Carmacks First Nation ("LSCFN"). She has a prior conviction in 2009 for assault and convictions in 2013 for two breaches of a recognizance she was bound by. She has never been sentenced to serve any time in actual custody for these convictions.

[23] M.T.'s mother attended residential school, as did her mother's siblings and many others in the Yukon community she was from.

[24] M.T.'s life from a young age was clearly negatively impacted by the inter-generational effects of trauma associated with the well-documented abuses resulting from the forced attendance of young Aboriginal individuals at residential schools. While growing up, M.T. was a witness to and the victim of physical abuse, sexual abuse and substance abuse. There were numerous periods of instability with respect to her living environment. She has suffered through the tragic deaths of two of her children. She has constantly struggled with drug and alcohol addiction issues.

[25] It is against this backdrop that the steps M.T. has taken since committing these offences, and the progress she has made, must be weighed in determining a fit and just sentence.

[26] M.T. has maintained sobriety since the date of these offences.

[27] She completed her college prep courses and is currently enrolled in a trades program at Yukon College.

[28] M.T. met with psychiatrist, Dr. Heredia, and was again diagnosed with depression, as well as suffering from post-traumatic stress disorder. She has been taking her medications as prescribed in order to deal with a long-standing depression issue and is finding this to be therapeutic. She deals with stress appropriately for possibly the first time in her life, through complying with the requirements for taking her medications, attending AA and NA meetings, spending time with Elders, walking, volunteering, sewing, reading, writing and pursuing her education. She spent the first three months after being released on bail in individual counselling at Alcohol and Drug Services ("ADS"), subsequently entering into the 90-day inpatient program ADS offers.

[29] The Inpatient Treatment Completion report noted M.T. as displaying: "...positive signs of active recovery: she identifies personal recovery goals; she expresses an interest in working on and implementing components of her recovery plan; she attends counselling appointments regularly and maintains frequent contact between scheduled appointments; and she indicates interest in continued counselling and support".

[30] In the months since this report was provided, M.T. has followed through on her commitments.

[31] M.T. has attended regular counselling sessions with LSCFN counselor Nina Bolton and ADS counsellor Corry Rusnack. Both counsellors provided positive reports with respect to M.T.'s participation and progress.

[32] In November 2017, M.T. was assessed for participation in the Community Wellness Court. She was found to be not suitable for participation in the Court. The Suitability Assessment report provided the following explanation:

[M.T.] does meet the mental health and addictions criteria of Community Wellness Court; however, she is not being found suitable for Community Wellness Court. [M.T.] has already completed the key components of Community Wellness Court. Any additional programs that could be offered by OSS would be redundant. She is currently enrolled in full time school, and the process and obligations of Community Wellness Court would be disruptive to her schooling and the progress she has already made.

[33] During the preparation of the Suitability Assessment for Community Wellness Court, M.T. was administered the University of Rhodes Island Change Assessment Scale, and was found to be in the contemplative stage of change.

[34] M.T. is noted, based upon the lengthy period of sobriety from alcohol and drugs she has maintained, as currently having no problems associated with alcohol and drug use. Based upon an assessment for the year prior to the incident for which she is being sentenced, she then would have scored as SEVERE with respect to problems related to alcohol abuse and MODERATE with respect to problems related to drug abuse.

[35] On the criminogenic risk assessment, M.T. scores as LOW with respect to both her criminal history rating and criminogenic need, and as LOW/MEDIUM with respect to the level of supervision required.

[36] M.T. is remorseful for her actions in regard to the circumstances of the assault on A.D. She is ashamed by what she did. She regrets not having apologized to her cousin, A.D.'s mother, when she had the opportunity to do so, as her cousin has now passed away. She states that through counselling she has been able to see things as though their respective roles were reversed and she is further ashamed. She wishes to apologize to A.D. According to the PSR she says "...there are 'no words' to tell [A.D.] and his family how sorry she is".

[37] M.T. states that one way she can express her remorse is by remaining sober, making better decisions and demonstrating that she will never be violent again.

Principles of Sentencing

[38] The following purposes and principles of sentencing are applicable in sentencing M.T.

718 The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

...

718.1 A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,

...

- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;

...

- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and

(e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

[39] The circumstances of these offences are such that the sentencing purposes of denunciation and deterrence are paramount. Often it is the case that in order to give proper consideration and effect to these purposes, a custodial disposition is required, and generally the custodial disposition is served in a correctional facility.

