

Citation: *R. v. Quash*, 2012 YKTC 3

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Docket: 07-00671H  
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07-00671J  
07-00671K  
10-10106  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**

Before: His Honour Judge Faulkner

REGINA

v.

BOBBY RONNY QUASH

**Publication of information that could disclose the identity of the complainant has been prohibited by court order pursuant to section 486.4 of the *Criminal Code*.**

Appearances:  
Terri Nguyen  
Kimberley Hawkins

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCING**

[1] FAULKNER T.C.J. (Oral): Bobby Ronny Quash stands convicted of a charge of sexual assault, three charges of breach of probation, and one charge of failing to appear.

[2] The sexual assault involved an assault on a woman who was sleeping in her own home. Mr. Quash took the opportunity, having gotten into the house, to touch her vaginal area with his hand. She awoke and matters did not proceed beyond that point.

[3] The breaches of probation all involved the consumption of alcohol contrary to a term of the order which forbade him so to do. In two of the cases, in addition to being under the influence of alcohol, he was causing problems which led to the police being summonsed. In the third case, he was found passed out by a bus shelter.

[4] The failing to appear charge was a failure to appear to stand his trial on the charge of sexual assault.

[5] With respect to sentencing in this case, there are perhaps two overriding factors. The first is that Mr. Quash, who is an aboriginal offender, also suffers from the effects of prenatal exposure to alcohol and, as a result, has some fairly significant developmental delays which were discussed extensively in a prior decision involving Mr. Quash given by Judge Cozens back in 2009. Mr. Quash has very limited educational and employment achievements, no doubt as a result of FASD. So that is the one factor. However, there is another factor, and that is that, although Mr. Quash is only 25 years of age, he has a very extensive multi-page criminal record and, most tellingly, this is his third sexual assault conviction.

[6] It has proved difficult to manage Mr. Quash in the community. He is simply unwilling or unable to comply with probation orders or other community-based dispositions. So at this point, the Court is really left with little option but to incarcerate Mr. Quash primarily for the safety and protection of the public.

[7] The Crown seeks globally a penitentiary sentence in the range of three years, with two and one-half years of that time to be imposed, they suggest, with respect to the sexual assault. In my view, the range of sentence contended for by the Crown is

fit, having regard to the range of sentence customarily imposed for sexual assaults of this kind in this jurisdiction, having regard to the fact that this is his third sexual assault conviction, but also tempering the sentence somewhat, having regard to the FASD situation.

[8] Mr. Quash has approximately nine months of pre-trial custody, and of course he is entitled to credit for that. In the result, the sentence of the Court will be, with respect to the charge of sexual assault, a sentence of two years and six months to be served in a federal penitentiary; with respect to each of the charges of breach of probation, two months consecutive; with respect to the charge of failing to appear, two months concurrent. I will allow nine months credit for the pre-trial custody, leaving a remanet of two years and three months yet to be served.

[9] I further direct that there be an order whereby Mr. Quash will provide samples of bodily substances for the purpose of DNA analysis and banking, and he will comply with the provisions of the *Sex Offender Information Registration Act* for a period of 20 years.

[10] There should also be an order prohibiting him from having in his possession any firearms, ammunition, explosive substances, or other items more particularly described in s. 109(2)(a) of the *Criminal Code* for a period of ten years following his release from imprisonment, and any of the items specified in subsection (3) for the remainder of his life.

[11] The surcharges are waived.

- [12] THE CLERK: The remaining counts?
- [13] MS. NGUYEN: Withdrawn, the remaining counts, sir.
- [14] THE COURT: Withdrawn at the request of the Crown.

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FAULKNER T.C.J.