

Citation: *R. v. Atkinson*, 2014 YKTC 47

Date: 20140918
Docket: 14-00081
Registry: Whitehorse
Heard: Mayo

TERRITORIAL COURT OF YUKON
Before Her Honour Judge Livingstone

REGINA

v.

CRYSTAL DAWN ATKINSON

Appearances:

Leo Lane

Malcolm E.J. Campbell

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT

[1] LIVINGSTONE T.C.J. (Oral): Ms. Crystal Dawn Atkinson is charged that on or about April 30, 2014, at or near Mayo, Yukon Territory, having consumed alcohol in such a quantity that the concentration thereof in her blood exceeded 80 milligrams of alcohol in 100 millilitres of blood, did operate her motor vehicle contrary to s. 253(1)(b) of the *Criminal Code of Canada*.

[2] The Crown proceeded summarily. It has called evidence in relation to the apprehension of Ms. Atkinson. It has called evidence in relation to breath demands and responses to those demands, and of samples of her breath being taken. The results of the breath samples exceeded 80 milligrams of alcohol in 100 millilitres of blood.

[3] However, the concern raised in relation to the breath samples was the designation of the qualified technician. And, based on the decision of Judge Chisholm in *R. v. Kroeker*, 2014 YKTC 31, the Court is aware that designations of qualified technicians by Deputy Director of Public Prosecutions, George Dolhai, have been put in issue. And in this case Officer Crowe, who was the technician who obtained the breath samples from Ms. Atkinson, was designated by that individual.

[4] In my view, the decision of Judge Chisholm, although not from a court superior to my jurisdiction, is a persuasive decision and, in my view, his ruling in relation to the ability of the qualified technician to provide the evidence that is before this Court stands.

[5] Therefore, in relation to Ms. Atkinson there is no evidence in relation to the offence before the Court. The charge, therefore, is endorsed as dismissed. You are free to go.

LIVINGSTONE T.C.J.