[40] At the same time, rehabilitation of the offender is also a purpose that must be considered. Rehabilitation cannot be considered disproportionate to the need to give proper effect to the other purposes, however, and to the extent that rehabilitation is emphasized, it must not disproportionately overshadow the other purposes.

[41] It is apparent to me that the joint submission has taken into account the circumstances of these offences, the circumstances of M.T., and the purposes, principles and objectives of sentencing.

[42] I recognize the principle of parity in sentencing, but the circumstances of D.A. and M.T. are different. As a result of her willingness to accept responsibility for her actions, M.T. entered guilty pleas to offences that differed from the offences D.A. was convicted of having committed. The Crown also elected to proceed by summary election and, as such, more sentencing options were available.

[43] By virtue of her acceptance of responsibility, M.T. was afforded the opportunity to take significant steps in the community to avail herself of counselling and to address the

underlying issues that contributed to her involvement in this incident. M.T.'s commitment to the process and requirements of her rehabilitation were demonstrably positive. As a result, at the time of sentencing Crown and defence counsel had sufficient positive information to proffer the joint submission. In these circumstances, I am satisfied that, while a custodial disposition is warranted in order to give effect to the purposes of denunciation and deterrence, given the nature of the crime and the harm done, this conditional disposition can be served in the community, as per the joint submission.

[44] In particular, the joint submission finds a balance in compliance with the principle of restraint set out in ss. 718.2(d) and (e).

COZENS T.C.J.

APPENDIX

**IN THE TERRITORIAL COURT OF
YUKON
COUR TERRITORIALE DU YUKON**

**CONDITIONAL SENTENCE ORDER
ORDONNANCE DE SURSIS**

(Section/article 742.1)
Criminal Code/Code criminel

CANADA
YUKON
TERRITORY
TERRITOIRE
DU YUKON

[redacted]
Originator's File
16-00348C
Court File
[redacted]
Birthdate
Driver's Licence

BE IT REMEMBERED that on the 3rd day of **JANUARY**, 2018, before His Honour Judge M. Cozens in Territorial Court at Whitehorse, Yukon, M.T., hereinafter called the offender, was found guilty of the following offence(s):

SACHEZ QUE le jour de/d' , dela devant Cour territorials a , au Yukon, , ci-apres appele le delinquant, a ete declare coupable des infractions suivantes :

COUNT 1: JULY 21, 2016, CARMACKS , YT, ASSAULT CAUSING BODILY HARM, S. 267(6) CC

AND WHEREAS on the 3RD day of JANUARY, 2018, the offender was sentenced to a term of imprisonment of 18 MONTHS pursuant to section 742.1 of the *Criminal Code*;

ET ATTENDU QUE, le jour de/d' le delinquant a ete condamne a un emprisonnement de en vertu de l'article 742.1 du *Code criminel*;

AND IT WAS ORDERED AND ADJUDGED that the offender serve the sentence in the community subject to the following conditions:

ET QU'IL A ETE ORDONNE ET DECIDE que le delinquant purge sa peine dans la collectivite sous reserve des conditions suivantes :

- (1) Keep the peace and be of good behaviour.
- (2) Appear before the court when required to do so by the court.
- (3) Report to a Supervisor within two working days and thereafter, when required by the Supervisor and in the manner directed by the Supervisor.
- (4) Remain within the Yukon unless you have written permission from your Supervisor.
- (5) Notify the Supervisor, in advance, of any change of name or address, and, promptly, of any change of employment or occupation.
- (6) Have no contact directly or indirectly or communication in any way with A D., N.D., K.G. except with the prior written permission of your Supervisor for the purpose of providing an apology letter to any or all of them and except as permitted by your supervisor for purposes related to employment or as otherwise required, in consultation with Victim Services.

