

Citation: *R. v. Blake*, 2007 YKTC 5

Date: 20061122
Docket: T.C. 06-00272A
Registry: Whitehorse

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

REGINA

v.

RAYMOND THOMAS BLAKE

Appearances:
Jennifer Grandy
Malcolm Campbell

Counsel for Crown
Counsel for Defence

REASONS FOR JUDGMENT

[1] FAULKNER C.J.T.C. (Oral): The accused, Raymond Blake, is charged with break and entering the premises of Hillbilly Computers, which is located in the Porter Creek Mall here in Whitehorse, Yukon. The offence occurred on the 26th day of April of this year. Some computer equipment, worth approximately \$2,200, was taken after the burglar gained entry by smashing a glass window in the premises. Another tenant in the same mall saw the culprit fleeing, but was not able to identify this person. The other tenant, Mr. Verheyden, in my view, provided virtually no description whatever of the burglar. It was so vague that it can neither be said to include or exclude Mr. Blake as a suspect.

[2] As I have said, the break and enter occurred on the 26th of April. Very early in the morning of April 28th, Mr. Blake was arrested in connection with another matter and was wearing a pair of shoes which were ultimately seized from him and have been made Exhibit 6 in these proceedings. A comparison of the tread pattern on those shoes with the footwear impressions left on a piece of glass at the scene led Sergeant Lane to an opinion, which I accept, that one of the shoes seized from Mr. Blake made the impression on the glass on the floor of the Hillbilly Computer store. The inference is irresistible that the person who committed the break and enter was wearing those shoes.

[3] Without more, the inference could also be made that given that those shoes were seized from Mr. Blake and it was so soon after the events, that Mr. Blake was the perpetrator. Mr. Blake, however, has an explanation. His explanation is that he went to a party. Now, he gave the date as the 25th of April, but I am sure he does not want me to accept that part of his evidence because that would be before the breaking and entering. He later said that in fact the party was the day before he was arrested, which was the 27th, the day after the break and entry.

[4] Now, he cannot give us the exact location of this party. He cannot give us the name of the host, and he did not provide the names of any other persons who were at this party. But he says that while he was at the party, his recently purchased Nike shoes were taken, much to his chagrin, and he was forced to leave with another pair of shoes, which fit him but were not his shoes. By horrible mischance, these shoes proved to be the shoes worn by the person who did the break and enter at Hillbilly Computers.

Simply to state the proposition, I think, is to indicate that it is unlikely to be true. The chances of it occurring are decidedly slim, but this is not to say that it is an impossibility.

[5] However, I find that I am not in a position to accept Mr. Blake's evidence or indeed to place any weight on it when he claims that he got these shoes at a party. Mr. Blake, of course, has a terrible record, much of it for crimes of dishonesty, which, of course, tells against his credibility. In addition to the vagueness of his description of how he came by these shoes, there are other things that he said which certainly do not enhance his credit. For example, he indicated that he had moved to Porter Creek to get away from the downtown environment, and get away from bad influences and crime, I suppose, and therefore, he would not have perpetrated this break and enter. Whatever force that claim might have had is gone when one considers that within the day of this break and enter at Hillbilly Computers, Mr. Blake was admittedly involved in another theft at the Yukon Inn.

[6] Mr. Blake was at pains to tell us about how he recently acquired these very nice Nike shoes and that he was forced to wear the shoes that he had been left at the party because they were the only shoes he had. That contention, in my mind, could have been easily corroborated by other evidence. No such evidence was led.

[7] At the end of the day, Mr. Blake's evidence simply raises no doubt in my mind that he was the perpetrator of the crime charged and I find him guilty.

[8] MR. CAMPBELL: Your Honour, with respect to sentencing of this matter, I would seek to adjourn this to Friday's fix date court. The reason that I am seeking to do that is Mr. Blake has some other matters before the courts now that he

may wish to resolve all at once. Now, they are new matters and I am not sure what direction they are going to proceed in, but I should know fairly shortly what is going to become of those offences and if they are something that should be properly dealt with at the same time as this. I recognize that it is somewhat unusual to ask for an adjournment for reasons other than to get a pre-sentence report at this stage of the game, but there are some other circumstances which I would like to take into account.

[9] THE COURT: Well, I do not have a problem adjourning the matter briefly if Mr. Blake has other matters that he may wish to deal with at the same time. That does not bother me. Unless you can persuade me otherwise, I am going to remand him in custody because his --

[10] MR. CAMPBELL: I am not going to attempt to.

[11] THE COURT: -- his detention on these matters is, in my view, all but inevitable.

[12] MR. CAMPBELL: I have no issue with that.

[13] MS. GRANDY: I do not have any difficulty with that, Your Honour.

[14] THE COURT: All right. Remanded in custody until Friday the 24th at one.

[15] MR. CAMPBELL: Perhaps at five. Perhaps to remand him at five o'clock. I do not think he is necessary -- his presence is necessary.

[16] THE COURT:

Very well.

FAULKNER C.J.T.C.