

Citation: *R. v. Ladue*, 2006 YKTC 88

Date: 20060901
Docket: T.C. 06-00014
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Judge Ruddy

REGINA

v.

DALE LADUE

Appearances:
Michael Cozens
Gordon Coffin

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] RUDDY T.C.J. (Oral): Dale Ladue is before me having entered pleas of guilty in relation to two offences of assault and one offence of unlawfully entering a residence. The offences relate to two different days, the first of which was March 28th, when Mr. Ladue entered Jimmy Ladue's home. It is important to note that Jimmy Ladue is an elder who requires a walker to get around. Mr. Ladue, that being Dale Ladue, kicked Jimmy Ladue in the leg and started to search him for money. He was intoxicated at the time.

[2] The second event arose on April 3rd and involved Jimmy Ladue's spouse, Lizzie Dixon, who is some 84 years of age. At that time, Dale Ladue forced his way into the

home by kicking through the front door. He grabbed Ms. Dixon by the throat, pinning her to the bed, and demanded money from her. He proceeded to search her for money and also threatened her to ensure that she did not tell anyone.

[3] There are obviously aggravating circumstances given that we are dealing with two elders who suffer from physical disabilities. There appears to have been some, at least understood familial relationship, between the accused and the elderly couple.

[4] I understand from both counsel that this matter would have involved a lengthy and perhaps somewhat difficult trial, and no doubt a circumstance that would have been very difficult for Jimmy Ladue and Lizzie Dixon to undergo. I think it is to Mr. Ladue's credit that he has entered pleas and not required them to go through that process, notwithstanding that he has no recollection of the events due to his state of intoxication.

[5] Counsel have presented me with a joint submission for a custodial term, credit for his remand, and a probationary term to follow. I have also had the benefit of viewing an extensive pre-sentence report prepared by Mr. Steele which sets out the circumstances of Mr. Ladue's background. It is not my intention, at this point in time, to review those, but I am satisfied that both the background information as well the submissions of counsel and the circumstances of the offence, and the details of Mr. Ladue's record, are such that the joint submission that has been presented to me is well within the range and is appropriate in all the circumstances. For that reason I am prepared to adopt it.

[6] So the sentence will be as follows. There is no issue for WCC with half months is there? I am just wondering whether it makes more sense just to round it off at nine. I am not sure the extra two weeks is going to make any difference here or there.

[7] MR. COZENS: I am not aware of any issues, but I do not have any strong opinions.

[8] THE COURT: Okay, I am just going to round it off at nine. Okay, well, to make it easier for me we are going to round it off at nine. There will be a jail sentence of nine months, and I will ask that the record reflect that he is also being credited for, I going to give him credit for nine months in remand, which means that the record will reflect an 18 month sentence.

[9] That nine month term will be followed by a period of probation of two years. That probation will include the following terms:

1. Keep the peace and be of good behaviour.
2. Appear before the Court when required to do so by the Court.
3. Notify the probation officer in advance of any change of name or address and promptly notify the probation officer of any change of employment or occupation.
4. Report to a probation officer immediately upon his release from custody and thereafter as and when directed by the probation officer.
5. Abstain absolutely from the purchase, possession, and consumption of alcohol or non-prescription drugs and other intoxicating substances.

[10] I am simply going to make it as directed, Mr. Steele. That would allow you to determine whether it is Whitehorse or not, depending on how circumstances might change.

6. Reside as directed by the probation officer, including the Yukon Adult Resource Center, if so directed. Do not change that address without the prior written approval of the probation officer.
7. Attend for alcohol assessment, counselling and programming, including participation in a live-in treatment program as directed by a probation officer.
9. Participate in the 28-day alcohol and drug residential treatment program in Whitehorse as and when directed by the probation officer.
10. Attend for such other assessment, counselling and programming as directed by the probation officer.
11. Have no contact with Lizzie Dixon or Jimmy Ladue, except with the prior written permission of the probation officer. Absolutely no contact or communication in any way with Lizzie Dixon and Jimmy Ladue if you are under the influence of alcohol or drugs.
12. Do not attend at any bar, tavern, pub, lounge or liquor store or any other place where alcohol is the primary product sold.
13. Make best efforts to seek and maintain employment or educational pursuits.

[11] I am just wondering whether we can put a specific distance there? Can someone tell me where the homes are in relation to where he would be staying if he returned to

Ross River? No. Mr. Coffin, does Mr. Ladue? If it is something like 50 metres, is that problematic, is what I am wondering.