- (7) Do not go to any known place of residence, employment or education of A.D., N.D., K.G. except with the prior written permission of your Supervisor for purposes related to employment or as otherwise required, in consultation with Victim Services.
- (8) Reside as approved by your Supervisor and do not change that residence without the prior written permission of your Supervisor.
- (9) Abide by a curfew by being inside your residence between 9:00 p.m. and 6:00 a.m. daily except with the prior written permission of your Supervisor. You must answer the door or the telephone for curfew checks. Failure to do so during reasonable hours will be a presumptive breach of this condition.
- (10) Not possess or consume alcohol and/or controlled drugs or substances that have not been prescribed for you by a medical doctor.
- (11) Not attend any premises whose primary purpose is the sale of alcohol including any liquor store, off sales, bar, pub, tavern, lounge or nightclub.
- (12) Attend and actively participate in all assessment and counselling programs as directed by your Supervisor, and complete them to the satisfaction of your Supervisor, for any issues identified by your Supervisor, and provide consents to release information to your Supervisor regarding your participation in any program you have been directed to do pursuant to this condition.
- (13) Perform 30 hours of community service as directed by your Supervisor or such other person as your Supervisor may designate, This community service is to be completed no later than 45 days before the end of this order. Any hours spent in programming may be applied to your community service at the discretion of your Supervisor.
- (14) Participate in such educational or life skills programming as directed by your Supervisor and provide your Supervisor with consents to release information in relation to your participation in any programs you have been directed to do pursuant to this condition.
- (15) Make reasonable efforts to find and maintain suitable employment and provide your Supervisor with all necessary details concerning your efforts.

**IN THE TERRITORIAL COURT OF
YUKON
COUR TERRITORIALE DU YUKON**

CANADA
YUKON
TERRITORY
TERRITOIRE DU
YUKON

**CONDITIONAL SENTENCE ORDER
ORDONNANCE DE SURSIS**
(Section/article 742.1)
Criminal Code/Code criminel

[redacted]
Originator's
File
16-00348C
Court File
[redacted]
Birthdate

Driver's Licence

- (16) Not possess any firearm, ammunition, explosive substance or any weapon as defined by the Criminal Code except as required by your employment and except with the prior written permission of your Supervisor for the purpose of involvement in cultural sustenance activities.
- (17) Not attend in the [redacted] residential subdivision of Whitehorse except with the prior written permission of your Supervisor.
- (18) Recommend that this matter be brought back before the Court for review at such time as considered appropriate by the Supervisor.

Dated this 3rd day of JANUARY 2018, at
Whitehorse, Yukon.

Fait le jour de/d' ,a , au Yukon .

Clerk of the Court

I acknowledge that the above order has been read and explained to me, and a copy of the order has been given to me. Sections 742.4 and 742.6 of the *Criminal Code* have been explained to me and I have been given an explanation of the procedure for applying under section 742.4 for a change to the optional conditions.

Je reconnais qu'on m'a lu et explique le contenu de l'ordonnance ci-dessus et qu'on m'a remis une copie de l'ordonnance. J'ai re9u une explication des articles 742.4 et 742.6 du *Code criminel* ainsi qu'une explication des modalites de presentation de la demande de modification des conditions facultatives prevue a l'article 742.4.

Offender

Contrevenant

**IN THE TERRITORIAL COURT OF
YUKON
COUR TERRITORIALE DU YUKON**

CANADA
YUKON
TERRITORY
TERRITOIRE DU
YUKON

**CONDITIONAL
SENTENCE ORDER
ORDONNANCE DE
SURSIS**

(Section/article 742.1)
Criminal Code/Code criminel

[redacted]
Originator's File
16-00348C
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Birthdate
Driver's Licence

BE IT REMEMBERED that on the 3RD day of **JANUARY**, 2018, before His Honour Judge M. Cozens in Territorial Court at Whitehorse, Yukon, M.T., hereinafter called the offender, was found guilty of the following offence(s):

SACHEZ QUE le jour de/d' , dela
devant Gour territoriale a
, au Yukon, , ci-
apres appele le delinquant, aete declare
coupable des
infractions suivantes :

COUNT 2: JULY21, 2016, CARMACKS, YT, UNLAWFULLY IN DWELLING, S. 349(1) CC

AND WHEREAS on the 3rd day of JANUARY, 2018, the offender was sentenced to a term of imprisonment of 6 MONTHS LESS 1 DAY CONSECUTIVE pursuant to section 742.1 of the *Criminal Code*;

AND IT WAS ORDERED AND ADJUDGED that the offender serve the sentence in the community subject to the following conditions:

ET ATTENDU QUE, le jour de/d' le
delinquant a ete condamne a un emprisonnement
de
en vertu de l'article 742.1 du *Code criminel*;

ET QU'IL A ETE ORDONNE ET DECIDE que le
delinquant purge sa peine dans la collectivite sous
reserve des conditions suivantes :

