

Citation: *R. v. Kodwat*, 2009 YKTC 142

Date: 20090107
Docket: 08-00525
08-00525A
Registry: Whitehorse

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

REGINA

v.

JACKIE JAMES KODWAT

Appearances:
Jennifer Grandy
Elaine B. Cairns

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] CAMERON J. (Oral): Mr. Kodwat has pled guilty to one count under s. 266 of the *Criminal Code*.

[2] On October 18, 2008 in the late afternoon hours, police received a complaint of a victim in the Kwanlin Dün Village. Mr. Stone was apparently having some difficulty in getting around. An eyewitness had indicated that he had observed the accused, Mr. Kodwat, assaulting Mr. Stone and observed him kick Mr. Stone in the head several times. Mr. Stone, when confronted, did have numerous abrasions and scratches in the head and facial area. Mr. Kodwat was sought out by the police and was arrested; and, at that time, he was in an intoxicated state.

[3] Mr. Kodwat has a prior criminal history with eight prior violence-related convictions, the most recent of those being in 2002.

[4] Mr. Kodwat has entered an early guilty plea and accepts responsibility for his actions. He has a good employment history and recognizes that he has long-standing historic alcohol issues.

[5] Crown is suggesting custody in the 60- to 90-day range and probation of nine months.

[6] Defence is suggesting custody in the 45- to 60-day range and no probation to follow.

[7] Mr. Kodwat, your history of violence is going to be a difficult hurdle for you to get over. It has been some years since your last conviction in that regard, but you must understand that any future violence, even of a more minor nature, will be treated very harshly, given this history. It shows that you have a propensity to violence. Most likely, that comes to the forefront when you are succumbing to your alcohol addictions. As such, you must recognize that you must seek some treatment. You must get the alcohol issues under control. Once you have done that, in all likelihood, you will find that your anger issues and violence-related behaviour is probably more easily controlled as well.

[8] I am going to impose a jail sentence. It is going to be 60 days of jail.

[9] I am not going to impose any further probation at this point in time. It would appear from your history that probation has not always fared well. You have found

yourself in breach of various probation conditions in the past, so I think, in this case, it is simply a matter of telling you that if you are going to be violent, you will go to jail.

[10] Victim fine surcharge will be waived, as Mr. Kodwat is currently of limited means.

[11] MS. GRANDY: If I could ask for the A Information to be marked as withdrawn, please?

[12] THE COURT: The A Information is withdrawn.

[13] Consideration for DNA is required. To consider, the Court is not going to require Mr. Kodwat to provide his DNA at this time.

[14] There is no indication that firearms had any involvement whatsoever and therefore there will be no prohibition on firearms.

CAMERON J.P.T.C.