

Citation: *R. v. Sekulich*, 2012 YKTC 88

Date: 20120926
Docket: 10-00733
10-00733A
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Chief Judge Cozens

REGINA

v.

CHAD MICHAEL SEKULICH

Appearances:
Kevin MacGillivray
Chady Moustarah

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] COZENS C.J.T.C. (Oral): Chad Sekulich has entered a guilty plea to having been in possession of cocaine, contrary to s. 4(1) of the *Controlled Drugs and Substances Act*.

[2] Circumstances are that on January 14, 2011, RCMP conducted surveillance on Mr. Sekulich and as a result of their surveillance, ultimately arrested him and executed search warrants. Mr. Sekulich was found to be in possession of one-half gram package of cocaine, money in the amount of \$995 when arrested, and pursuant to the search warrant, four grams of cocaine, some trace cocaine, four vials with GHB in them in the amount of approximately seven ounces, and 24 grams of marijuana were located inside his residence, with an additional \$320.

[3] Crown and defence come before the Court today with a joint submission. I note that Mr. Sekulich had previously been charged in respect of these circumstances with more serious offences under s. 5(2) of the *Controlled Drugs and Substances Act*, which would explain the terms with the recognizance that he was on that had a curfew.

[4] I am not inclined to differ from the joint submission as I am aware that there are often a lot of discussions and exchanges between counsel that result in them coming before the Court in this manner. I do agree with counsel for Mr. Sekulich that sometimes simple possession can be met with fines, but obviously there are cases where possession is part of something bigger, and as a result can result in custodial dispositions, such as are put forward today. I am satisfied that the sentence proposed is within the range of sentence and that I should not deviate from the joint submission.

[5] By way of background, Mr. Sekulich is 40 years of age. A pre-sentence report has been filed. I would consider it to be a positive pre-sentence report. It indicates that Mr. Sekulich, despite his difficulties, which include prior convictions in Alberta on more than one occasion for trafficking and possession for the purpose of trafficking, has made steps to change his peer group and some of his associations that have resulted in him being involved in the drug trade before.

[6] There is much in the pre-sentence report that would indicate that Mr. Sekulich has a lot of prospects for doing well in the future. He has a supportive partner. I am satisfied that he is fully able to comply with the terms of the conditional order that has been proposed and that it is consistent with the purpose and principles of sentencing and does not compromise the safety of the public in any way.

[7] The sentence that I will impose will be a conditional sentence. It will be for six months. The terms will be that you:

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 immediately and thereafter when and as required by the supervisor;
4. Reside as approved by your supervisor and not change that residence without the prior written permission of your supervisor;
5. For the first four months of this order, you are at all times to remain within your place of residence except with the prior written permission of your supervisor;
6. Must present yourself at the door or answer the telephone during reasonable hours to ensure that you are complying with this condition; failure to do so will be a presumptive breach of this condition;
7. For the last two months of this order, you are required to abide by a curfew by remaining within your place of residence between the hours of 12:00 midnight and 6:00 a.m. daily, except with the prior written permission of your supervisor;
8. Must present yourself at the door or answer the telephone during reasonable hours for curfew checks. Failure to do so will be a presumptive breach of this condition;
9. You will abstain absolutely from the possession or consumption of alcohol and controlled drug substances, except in accordance with a prescription

given to you by a qualified medical practitioner;

10. You will not attend any bar, tavern, off-sales, or other commercial premises whose primary purpose is the sale of alcohol;

While I note that the pre-sentence report makes reference to Mr. Sekulich not being an addict, necessarily, he is clearly a user. He has never had any treatment before. I will include the clause recommended in the pre-sentence report, that you:

11. Take such assessment counselling and programming as directed by your supervisor;
12. Make reasonable efforts to find and maintain suitable employment and provide your supervisor with all necessary details concerning your efforts;

I recognize that you are currently employed. You have positive support from your employer, but nonetheless, I feel that this term is a good term because good employment and maintaining it, and explaining why you do not, in the event that it ever changes, would all be of assistance going down the road.

13. You are to provide your supervisor with consent to release information with regard to your participation in any programming, counselling, or employment that you have been directed to do pursuant to this conditional sentence order.

Those are all the terms I believe that are required on the conditional sentence order.

[8] There will be an order of forfeiture, and counsel are satisfied with the form of order proposed?

[9] COUNSEL: Yes, sir.

[10] THE COURT: So I will sign the order as proposed with respect to the items delineated there. I will impose a victim fine surcharge. The Crown proceeded summarily on the replacement Information. It will be \$50, and how much time would your client need to pay that?

[11] MR. MOUSTARAH: Today is fine.

[12] THE COURT: Forthwith. With respect to the 733 Information I ask a stay of proceedings, or is that withdrawn?

[13] MR. MACGILLIVRAY: Yeah, I understand that is the case.

[14] THE COURT: Okay.

[15] MR. MACGILLIVRAY: Crown directs a stay.

COZENS C.J.T.C.