

Citation: *R. v. Stone*, 2011 YKTC 68

Date: 20111005
Docket: 10-10046
Registry: Watson Lake

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

MARTIN ERNEST STONE

Appearances:
Terri Nguyen
Martin Stone

Counsel for the Crown
Appearing on his own behalf

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Martin Stone has entered a plea of guilty to a charge contrary to s. 253(1)(b) of the *Criminal Code*. He provided breath samples of 180 and 190 milligrams percent. The Crown has indicated no particular evidence of bad driving other than the fact that he did not have his lights on, but it goes without saying that someone who is out driving with that sort of blood alcohol level constitutes a danger.

[2] The most noteworthy feature of this matter is Mr. Stone's prior record. The Crown said there were seven priors. I count six, but then I guess it depends on what

one calls a related offence, but nothing particularly turns on it.

[3] MS. NGUYEN: No, sir. I was counting the very first entry as related, only because it's a driving offence.

[4] THE COURT: Yes, I understand that. All right. So we will call it six priors in terms of drinking and driving offences, and it really is getting Mr. Stone, as well, up into the territory of *R. v. Donnessey*, [1990] Y.J. No 138 (Y.T.C.A.), where a penitentiary sentence could be imposed.

[5] I take into account Mr. Stone's guilty plea, albeit, as the Crown points out, it comes somewhat late in the day, but I give him credit for that.

[6] In all of the circumstances, given the statutorily aggravated readings and the prior convictions, Mr. Stone, you are sentenced to a period of imprisonment of 15 months. You are prohibited from operating a motor vehicle on a street, highway or other public place in Canada for a period of five years.

[7] I will waive the surcharge.

[8] MS. NGUYEN: Thank you.

[9] THE COURT: Count 1 is?

[10] MS. NGUYEN: Withdrawn, sir.

[11] THE COURT: Withdrawn at the request of the Crown.

[12] MS. NGUYEN: Thank you. And the remaining matters, given that Mr.

Stone will be in custody in Whitehorse, perhaps we could set it to next Wednesday.

[13] THE COURT: All right. We will put these other matters over to next Wednesday in Whitehorse, Mr. Stone. Hopefully, by then, you will have a better chance to at least talk to a lawyer and get that process going. So, the matter of your election and plea on the remaining matters will go to Whitehorse on October 12th at 9:30.

FAULKNER T.C.J.