- (1) Keep the peace and be of good behaviour.
- (2) Appear before the court when required to do so by the court,
- (3) Report to a Supervisor within two working days and thereafter, when required by the Supervisor and in the manner directed by the Supervisor.
- (4) Remain within the Yukon unless you have written permission from your Supervisor,
- (5) Notify the Supervisor, in advance, of any change of name or address, and, promptly, of any change of employment or occupation.
- (6) Have no contact directly or indirectly or communication in any way with A.D., N.D., K.G. except with the prior written permission of your Supervisor for the purpose of providing an apology letter to any or all of them and except as permitted by your supervisor for purposes related to employment or as otherwise required, in consultation with Victim Services.
- (7) Do not go to any known place of residence, employment or education of A.D., N.D., K.G. except with the prior written permission of your Supervisor for purposes related to employment or as otherwise required, in consultation with Victim Services.

- (8) Reside as approved by your Supervisor and do not change that residence without the prior written permission of your Supervisor.
- (9) Abide by a curfew by being inside your residence between 9:00 p.m. and 6:00 a.m. daily except with the prior written permission of your Supervisor. You must answer the door or the telephone for curfew checks. Failure to do so during reasonable hours will be a presumptive breach of this condition.
- (10) Not possess or consume alcohol and/or controlled drugs or substances that have not been prescribed for you by a medical doctor.
- (11) Not attend any premises whose primary purpose is the sale of alcohol including any liquor store, off sales, bar, pub, tavern, lounge or nightclub.
- (12) Attend and actively participate in all assessment and counselling programs as directed by your Supervisor, and complete them to the satisfaction of your Supervisor, for any issues identified by your Supervisor, and provide consents to release information to your Supervisor regarding your participation in any program you have been directed to do pursuant to this condition.
- (13) Participate in such educational or life skills programming as directed by your Supervisor and provide your Supervisor with consents to release information in relation to your participation in any programs you have been directed to do pursuant to this condition.
- (14) Make reasonable efforts to find and maintain suitable employment and provide your Supervisor with all necessary details concerning your efforts
- (15) Not possess any firearm, ammunition, explosive substance or any weapon as defined by the Criminal Code except as required by your employment and except with the prior written permission of your Supervisor for the purpose: of involvement in cultural sustenance activities.

**IN THE TERRITORIAL COURT OF
YUKON
COUR TERRITORIALE DU YUKON**

**CONDITIONAL SENTENCE ORDER
ORDONNANCE DE SURSIS**

(Section/article 742.1)
Criminal Code/Code er/mine/

CANADA
YUKON
TERRITORY
TERRITOIRE DU
YUKON

[redacted]
Originator's
File
16-00348C
Court File
[redacted]
Birthdate
Driver's Licence

- (16) Not attend in the [redacted] residential subdivision of Whitehorse except with the prior written permission of your Supervisor.
- (17) Recommend that this matter be brought back before the Court for review at such time as considered appropriate by the Supervisor.

Dated this 3rd day of JANUARY 2018, at Whitehorse, Yukon.

Fait le jour de/d' ,a , au Yukon

Clerk of the Court

I acknowledge that the above order has been read and explained to me, and a copy of the order has been given to me. Sections 742.4 and 742.6 of the *Criminal Code* have been explained to me and I have been given an explanation of the procedure for applying under section 742.4 for a change to the optional conditions.

Je reconnais qu'on m'a lu et explique le contenu de l'ordonnance ci-dessus et qu'on m'a remis une copie de l'ordonnance. J'ai rec;u une explication des articles 742.4 et 742.6 du Code *criminel* ainsi qu'une explication des modalites de presentation de la demande de modification des conditions facultatives prevue a l'article 742.4.

Offender

Contrevenant

**IN THE TERRITORIAL COURT OF YUKON
COUR TERRITORIALE DU YUKON**

PROBATION ORDER

(WITH CONDITIONAL SENTENCE)

ORDONNANCE

DEPROBATION

(SUIVANT UNE PEINE AVEC SURSIS)

Formule 46
(Section 732.1)
Criminal Code/Code criminel

CANADA
YUKON
TERRITORY
TERRITOIRE DU
YUKON

[redacted]
Originator's File
16-00348C
Court File
[redacted]
Birthdate
Driver's Licence

BE IT REMEMBERED that on the 3RD day of JANUARY, 2018, before His Honour Judge M. Cozens in Territorial Court at Whitehorse, Yukon, M.T., hereinafter called the offender, was found guilty of the following offence(s):

