

Citation: *R. v. Silver*, 2006 YKTC 32

Date: 20060327
Docket: T.C. 04-00398
Registry: Whitehorse

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

REGINA

v.

DANIEL RAYMOND SILVER

Appearances:
Susan Bogle
David St. Pierre

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] FAULKNER C.J.T.C. (Oral): Daniel Silver was found guilty after trial on a charge of possession of cocaine for the purpose of trafficking, a charge of possessing a loaded restricted weapon and a further charge of having a weapon from which the serial number had been removed. The circumstances are as set out in my decision on the trial; I will not repeat the circumstances.

[2] In addition, today Mr. Silver entered a guilty plea to a charge of a breach of a recognizance. The breach involved him possessing, on two separate occasions in February of this year, a cell phone or similar device in contravention of a term of his release order that forbade him to possess such equipment.

[3] With respect to the charge of possession of cocaine for the purpose of trafficking, the circumstances are aggravated by the fact that there was a relatively large quantity involved and some of that involved crack cocaine, which is a particularly pernicious drug. I am told by Mr. St. Pierre that at the time in question, Mr. Silver was using cocaine. However, there is nothing in the circumstances before me, as revealed by the evidence of trial, that would suggest that what Mr. Silver was about was anything other than a commercial trafficking enterprise and that he was above street level in terms of where he was in the trafficking hierarchy.

[4] The position that the courts have taken in this jurisdiction with respect to trafficking and hard drugs has been often stated and I will not repeat those considerations. Suffice it to say that, in my view, both *R. v. Curtis*, [1982] Y.J. No. 4, and *R. v. Holway*, [2003] Y.J. No. 118, are still good law with respect to the approach of these courts.

[5] With respect to Mr. Silver's personal circumstances. He is 30 years of age, he has no prior record. He has a common-law wife and they together have an infant child. I am told he also has two children from a prior relationship. At present, or at least I should say up until recently, since he has been incarcerated, Mr. Silver was attending Yukon College. I am told by Mr. St. Pierre that since the time of this offence Mr. Silver has stopped using cocaine.

[6] The firearms possession charge carries a minimum sentence of one year and the Crown seeks only the minimum sentence with respect to that charge.

[12] THE COURT: Count 8, three months concurrent.

[13] You are prohibited from having in your possession any firearms, ammunition or explosive substance for a period of 10 years. I direct that the drugs, firearms, ammunition and monies seized from you be forfeit. In the circumstances, I will waive the surcharges.

[14] THE CLERK: Would the firearms order be assigned to one of the counts, Your Honour?

[15] THE COURT: It should be with respect to all of the matters except the breach charge.

[16] THE CLERK: And the B Information is still --

[17] MS. BOGLE: Crown alleges a stay of proceedings on the B Informations.

[18] THE COURT: Thank you.

FAULKNER C.J.T.C.