[12] MR. COFFIN: That does not seem to be a problem.

[13] THE COURT: Okay.

14. Not attend within 50 metres of the residence of Jimmy Ladue and Lizzie Dixon without the prior written approval of the probation officer.

15. Participate in and complete a psychological assessment.

[14] THE COURT: Which leaves us the last one, in terms of wording the attendance clause.

[15] MR. STEELE: Perhaps notify the probation officer or in consultation with the probation officer prior to attending Ross River.

[16] THE COURT: Would the notification be sufficient for you?

[17] MR. STEELE: I think so. It would just allow me the opportunity to essentially notify the interested parties and the RCMP that Mr. Ladue would be out.

[18] THE COURT: Okay, and he sounds comfortable with that?

[19] MR. STEELE: Yes.

[20] THE COURT: Okay.

15. Notify the probation officer in advance prior to attending the village of Ross River.

[21] THE COURT: Sufficient?

[22] MR. STEELE: That sounds good.

[23] THE COURT: Good. Mr. Steele, would you require release of information from him?

[24] MR. STEELE: That would be helpful.

[25] THE COURT: Would there be an issue with that, Mr. Coffin?

[26] MR. COFFIN: I do not believe so.

[27] THE COURT: Okay. Then he is to:

17. Provide the probation officer consent to release information with regard to participation in any program, counselling, employment or educational activities that he has been directed to do pursuant to this probation order.

[28] Mr. Ladue, that is solely to make sure that the probation officer is able to get the information about what is going on, because some things you might be involved in will not release the information to anybody without your permission. So I am ordering that you give that permission so that the probation officer can track your activities and your performance, okay?

[29] THE ACCUSED: Okay.

[30] THE COURT: Good. I will make one last comment for the record in relation to Mr. Coffin's concerns about some of the conditions given Mr. Ladue's obvious addiction problems. I would say that my experience here, for the most part, with

probation services in the last few years is that they have made best efforts to use the conditions, particularly on a probation order, abstain and treatment conditions, as a means of attempting to manage behaviour, as opposed to approaching the use of those conditions from a punitive perspective. For the record, I would simply make it clear that that would be my expectation with respect to this probation order.

[31] MR. COZENS: With respect to the s. 110 firearms prohibition and the DNA order, secondary designated?

[32] THE COURT: Any issue with either of those?

[33] MR. COFFIN: No.

[34] THE COURT: Okay. There will be a s. 110 firearms prohibition. I am simply going to ask that that be in the wording of the section in terms of what it includes.

[35] There will also be the order that he provide such samples of his blood as are necessary for the purpose of DNA testing and banking.

[36] Sorry, the period of time, is it ten years?

[37] MR. COZENS: It is ten. Well, under the second designated I believe that there are options within that up to a maximum of ten years. Ten years is only mandatory on the s. 109.

[38] THE COURT: What are you seeking on the s. 110?

[39] MR. COZENS: I am not certain what the background is, or the circumstances of Mr. Ladue, whether he hunts or whether he does anything that might be a factor to be considered. I would certainly be seeking five years.

[40] MR. COFFIN: Certainly hunting and trapping is something he engages in.

[41] THE COURT: There was an indication in the pre-sentence report of his having had a lot of involvement in traditional activities growing up.

[42] MR. COFFIN: Yes.

[43] THE COURT: I think it is probably more appropriate to ensure that there is an initial period for him to address the substance abuse problems, because it is my hope, Mr. Ladue, that you recognize you should not be handling firearms or any sort of weapons or explosives when you are under the influence. I do not think a ten year period is necessary, so we will make it a five year prohibition. Thank you, Madam Clerk.

[44] THE CLERK: Your Honour, the victim fine surcharges?

[45] THE COURT: They will be waived under the circumstances.

[46] THE CLERK: My next question is how would you like these nine months broken down on the three charges.

[47] MR. COZENS: Concurrent to each other.

[48] THE COURT: Any issue with that?

[49] MR. COFFIN: No, I have no issue.

[50] THE COURT: There will be nine months on each count, concurrent to each other.

[51] THE COURT: Just before I leave, given that I have had some rather long days lately, I do want to thank both counsel for their efforts in resolving this matter and preparing it so that it can be dealt with in such an expeditious manner. I want to thank Mr. Steele for his report, it was extremely helpful. Mr. Ladue, I want to wish you the best of luck in trying to tackle the issues that you have ahead of you. Thank you all.

RUDDY T.C.J.