

Citation: *R. v. Douville*, 2011 YKTC 71

Date: 20111107
Docket: 10-00420
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

RANDY CARL DOUVILLE

Appearances:
Bonnie MacDonald
Malcolm Campbell

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Randy Carl Douville is before the Court for sentence with respect to an offence of assault causing bodily harm, of which he was found guilty after trial.

[2] The case is somewhat troubling in that there were clearly serious injuries suffered by the victim of the offence, but Mr. Douville, through Mr. Campbell, seems even now to want to re-argue the sufficiency of the Crown's case, and suggests that only the defendant and Ms. Bluecoat know what happened that night. Firstly, it is far too late in the day to be arguing about the sufficiency of the proofs that were offered; and secondly, it is quite wrong to say that only the parties know what happened. The Court knows what happened, and the Court knows that Mr. Douville subjected Ms. Bluecoat to a serious beating.

[3] In response to that at trial, and now in the pre-sentence report comments by the accused to the Probation Officer, Mr. Douville continues to offer the absurd claim that this was entirely a matter of self-defence, and equally absurd claim that she was in fine fettle when he last saw her and that somehow she sustained these injuries elsewhere between the time she left him and the time she got to the police station is simply ridiculous. I have yet to mention the equally ridiculous concession, (the one concession he makes) that he might have, possibly, accidentally, had his elbow come in contact with her mouth. I guess, in the vernacular, one would say, "Give me a break."

[4] The Crown, I think with some force in all of the circumstances, argues that nothing short of jail will adequately serve to both denounce and deter what was clearly egregious conduct on the part of Mr. Douville.

[5] On the other hand, it has to be noted that although this was a very serious matter Mr. Douville has no prior criminal record whatsoever, he has maintained regular, albeit seasonal employment. In addition to not having a criminal record, he has indications from the police in Teslin, which of course is a small town, that he has not been on the police radar, even for matters short of those that would have brought him to court. He clearly and obviously has the benefit of a supportive family, and he has had no difficulties whatsoever whilst on bail, which has been in effect for a period in excess of a year.

[6] The Court must remain mindful of the concept that jail must be the last possible option, particularly, I think, in the case of First Nation offenders. So I guess we end up where we started with the question of whether or not anything short of jail will be

adequate in all of the circumstances of this case.

[7] It is about a close a call as, I think, one would have to make, but having considered Mr. Douville's prior track record, which I have already alluded to, I do not think I am in a position to say that anything short of jail would be inadequate in all of the circumstances. Mr. Douville will be sentenced to a period of imprisonment of nine months. However, it will be served conditionally on terms that I will return to.

[8] Following his completion of the conditional sentence order, he will be subject to a probation order for a further period of one year, and again I will return to the terms of that. With respect to the conditional sentence order, the conditions will be as follows:

1. You will keep the peace and be of good behaviour;
2. You will appear before the Court when required to do so by the Court;
3. You will remain within the Yukon Territory, unless you have the written permission of the conditional sentence Supervisor, which may be granted for the purposes of employment or the receipt of medical treatment, but not otherwise;
4. You will report forthwith to the conditional sentence Supervisor and thereafter as, when, and in the manner directed by the Supervisor;
5. You will notify the Supervisor in advance of any change of name or address, and promptly notify the Supervisor of any change of employment or occupation;
6. You will reside where the conditional sentence Supervisor will approve, abide by the rules of that residence, and not change the residence without the prior written permission of the conditional sentence Supervisor, except

in the case of an emergency, you will remain within this residence at all times, except with the prior permission of the conditional sentence Supervisor;

7. You must present yourself at the door or answer the telephone for the purpose of compliance checks, and your failure of so to do will be a presumptive breach of the condition;
8. You will abstain absolutely from the possession or consumption of alcohol or controlled drugs or substances, except you may possess the latter if you have a prescription given to you by a qualified medical practitioner;
9. You will provide samples of your breath or urine for the purpose of analysis if your conditional sentence Supervisor or a Peace Officer believes that you may have failed to comply with this condition;
10. You will not attend at any place where alcohol is sold, except a restaurant;
11. You will report to the Family Violence Prevention Unit to be assessed, and if so directed, to attend and complete the spousal abuse program as directed by the conditional sentence Supervisor;
12. You will take such other assessment, counselling, and programming as directed by the Supervisor;
13. You will have no contact, directly or indirectly, or communicate in any way with Jaime Bluecoat, except with the prior written permission of your Supervisor in consultation with Victim Services;
14. You will make reasonable efforts to find and maintain employment and provide your Supervisor with all necessary details concerning your efforts

in that regard;

15. You will provide the sentence Supervisor with the consents for release of information with regard to your participation in any programming, counselling, employment, or other activities you have been directed to partake in, pursuant to the conditional sentence order;
16. You are not to have in your possession any firearm, ammunition, explosive substance or offensive weapon.

[9] The terms of the probation order will be that:

1. You will keep the peace and be of good behaviour;
2. Appear before the Court when required to do so;
3. You will report within two working days after the order comes into force to a Probation Officer, and thereafter as when, and in the manner directed by the Probation Officer;
4. You will notify the Probation Officer in advance of any change of name, address, occupation or employment;
5. You will reside where the Probation Officer will approve, and not change your residence without the prior written permission of the Probation Officer;
6. You will take such assessment, counselling and programming as directed by the Probation Officer;
7. You will have no contact, directly or indirectly, or communicate in any way with Jaime Bluecoat, except with the prior written permission of the Probation Officer in consultation with Victim Services.

[10] The Crown proceeded summarily.

[11] There will be a surcharge of \$50.

[12] With respect to other ancillary orders, I have considered but do not find it necessary to impose a firearms prohibition in addition to that contained within the conditional sentence order.

[13] However, in my view, it would be appropriate to require the offender to provide samples of bodily substances for the purpose of DNA analysis and banking.

[14] Does he require time to pay the surcharge?

[15] MR. CAMPBELL: He can pay that today.

[16] THE COURT: Payable forthwith.

FAULKNER T.C.J.