

Citation: *R. v. Clunies-Ross and Clunies-Ross*, 2007
YKTC 72

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Docket: T.C. 07-04327
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T.C. 07-00067
Registry: Whitehorse

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

REGINA

v.

**NORMAN CLUNIES-ROSS
AND
SHANE CLUNIES-ROSS**

Appearances:
Lee Kirkpatrick
Norman Clunies-Ross

Counsel for Crown
Acting on his own behalf and as agent
for Shane Clunies-Ross

REASONS FOR SENTENCING

[1] CAMERON J.P.T.C. (Oral): Mr. Norman Clunies-Ross has appeared here as agent for his son. So between himself and his son, they have entered pleas, each to one count of wastage of meat, and Mr. Norman Clunies-Ross, to one count of discarding litter, and through the agency of his father, Mr. Shane Clunies-Ross has entered a plea to one count of making a false statement.

[2] It surrounds a hunt that took place last year in the Rose Lake area. A successful hunt, a bull caribou was taken. There was a significant portion of the meat left behind.

The cape, the antlers were taken and approximately 70 to 80 pounds of the meat. The animal is estimated to have been about a 600 pound animal, so a significant portion of the meat was left behind. At the kill site, also left behind under a rock were latex gloves, thus the depositing litter. Shane Clunies-Ross, when initially confronted, had made a statement that all the meat had been brought out. This was a false statement.

However, both Mr. Clunies-Rosses were cooperative when approached and the investigation continued. They have no prior record.

[3] MS. KIRKPATRICK: Your Worship, if I may -- I hate to interrupt you but I should just correct the fact: Mr. Clunies-Ross and his son don't accept the fact that only approximately 70 or 80 pounds of meat was taken out; they think that they took more meat than that out, but the portions that I've described, that were left on the carcass, were left on the carcass. So all that was taken out was the backstrap, some of the meat from the quarters, although not all of it, some of the meat from the shanks, although not all of it, and the portions that I described were left behind. So, in speaking with Mr. Clunies-Ross' son, he estimated that at least over 100 pounds, maybe 130 or even more had been taken out, but that doesn't alter the fact that a significant portion of the animal was left behind and those portions that I've described.

[4] THE COURT: Right. I was going on the confiscated meat in the weights. You have heard the fines sought: Mr. Clunies-Ross, did you have anything that you wished to say to the Court before we impose these particular fines?

[5] THE ACCUSED: Well, Your Honour, I just want to admit to the Court that it was a mistake I made and the cooperation was, when they first approached

me, I thought they were looking for somebody else, so -- I didn't feel we'd left that much meat behind, because we -- my pack was 90 pounds and Shane's was close to 200 or something like that. Mind you, he had the cape and the horns, too. And, as for the guilt, I've been right up front, it was my mistake for not going back up; I had just had a kidney attack. I shouldn't even have been hunting, actually, because I actually met the prosecutor in the bush the day before, at the beginning of a kidney stone attack, went to town and got meds and came back to continue hunting, which was a mistake on my part, because I probably would have gone back up again. So anyway, based on that. The other thing I would like to ask the Court, you know, I've been hunting all my life, mainly for meat, and it's the first time in my entire life I ever shot an animal which was a significant size; if it's possible to be able to retain the cape and the antlers. As for the fines and the rest of them, I'm quite willing to accept that.

[6] MS. KIRKPATRICK: Your Worship, if you are considering returning the cape and antlers, then I would like to speak to that issue as well.

[7] THE COURT: The first issue then will be the fines which will be imposed: \$1,750 for the meat wastage, that is for each, Mr. Norman Clunies-Ross and Mr. Shane Clunies-Ross. Mr. Norman Clunies-Ross will have a fine of \$100 for the discarding litter and Mr. Shane Clunies-Ross will have a fine of \$250. The total of those fines is, in your case, \$1,850, Mr. Clunies-Ross and for your son, \$2,000. How long do you figure you will need in order to pay those fines?

[8] THE ACCUSED: A couple of weeks.

[9] THE COURT: A couple of weeks? And your son, the same?

[10] THE ACCUSED: I guess so, Your Honour.

[11] THE COURT: We will give your son a month. Since he is not here, it will give you some time to communicate and so on.

[12] THE ACCUSED: Okay.

[13] THE COURT: You figure two weeks, so 14 days and 30 days.

[14] The prohibitions sought of a two year prohibition for yourself would be imposed, that you are prohibited from hunting for this hunting season and the next hunting season. Your son will be prohibited from hunting in the Yukon for a three-year period. You will be required, before you can get a hunting licence, to show that you have attended the Hunter Education Course and Ethical Hunting Practices. So anytime within the next two-year period, you attend that course, with your certificate, you will have to show that before you can get a license once this prohibition is over. Were you seeking that attendance for Shane as well?

[15] MS. KIRKPATRICK: No, he lives outside the jurisdiction.

[16] THE COURT: Now, in regards to the forfeiture, it certainly is understood that this was a magnificent animal, a very good size for a caribou and I am sure that the antlers and cape were very impressive. Unfortunately, the view of the Court is that the reason these particular offences are in place and the reason that they have \$50,000 penalties on them, is that what we want to discourage is essentially the trophy hunting, where people come up and take big animals just for their rack and their cape, and essentially leave the majority of the meat behind. I would have to say that it

would go against that view for us to return those magnificent trophies to you, for your possession. They will be forfeited to the Department at this time, along with the meat that was confiscated. I suspect that the antlers, and perhaps even the cape, will ultimately be put to good use. They are not likely going to be destroyed; they'll probably wind up on display someplace, but they will belong to the government at this point.

[17] THE ACCUSED: Okay.

[18] MS. KIRKPATRICK: Crown enters a stay the proceedings with respect to the remaining count against Mr. Norman Clunies-Ross and the two counts against Shane Clunies-Ross.

[19] THE COURT: The outstanding charges are stayed then.

[20] MS. KIRKPATRICK: I'll provide Mr. Clunies-Ross with information about that course when we leave the courtroom.

[21] THE CLERK: The wording is what was forfeited?

[22] THE COURT: Forfeited was the meat, the cape and the antlers. There was no confiscation of weapons or hunting articles?

[23] MS. KIRKPATRICK: There was a small saw, I think, that was taken but I understand that Mr. Clunies-Ross would like it back. If it hasn't already been returned, it will be.

[24] THE ACCUSED: I would like it back, yes.

[25] MS. KIRKPATRICK: Okay.

[26] THE COURT: You have it back?

[27] THE ACCUSED: No.

[28] THE COURT: Oh, you don't have it back?

[29] THE ACCUSED: No.

[30] THE COURT: Yes, any of the hunting equipment should be returned.

[31] THE CLERK: Your Worship, there was a warrant held for Mr. Shane Clunies-Ross on the last day.

[32] THE COURT: Okay. It should be vacated, thank you. Okay, thank you, sir.

[33] THE ACCUSED: Thank you.

CAMERON J.P.T.C.