

Citation: *R. v. Brenner*, 2006 YKTC 5

Date: 20060110
Docket: T.C. 05-05954A
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

REGINA

v.

DIETER BRENNER

Appearances:
Lee Kirkpatrick
Dieter Brenner

Counsel for Crown
Appearing on his own behalf

REASONS FOR SENTENCING

[1] CAMERON J.P.T.C (Oral): Mr. Brenner has pled guilty to one count under s. 32(1) of the *Wildlife Act*, R.S.Y. 2002, c. 229, that of wasting meat.

[2] The facts presented are that on September 8th, Mr. Brenner and another individual were hunting the Nasutlin River and shot a moose. The moose ran into the river and they were not prepared for the event that the moose would die in the water. They did as best they could to drag the moose as close to shore as they could and then proceeded to butcher as much of it as they could. They ultimately were unable to butcher it all. They were relatively successful in butchering a significant portion of it.

[3] Mr. Brenner indicates that he, in fact, wound up leaving behind one of the tenderloins. The salvaged portions of meat reached a total weight of 102 pounds. This may have included organs such as the heart.

[4] Mr. Brenner was cooperative throughout and entered an early guilty plea. Although the maximum fine and penalty for an offence such as this is \$50,000 and/or some jail time, the Crown is not seeking a penalty in that range. They are in fact seeking a penalty of a \$500 fine with a \$500 contribution, recognizing that this was not a malicious attempt at wasting this meat. Mr. Brenner indicated that he had made every attempt he could to gather as much meat as he could, however, became hypothermic finally, and they just could not proceed any further.

[5] I think it is very important to appreciate that the fines for an offence such as this, \$50,000, reflect how serious an offence this can be. However, it should also be noted that the serious nature of the offence is when it is done in more of a malicious manner, the most blatant of which would be simply be shooting an animal and leaving it in its entirety. However, other situations are where an animal may be shot and simply high graded for the tenderloins and the remainder left behind. That is not the case here. This is clearly a case of inexperience and a lack of preparation on behalf of Mr. Brenner and his partner. I think it does go a long ways to indicate that they certainly made a very considerable attempt in what are relatively adverse conditions to gather as much as they could. Having left one tenderloin behind, I think, again, speaks to the fact that they had reached the point of their own physical limits and just could not go on any further.

[6] Having said that, I agree that the Crown's position that a much lesser fine than would normally be imposed can be considered. I think that the important aspects of what we do today is less in regard to a fine, perhaps more in regard to contribution and certainly the additional education for Mr. Brenner. I think those are important aspects.

[7] What I am going to do, Mr. Brenner, is I am going to impose a fine and it is going to be a \$250 fine. However, I am also, pursuant to s. 169(h), requiring that in addition to that fine you make a contribution to the Wildlife Conservation Fund of \$500. Pursuant to s. 169(i), prior to you attaining a new hunting licence from the Yukon Territory, you must successfully complete either a hunter education program or a moose hunting workshop, or both of those. However, you must have successfully completed one of them before you can get your next year's licence. Finally, pursuant to s. 187, the Court orders the forfeiture of the salvaged meat, the 102 pounds of salvaged meat; that is forfeited to the Crown.

[8] Now, the total monetary requirement is \$750. Mr. Brenner, how long do you figure you will need to come up with the total amount?

[9] THE ACCUSED: Immediately.

[10] THE COURT: Can you pay immediately?

[11] THE ACCUSED: Yes.

[12] THE COURT: The fine is payable forthwith and the contribution is to be made within a 30-day period.

[13] THE CLERK: Victim fine surcharge?

[14] THE COURT: Victim fine surcharge is going to be waived.

[15] THE CLERK: Thank you.

[16] THE COURT: Thank you sir, you may make the \$250 payment here at the Court Registry. They will need to get their paperwork down there, but you can make that today before you leave and then the contribution can be made anytime within the next month, okay?

[17] THE ACCUSED: Okay.

[18] THE COURT: Thank you, sir.

CAMERON J.P.T.C.