

Citation: *R. v. Jimmy*, 2010 YKTC 112

Date: 20101006
Docket: 09-10134
10-10031
10-10031A
10-10031B
Registry: Watson Lake

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

JARRAD ROGER JIMMY

Appearances:
Terri Nguyen
Gordon Coffin

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Jarrad Roger Jimmy is before the Court to be sentenced on four offences. The first is a charge contrary to s. 253(1)(b) of the *Criminal Code* for operating a motor vehicle with more than 80 milligrams of alcohol in 100 millilitres of blood. The second charge, which arises from the same circumstances, is a charge of driving while disqualified, and he is also to be sentenced on two charges of breach of undertaking. The first breach was a failure to report to his Bail Supervisor, and the second was the breach of a clause which forbade him to attend at a certain residence.

[2] The primary focus of sentencing in this case, obviously, is with respect to the first and second matters, that is the over 80 charge and the driving while disqualified charge, and that is so for a number of reasons, not the least of which is that Mr. Jimmy, who has a substantial prior record, now finds himself in the position of being a subsequent offender with respect to matters of this kind. This is his third conviction for drinking and driving and the Crown has tendered notice of intention to seek greater punishment. Thus, the minimum that could be imposed is a sentence of 120 days. On top of that, the most noteworthy factor is the extremely elevated readings that were obtained: 280 and 290 milligrams percent, and, of course, Mr. Jimmy was driving in that sort of shape, and with a passenger, it might be added, while he was disqualified. In the circumstances, the safety and protection of the public must be paramount in the sentencing considerations. In my view, this offence calls for more than the minimum.

[3] With respect to the s. 253(1)(b) charge, Mr. Jimmy, you are sentenced to a period of imprisonment of six months, and you are prohibited from operating a motor vehicle on any street, highway or other public place in Canada for a period of three years.

[4] On the charge of driving while disqualified, one month consecutive.

[5] On the two breach charges, having regard to the principle of totality in particular, 30 days on each charge, to be served concurrently to the sentences imposed on the s. 253 and 259 charges, resulting in an effective sentence of seven months.

[6] The surcharges are waived. The remaining counts?

[7] MS. NGUYEN: Withdrawn, sir.

[8] THE COURT: Any objection?

[9] MR. COFFIN: No.

[10] THE COURT: Withdrawn at the request of the Crown.

FAULKNER T.C.J.