

Citation: *R. v. Porter*, 2003 YKTC 101

Date: 20031126
Docket: T.C. 03-05953/A
03-00363
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

Regina

v.

Harry Andrew Porter

Appearances:
Peter Chisholm
Samantha Wellman

Counsel for Crown
Counsel for Defence

REASONS FOR JUDGMENT

[1] CAMERON J.P.T.C. (Oral): Mr. Porter has pled guilty to one count under s. 253(b).

[2] The facts before the court are that on September 15, 2003, a routine patrol on Hamilton Boulevard observed two vehicles approaching. One vehicle pulled out in an attempt to pass the other vehicle and it was on a solid line; it did not complete the pass so it pulled back in behind. The police then pursued and stopped both the vehicles.

[3] Mr. Porter was the driver of the vehicle that had attempted to pass. It was found that he was disqualified under the *Motor Vehicle Act*, R.S.Y. 2002, c. 154, regulations from driving.

[4] The R.C.M.P. then noticed some signs of impairment were being displayed, an odour of an alcoholic beverage and other signs. They gave him the breathalyzer demand and rights. He blew 220 and 230. He was cooperative with the police throughout the investigation.

[5] Mr. Porter has no related record. This being a first offence, it must be considered aggravated by the very high readings, well in excess of the 160 milligrams as mandated. It was a driving maneuver that was certainly not a safely executed maneuver.

[6] Mr. Porter, however, has entered an early guilty plea. The Crown is suggesting a \$1,000 fine and a one-year driving prohibition.

[7] Defence is indicating that Mr. Porter is of limited means as he is currently a stay-at-home dad, has two dependent children at home and a wife. He does, however, have an employment history that is somewhat seasonal and varied. Defence is suggesting a fine in the range of \$800.

[8] I am going to impose, Mr. Porter, a \$900 fine. There will be a victim fine surcharge of \$135, which is a total of \$1,035.

[9] Pursuant to s. 259 of the *Criminal Code* you will be prohibited from operating a motor vehicle on any highway, public property or public roadway. That will be for a period of one year. That is under Yukon legislation and the *Criminal Code* of Canada.

[10] The court is content if, after the first six months of that prohibition, you wish to

apply for the interlock program, you should be allowed to be considered for that program. If successful, then you would find that for the final six months of that prohibition you would be allowed to operate a motor vehicle as long as an operating interlock device was installed in that vehicle.

[11] The total fine is \$1,035. How long would you need to pay that?

[12] THE ACCUSED: Maybe in six months I could probably pay the fine.

[13] THE COURT: I will give you six months time to pay. You should be aware that you can do a couple of things. One, is that you can set up a payment schedule where you come in each month and put so much against it. You should also be made aware that there is a fine option program available to you, where you can go in and work off a part and pay a part, so you can do a combination of working and paying. The \$135 has to be paid in cash; it cannot be worked off, but the \$900, any portion of it can be worked off.

[14] You will have to attend at the court registry to sign your driving order. It will be ready for you in approximately 20 minutes.

[15] The other two matters, are you able to speak to?

[16] MR. CHISHOLM: I don't have instructions with respect to the Territorial matters. I will withdraw Count 1 before (indiscernible).

[17] MS. WELLMAN: Okay.

[18] THE COURT: Count 1 is withdrawn.

[19] MS. WELLMAN: I'd be making an application with respect to the Territorial matters to have them dismissed for want of prosecution.

[20] THE COURT: Territorial matters are dismissed.

CAMERON J.P.T.C.