

Citation: *R. v. Wiens*, 2008 YKTC 39

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07-00088
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07-00108
Registry: Whitehorse

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

REGINA

v.

DARRELL DAVID WIENS

Appearances:
Samantha Oruski
Gordon Coffin

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Darrell Wiens stands convicted of a total of eight offences committed over a substantial period of time. The first matter goes back to January of 2007 and involved an assault on his then common-law partner. Not long after that, he was on the phone uttering threats to his common-law partner's father and partner. In May, Mr. Wiens was found operating a motor vehicle well, well over the legal limit. He provided samples of 200 and 220 milligrams percent. When the police attempted to stop him, he initially stopped but then sped away and there was a pursuit.

Mr. Wiens eventually crashed his vehicle, disabling it, and then attempted to flee on foot. The recognizance that he was on at the time, resulting from the earlier charges, included a no alcohol clause and he was obviously in breach of that.

[2] At this point, I am advised that the various matters that Mr. Wiens had were referred to the Community Wellness Court and for a period of time he appeared to be doing quite well. He was reporting, taking counselling and so forth. Unfortunately, in December he failed to report to his bail supervisor and he failed to report to the Family Violence Unit as directed, and, ultimately, in January, failed to attend a required appearance at the Community Wellness Court. I am advised that Mr. Wiens had left the jurisdiction and gone to British Columbia.

[3] In the result, Mr. Wiens has entered pleas of guilty to a charge of assault, a charge of uttering threats, a charge of driving with more than the legal limit of alcohol in his blood, a charge of failing to stop for a peace officer, and a charge of breach of recognizance, two further charges of breach of recognizance from December, and finally, a charge of failing to attend court from January.

[4] Mr. Wiens has a very serious criminal record. In particular, he has an astounding number of prior convictions for drinking and driving, as well as prior convictions for assault, obstruction, failing to comply with recognizances, failing to appear. In short, he has done it all before.

[5] In terms of the disposition that Mr. Wiens now faces, the most serious, in terms of the sentence he is likely to receive, is the drinking and driving charge, in light of his prior drinking and driving record. If I have not counted incorrectly, there are seven prior

drinking and driving convictions plus a number of driving while disqualified convictions. So he is certainly in the *Donnessey* category, [1995] Y.J. No.5, as a serial drunk driver, and a significant custodial sentence is required with respect to the drinking and driving matter for the safety and protection of the public.

[6] With respect to the charge contrary to s. 253(b) of the *Criminal Code*, Mr. Wiens, you are sentenced to a period of imprisonment of two years. You are prohibited from operating a motor vehicle anywhere in Canada for a period of six years. I recommend you be considered for the interlock program after a period of one year.

[7] On the charge of failing to stop for a peace officer, four months concurrent, and on the breach charge, 30 days concurrent.

[8] With respect to the charge of assault, 60 days to be served consecutively to any other sentence. On the charge of uttering threats, 30 days consecutive to any other sentence.

[9] With respect to the remaining charges, which are the breaches of recognizance from December and the failing to attend from January, I am going to take into account the pre-trial custody you have, which, grossed up at the usual rate, approximates four months at this point. On the fail to attend charge, one day in addition to time served, which I will give you credit of one month. On the breaches, one day in addition to time served on each, in addition to pre-trial custody, which I calculate at three months.

[10] MS. ORUSKI: I direct a stay of proceedings on the remaining counts.

[11] THE COURT: The surcharges are waived in the circumstances.

FAULKNER T.C.J.