

IN THE TERRITORIAL COURT OF YUKON
(Before His Honour Judge Faulkner)

REGINA

v.

FRANCES ANN GILL

Francois Lacasse

Appearing for Crown

Nils Clarke

Appearing for Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): The accused has entered a plea of guilty to a charge under s. 253(b) of the *Criminal Code*. The readings in question were extremely high, 250 and 240 milligrams percent.

[2] The accused has one prior conviction in the year of 2000.

[3] The Crown, however, did not tender notice of intention to seek greater punishment, therefore, a custodial sentence is not mandatory.

[4] There is a joint submission from counsel for a conditional sentence in the range of 30 to 45 days.

[5] For the reasons previously enunciated in the case of *Charlie*, I have some difficulties with the joint submission. However, in this case, while the proposal is at the very lowest end of what might be considered exceptional or acceptable, I have decided not to depart from it.

[6] You will be sentenced to a period of imprisonment of 45 days; however, that sentence will be served conditionally. Pursuant to the conditional sentence order, the terms are:

- (1) That you will keep the peace and be of good behavior.
- (2) That you will report to the court as and when required.
- (3) That you will report forthwith to your sentence supervisor and thereafter as directed.
- (4) That you will remain within the jurisdiction of the court unless given written permission by the sentence supervisor to go outside of the Yukon Territory.
- (5) That you will advise the sentence supervisor forthwith of any change of name, address, occupation or employment.
- (6) That you will reside at such place as your sentence supervisor will approve.
- (7) That you will be in your place of residence and not be abroad between the hours of 8:00 p.m. and 7:00 a.m., seven days per week, except with the prior written permission of your sentence supervisor.
- (8) That you will not possess or consume alcohol.
- (9) That you will submit to a breathalyzer test at any time on demand by your sentence supervisor, or at any time on demand by a peace officer who believes that you have alcohol in your body contrary to the conditional sentence order.

- (10) That you will take such alcohol assessment, treatment or counselling as directed by the sentence supervisor.

[7] Following the completion of the conditional sentence of imprisonment you will be subject to a probation order for a period of six months.

[8] The terms of the probation order will be:

- (1) That you will keep the peace and be of good behavior.
- (2) That you will report to the court as and when required.
- (3) That you will report to an adult probation officer within 48 hours after the order comes into force.
- (4) That you will advise the probation officer forthwith of any change or name, address or occupation or employment.
- (5) That you will reside at such place as your probation officer will approve.
- (6) That you will take such alcohol assessment, treatment or counselling as your probation officer directs.

[9] The Crown having proceeded summarily, you will also forfeit and pay a victim fine surcharge of \$50.

[10] Pursuant to the provisions of the *Criminal Code*, you are prohibited from operating a motor vehicle anywhere in Canada for a period of two years.

[11] Does the accused have an operator's licence?

[12] MR. CLARKE: Yes, Your Honour. I received the operator's licence from my client, and I am providing it to Madam Clerk.

[13] THE COURT: The required time to pay the surcharge?

[14] MR. CLARKE: Two months time to pay.

[15] THE COURT: Sixty days time to pay.

[16] The remaining count, Mr. Lacasse?

[17] MR. LACASSE: The Crown would like to enter a stay of proceedings, Your Honour.

[18] THE COURT: Thank you.

FAULKNER T.C.J.