

Citation: *R. v. Peters*, 2011 YKTC 24

Date: 20110406  
Docket: 10-10440  
Registry: Watson Lake

**IN THE TERRITORIAL COURT OF YUKON**

Before: His Honour Judge Faulkner

REGINA

v.

KERRY PETERS

Appearances:  
Mark Pindera  
Kerry Peters

Counsel for Territorial Crown  
Appearing on his own behalf

**REASONS FOR JUDGMENT**

[1] FAULKNER T.C.J. (Oral): Kerry Peters is charged with violating s. 137 of the *Motor Vehicle Act*, R.S.Y. 2002 c. 153, the offence of driving at an unreasonable speed. The evidence of the arresting constable, Constable Hutton, was that he observed a vehicle go by him on the Alaska Highway at a considerable rate of speed. He pursued this vehicle, which eventually stopped some nine blocks or so later.

[2] Constable Hutton indicated that he has received training in the operation of radar and that as part of that, they were required to estimate speed of vehicles and compare that with the radar results, so that he developed some degree of experience and expertise in estimating the speed of vehicles. He estimated that the speed of the vehicle he saw was something in the order of 90 to 100 kilometres an hour. He also

indicated that he himself had to drive well in excess of 100 kilometres per hour in order to catch up to the vehicle.

[3] The vehicle was being operated by the defendant, Mr. Peters. Mr. Peters' wife, Jane Peters, was a passenger in the vehicle. She indicated that after they had pulled off the Alaska Highway and stopped at their, I gather, place of business, that they noticed there was a police car behind them that they had not noticed prior to that. She indicated that she felt Mr. Peters was not speeding. She, however, agreed that she was not looking at or paying attention to the speedometer of the vehicle, but certainly the suggestion in her evidence was that she would have noticed if Mr. Peters was driving anything near the rate of speed claimed by the police officer.

[4] She also added some evidence to the effect that she and, I gather, Mr. Peters himself, feel they are being harassed by the RCMP and this is, I guess to put not too fine a point on it, a put-up job or an invention by Constable Hutton for the purpose of carrying out this course of harassment of Mr. Peters.

[5] Looking at the weight of the evidence, I would note, firstly, that the issue is not whether Mr. Peters was going exactly between 90 and 100 kilometres an hour, but whether he was driving at an unreasonable rate of speed. Constable Hutton, as I indicated, is a trained observer, which is significant. He did not have a chance to clock this vehicle on radar, but, as was indicated, when he first saw the vehicle, he was at right angles to it and then pursuing it, so there was really no way he could have clocked it on radar. As I say, he is a trained observer and, significantly, had to drive well over 100 kilometres an hour in order to catch up to the Peters' vehicle, and that, in my view,

is very significant.

[6] As to the speed, whether it was 90 kilometres an hour or somewhat less, and as to whether that was unreasonable, the evidence seems to be that the weather and road conditions were not a problem, and there is little evidence that there was other traffic on the road. As Mr. Peters pointed out, if there had have been, he would have had to have been passing it and there was no suggestion that that occurred.

[7] Still, this is the Alaska Highway and it is in an urban area, basically, right in the heart of Watson Lake, and I think I can take judicial notice of the fact that the Alaska Highway is really the main road through town, and it is a major traffic artery. So driving at a speed even somewhat less than 90 kilometres an hour, having regard to the locale, is clearly unreasonable.

[8] The only real question is whether the evidence of Mrs. Peters raises a reasonable doubt about the observations of Constable Hutton. Firstly, with respect to the issue of whether the police are harassing Mr. Peters, there is no evidence of that before me. Indeed, there was no evidence that this particular constable even knew Mr. Peters; perhaps he did, or that he knew or recognized his vehicle; perhaps he did, but there is no evidence of that. And really, there is no evidence that would begin to make me suspect that this is simply a fabrication by Constable Hutton in order to carry out this program of harassment against the defendant.

[9] With respect to Mrs. Peters' evidence, she obviously was not paying particular attention to the speed that the vehicle was being operated at. The fact that she did not see the police behind them is neither here or there, because normally a passenger in a

vehicle would not be paying particular attention to who was following them or was not. So at the end of the day, the evidence of Mrs. Peters does not raise a doubt in my mind that Mr. Kerry Peters' vehicle was being operated at a speed well in excess of the posted limit, which was 50 kilometres an hour, and that the speed, having regard to the locale, was unreasonable.

[10] I find the accused guilty.

---

FAULKNER T.C.J.