

Citation: *R. v. Sam*, 2007 YKTC 66

Date: 20070831
Docket: T.C. 01-00751B
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Chief Judge Faulkner

REGINA

v.

JOHN WALTER SAM

Appearances:
David McWhinnie
James Van Wart

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] FAULKNER C.J.T.C. (Oral): John Walter Sam has entered a plea of guilty and stands convicted on a charge of breaching a long-term supervision order, contrary to s. 753.3(1) of the *Criminal Code*.

[2] Mr. Sam was made subject of the order in November of 2002, following his conviction for offences contrary to s. 151(a) and 145(1) of the *Criminal Code*. The long-term offender designation was the result of Mr. Sam's long history of sexual offending and deviant sexual behaviour, particularly with respect to children.

[3] In 2002, Mr. Sam received 27 months imprisonment. He served the full sentence and was released in February of 2005, subject to the long-term supervision order, which was to remain in effect for a period of 10 years.

[4] Among the conditions placed on Mr. Sam, were requirements to reside at the ARC in Whitehorse and to abstain from intoxicants. In July of 2005, Mr. Sam went AWOL from the ARC. After his recapture, he subsequently pled guilty to charges of escaping lawful custody and breach of the long-term supervision order. Subsequently, he received an effective sentence of two years and three months.

[5] Following his release from penitentiary after serving that sentence, Mr. Sam was placed back at the ARC here in Whitehorse. This was in mid-January of 2007. On June 20, 2007, Mr. Sam again disappeared from the ARC. Fortunately, he was soon recaptured in a wooded area some distance from the ARC.

[6] As the Crown concedes, there was in this case, in contrast to his previous escape attempt, less evidence of prior planning of the disappearance and less evidence of what he intended to do thereafter. Nonetheless, this is the second time Mr. Sam has breached the order in question.

[7] Moreover, I think it is fair to conclude that there was more on Mr. Sam's mind, again, than simply absenting himself from the ARC. When apprehended, Mr. Sam had condoms in his possession, as well as marijuana. The implication of the condoms is obvious, the marijuana might perhaps be less so, until it is recalled that the use of intoxicants as a disinhibitor has been a particular issue with this sexual offender.

[8] Considering the relative seriousness of the facts involved in the 2005 and 2007 breach incidents, but keeping in mind that this is a subsequent offence, I sentence Mr. Sam to 18 months imprisonment. He is, however, entitled to credit for his predisposition custody of two months.

[9] The defence contended, and the Crown did not dispute, that the delay in disposition was more or less attributable to the Crown owing to the unavailability of the specially assigned counsel. That being the case, I am prepared to allow a two for one credit for the time served. It follows that there is a remanet of 14 months yet to be served.

[10] MR. MCWHINNIE: This is not a matter where there are any ancillary orders, or other matters to consider, Your Honour, so the matter -- is at an end. The second count should be stayed.

[11] THE COURT: Thank you.

FAULKNER C.J.T.C.