

Citation: *R. v. Bland*, 2006 YKTC 103

Date: 20061020
Docket: T.C. 05-00648A
Registry: Whitehorse

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

REGINA

v.

MICHEAL STEVEN BLAND

Appearances:
Noel Sinclair
Michael Bland

Counsel for Crown
Appearing on his own behalf

REASONS FOR SENTENCING

[1] FAULKNER C.J.T.C. (Oral): We are now at the point where I need to make a decision with respect to sentencing in this matter. Mr. Bland was convicted after trial on a charge of aggravated assault. The circumstances are particularly aggravated because it essentially amounted to a settling of accounts by a drug dealer and the victim was, in my view, viciously attacked in his bedroom.

[2] It is fair enough for Mr. Bland to point out that no knife was found but obviously the assailant was armed with a knife or something very similar because there were a number of wounds inflicted on the victim. About the best that can be said of it all is that, fortunately, the wounds were not life threatening.

[3] I agree with the Crown that there are no particular mitigating features to the offence at all and that deterrence and denunciation must be the primary focus of sentencing.

[4] Having said that, however, obviously I have to take account of the fact that Mr. Bland has, for someone involved in such an aggravated offence, a relatively limited prior record, and I think I have to take some account of the fact that he has struggled with Attention Deficit Hyperactivity Disorder and problems brought on by drug addiction.

[5] I also need to take account of the fact that there will be a global effect of whatever sentence I impose because Mr. Bland has already been sentenced and is serving another offence. The sentence imposed on him on this offence will be consecutive to that sentence.

[6] I also need to give him credit for the roughly one and one-half months of pre-trial custody that he has to the credit of this particular matter.

[7] Keeping all of that in mind, I agree with the submission that the range here is from something in the order of sixteen months, more or less, to six years imprisonment, as indicated in *R. v. Johnson*, [2006] YKTC 52 (QL), and accepted by Judge Overend of this court in the *R. v. Wiebe* case, [2006] YKTC 75 (QL). I also agree with the comments in *Johnson* that the sentences at the lower end of the range would tend to be imposed in fight situations, where the altercation escalates, and the sentences at the higher end of the range would tend to be imposed in situations where victims are attacked with a weapon, without provocation, and without any opportunity to defend themselves. If one looks at that, unfortunately for Mr. Bland, he would tend to fall more

at the higher than the lower end of things. In my view, taking all the matters into account that would be to Mr. Bland's credit, he is still looking at a penitentiary sentence.

[8] THE ACCUSED: Sir, I've been incarcerated since February.

[9] THE COURT: I understand that and I have acknowledged that.

[10] As I say, taking into account the global effect of all of the sentences and the fact that you have been in custody for some period of time, and giving you credit for your pre-trial custody, the sentence of the Court in this matter is that you serve a period of two years in a federal penitentiary. There will also be an order whereby you will provide samples of bodily substances for the purpose of DNA analysis and banking. You are prohibited from having in your possession any firearms, ammunition or explosive substance for a period of ten years following your release from imprisonment.

[11] In the circumstances, a surcharge would be superfluous and it is waived.

FAULKNER C.J.T.C.