

Citation: *R. v. Mendham*, 2016 YKTC 42

Date: 20160823
Docket: 15-00770A
16-00145
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Judge Chisholm

REGINA

v.

TREVOR KYLE MENDHAM

Appearances:
Kristina Guest
Melissa D. Atkinson

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] CHISHOLM J. (Oral): Mr. Trevor Mendham has entered a guilty plea to the offence of the unlawful production of a substance included in Schedule I of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, namely, methamphetamine, which is contrary to s. 7.1(1) of that legislation. This offence occurred on February 21, 2016, in the City of Whitehorse. He has also entered guilty pleas to a theft charge and for failing to comply with a condition of his release with respect to an incident on June 1, 2016.

[2] The s. 7.1(1) charge came to light as a result of a 9-1-1 call on February 21, 2016. There was a fire in the basement of a residence in Riverdale. The responders noted materials that were consistent with the production of this illicit

substance and, as a result, the police arrested Mr. Mendham. He was in the process of producing methamphetamine. The lab in the basement of the home was a small lab and its potential to produce methamphetamine was limited. I have reviewed a report from Health Canada and an analysis to this effect. As fairly pointed out by the Crown, there is no indication that the production that was taking place was for anybody other than for Mr. Mendham, himself. He is an addict and has been for some period of time. He was taken into custody, where he spent two months before being released on April 20, 2016.

[3] On June 1, 2016, Mr. Mendham stole lithium batteries from the Real Canadian Superstore in Whitehorse. The local police received a report of the theft and they later located him in the vicinity in the downtown area. He fled from the officer, but he ultimately was arrested. He was found to have on his person a cell phone, which was contrary to one of the conditions of his release.

[4] Mr. Mendham is 24 years of age. He is a resident of Whitehorse. I am told that he has a limited work history. He was living in the residence of his mother at the time of this offence. He has taken courses while on remand at the Whitehorse Correctional Centre.

[5] Having been provided with a number of cases for offences of this nature, it is clear that the courts treat any offence involving methamphetamine seriously. In fact, amendments to the *Criminal Code* have made it such that for offences of this nature, there is a mandatory minimum sentence.

[6] Counsel have come before me with a joint submission for an overall sentence of 30 months' imprisonment. Based on the cases that have been submitted, this is clearly within the range of sentence for offences of this nature.

[7] The drug is a highly addictive drug. It is commonly produced in clandestine laboratories in residential areas, as was the case in this matter, and based on the chemicals that are used to produce the substance there is a great danger to residences. In this case, that danger was realized by the fire that occurred. The chemicals that are used are dangerous and can be highly explosive. As a result, courts have taken a serious view towards these offences. Courts have highlighted the need for denunciation and general and specific deterrence.

[8] I have taken into account the fact that Mr. Mendham entered a relatively early guilty plea and also the fact that he is a drug addict. Although it is hard not to have some sympathy for him, in terms of his addiction, nonetheless, the gravity of this offence is high. I accept the joint submission as proposed by counsel.

[9] Sir, you are sentenced with respect to the s. 7.1(1) production offence to a period of imprisonment of 30 months; for the theft charge, two months in jail concurrent; and for the breach charge, two months in jail concurrent. You will receive credit for pre-sentence custody in the amount of 5 months and 24 days. The overall sentence of 30 months will be reduced by that amount of time. By my calculation, you will have 24 months and 7 days remaining to be served.

[10] In addition to the jail sentence, there will be two ancillary orders. You will be prohibited from possessing a firearm or any ammunition or explosive substance for a

period of 10 years pursuant to s. 109 of the *Criminal Code*. You will also provide samples of your bodily substances for the purposes of DNA analysis and recording.

[11] In addition, there will be a victim surcharge for each offence, as the Crown has proceeded by indictment with respect to two of the counts. The overall victim fine surcharge will be \$500 payable forthwith.

[12] Ms. Guest, in terms of the outstanding charges?

[13] MS. GUEST: Your Honour, a stay of proceedings can be entered on all remaining counts on both Informations.

[14] THE COURT: Stay of proceedings with respect to the other counts.

CHISHOLM T.C. J.