COUNT 1: JULY 21, 2016, CARMACKS, YT, ASSAULT CAUSING BODILY HARM, S. 267(8) CC
COUNT 2: JULY 21, 2016, CARMACKS, YT, UNLAWFULLY IN DWELLING, S. 349(1) CC

AND WHEREAS on the 3RD day of JANUARY, 2018, the court adjudged that following the expiration of the offender's conditional sentence order related to this or another offence, that the said offender comply with the conditions of this probation order;

NOW THEREFORE the said offender shall, for the period of 1 YEAR from the date of expiration of the offender's conditional sentence comply with the following conditions, namely:

- (1) Keep the peace and be of good behaviour.
- (2) Appear before the court when required to do so by the court.
- (3) Notify the Probation Officer, in advance, of any change of name or address, and, promptly, of any change in employment or occupation.
- (4) Have no contact directly or indirectly or communication in any way with A.D., N.D., K.G., except with the prior written permission of your Probation Officer and with the consent of A.D., N.D., K.G., and except as permitted by your Probation Officer in consultation with Victim Services.
- (5) Do not go to any known place of residence, employment or education of A.D., N.D., K.G. except with the prior written permission of your Probation Officer and with the consent of A.D., N.D., K.G., and except as permitted by your Probation Officer in consultation with Victim Services.

SACHEZ QUE, le jour de/d' , devant de la Gour a , au Yukon, , ci-apres appele le delinquant, a ete declare coupable des infractions suivantes:

ET ATTENDU QUE, le jour de , la Gour a decide qua, apres la fin du sursis lie a la presents infraction ou a une autre infraction, le delinquant se conforme aux conditions de la presents ordonnance de probation;
A CES CAUSES, ledit delinquant doit, pour la periods de a compter de la fin de sa peine purgee avec sursis, se conformer aux conditions suivantes :

- (6) Report to a Probation Officer immediately upon completion of your conditional sentence and thereafter, when and in the manner directed by the Probation Officer.
- (7) Reside as approved by your Probation Officer and not change that residence without the prior written permission of your Probation Officer.
- (8) Not possess or consume alcohol and/or controlled drugs or substances that have not been prescribed for you by a medical doctor.
- (9) Not attend any premises whose primary purpose is the sale of alcohol including any liquor store, off sales, bar, pub, tavern, lounge or nightclub.
- (10) Attend and actively participate in all assessment and counselling programs as directed by your Probation Officer, and complete them to the satisfaction of your Probation Officer, for any issues identified by your Probation Officer, and provide consents to release information to your Probation Officer regarding your participation in any program you have been directed to do pursuant to this condition.
- (11) Participate in such educational or life skills programming as directed by your Probation Officer and provide your Probation Officer with consents to release information in relation to your participation in any programs you have been directed to do pursuant to this condition.
- (12) Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts.
- (13) Not possess any firearm, ammunition, explosive substance or any weapon as defined by the Criminal Code except as required by your employment, except with the prior written permission of your Probation Officer for the purpose of your involvement in cultural sustenance activities.

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PROBATION

(SUIVANT UNE PEINE AVEC SURSIS)

Fonn/fonnule 46
(Section/article 732.1)
Criminal Code/Code er/mine/

CANADA
YUKON
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[redacted]
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[redacted]
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(14) Not attend in the [redacted] Subdivision of Whitehorse except with the prior written permission of your Probation Officer.

Dated this 3rd day of **JANUARY**, 2018, at
Whitehorse, Yukon.

Fait le jour de/d' ,a , au Yukon.

Clerk of the Court

I acknowledge that the above order has been read and explained to me, and a copy of the order has been given to me. I acknowledge that a failure to comply with the terms of this order could result in charges under section 733.1 of the *Criminal Code*. Subsections 732.2(3) and(5) have been explained to me and I have been given an explanation of the procedure for applying under subsection 732 2(3) for a change to the optional conditions,

Je reconnais qu'on m'a lu et explique le contenu de l'ordonnance ci-dessus et qu'on m'a remis une copie del'ordonnance. Je reconnais que le defaut de respecter les modalites de la presente ordonnance peut donner lieu a des accusations en vertu de l'article 733.1 du *Code criminel*. J'ai rec;u une explication des paragraphes 732.2(3) et (5) ainsi qu'une explication des modalites de presentation de la demande de modification des conditions facultatives prevue au paragraphe 732.2(3)

Offender

Delinquant