

Citation: *R. v. Cornell*, 2003 YKTC 99

Date: 20031126
Docket: T.C. 03-00376
T.C. 02-00185
T.C. 03-05973
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

Regina

v.

Christopher Jonothan Cornell

Appearances:

Kevin Drolet

Samantha Wellman

Appearing for Crown
Appearing for Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): In this case Christopher Cornell has entered guilty pleas to several offences. These offences include an offence contrary to s. 354(a) of the *Criminal Code*, commonly referred to as joyriding; an offence contrary to 249.1(1) of the *Criminal Code*, a charge of failing to stop for a peace officer; a charge of mischief contrary to s. 430 of the *Criminal Code*, and lastly, a charge contrary to s. 5(1) of the *Motor Vehicles Act*, R.S.Y. 2002, c. 153, of the Yukon Territory for driving without a licence.

[2] The earliest charge, in point in time, was the charge of mischief, and that involved Mr. Cornell, who was a pedestrian at the time, becoming enraged at a driver

who he thought had driven too close to him as he was in a crosswalk, whereupon he began kicking the complainant's vehicle window, obviously causing some considerable upset and distress to the occupants in the vehicle.

[3] With respect to the joyriding charge and failing to stop charge, those both occurred on the same day. On that day the offender was operating a motor vehicle that he had no permission to operate, he having somehow come into possession of the keys for the vehicle. He was directed to stop by the police as he was driving, but he sped off and a high-speed chase ensued through the streets of the City of Whitehorse at speeds of up to 140 kilometres per hour. The offender actually managed to evade the police but sometime later was seen in a different location and was again directed to stop. Mr. Cornell fled again with the vehicle, this time not on streets but through trails in the bush near Yukon College. The police gave chase through the trails. Ultimately, they found the vehicle abandoned and significantly damaged and hung up on a berm, which had been, as I gather, placed in the trail to prevent motor vehicles from driving down it.

[4] It is of significance that with respect to the earlier charge of mischief, Mr. Cornell was on probation at the time and, with respect to the joyriding and failing to stop charges, that Mr. Cornell was on a recognizance at the time of the commission of those offences.

[5] On the date of the high speed chase, Mr. Cornell was operating the vehicle without an operator's licence.

[6] Although Mr. Cornell is only 21 years of age, he has amassed 21 prior convictions in an almost unbroken string of time extending from 1994 up until the

present day.

[7] It is further of significance to note that the last entries on his record are from July of this year, where he received a short period of imprisonment. I am not aware of the exact day of his release but it will be obvious that he had not been out of custody for very long before he got involved in the latest matters, that being the joyriding and the chase matters.

[8] It is obvious and goes without saying that Mr. Cornell's actions in the incident from September 20th, that is the joyriding and chase matter, involved a very significant risk to public safety and it is only fortuitous that no one was injured or killed and that the property damage was limited to damage to the vehicle that Mr. Cornell was operating.

[9] I am told that Mr. Cornell was in custody some ten days back when the mischief matter first arose and that with respect to the latest matters he has been in custody some two months. Obviously, he is entitled to credit for those periods of custody.

[10] It is suggested by Ms. Wellman that Mr. Cornell has lately come to the realization that he needs help with addiction problems and I hope that is so. She suggests that I should consider crafting a sentence which would be partly community-based in order to allow him to attend alcohol and substance abuse treatment scheduled to proceed in the relatively near future. It seems to me that while Mr. Cornell obviously needs such treatment, that it would be impossible for me to conclude that any form of community release would not involve a threat to public safety, and I think that any treatment which Mr. Cornell is to receive will, at least

initially, have to be offered to him in a closed setting.

[11] In taking all of the circumstances of the offences and the prior record of this offender into account, I find myself in the position of agreeing neither with the Crown or defence as to the appropriate disposition of the matter. In my view, a fit sentence, as I have already indicated, must be a custodial sentence and, since there are a number of offences involved, ought to be a global sentence which adequately reflects the severity of the matters involved but which is not excessive in total length, given that there are a number of offences.

[12] In my view, a fit global sentence with respect to all of these matters would be in the range of nine months. I am prepared to give Mr. Cornell credit for the time that he has spent of three months, making the effective sentence one of six months.

[13] With respect to the charge contrary to s. 249(1), you are sentenced to a period of imprisonment of six months; on the charge contrary to s. 354(a), three months concurrent; on the charge contrary to s. 431, one month concurrent; on the charge contrary to the *Motor Vehicles Act*, seven days concurrent.

[14] You are prohibited from operating a motor vehicle anywhere in Canada for a period of one year, following your release from imprisonment.

[15] Victim fine surcharges are waived in the circumstances.

[16] MR. DROLET: Is Your Honour prepared to consider a free-standing restitution order to the benefit of Alcan Adjusters Inc. for the damage cost?

[17] THE COURT: Ms. Wellman, any submissions on that?

[18] MS. WELLMAN: I take no position. He is not in a position to pay it at this time.

[19] THE COURT: Well, for what comfort it may be to them, I will impose a restitution order in the amount of --

[20] MR. DROLET: \$9,929. 24. I will provide the address to Madam Clerk after court.

[21] THE COURT: So ordered.

[22] MR. DROLET: It simply spares them having to commence a civil action.

[23] THE COURT: Yes.

FAULKNER T.C.J.