

Citation: *R. v. Mills*, 2004 YKTC 31

Date: 20040422
Docket: T.C. No. 03-00728A&B
T.C. No. 03-00657B
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Judge Maltby

Regina

v.

Douglas Mills

Appearances:
Keith Parkkari
Mr. Mills

Counsel for the Crown
Unrepresented

REASONS FOR JUDGMENT

[1] MALTBY T.C.J. (Oral): First of all, I want to make a preliminary comment. I think it is regretful that it has come to today's date when it is the date for trial and there are, as I understand it, many witnesses here, some from, I believe, out of town. It is really regrettable that they are inconvenienced at this time. It is also regrettable that we cannot proceed.

[2] Mr. Mills, as I understand it, was assessed in February this year by a person, if I understand Mr. Parkkari, who has an undergraduate degree in psychology who is working towards their Masters. This assessment order is supposed to be done by a psychiatrist. Mental illness is an illness. It is not a psychological blimp in personality. It is a mental illness that requires a medical doctor, psychiatrist, who is trained for years in mental illness to assess, and I think some of this may have been, and I don't know, but may very well have been short-circuited if there had been a proper diagnosis made at the time, but now we are here today. I just want that on the record so that in the future there is some thought given as to the person to whom a person who is suspected of having mental illness goes to see, it is a doctor, a psychiatrist they require, at least a medical doctor that is required.

[3] Mr. Mills appears in court today portraying some bizarre behaviour. It commenced immediately upon me coming into the courtroom. His manner of bowing with his arms outstretched, his comments, his accusing the Clerk of staring at him, angry outbursts, and his inability to stop talking despite repeated requests, it was obvious that we were not able to proceed with any hearing today. He refuses to speak to counsel and I was concerned about his mental state.

[4] I am ordering an assessment, and the Crown concurs that this is the appropriate way to go, pursuant to section 672.11(a) of the *Criminal Code* to see whether he is unfit to stand trial.

[5] The Crown has prepared an order, which I have read, which sets out all the pertinent information. The only concern I have is where the assessment is to be done. There are wait lists, as there often are on the psychiatric hospitals' forensic hospital in Vancouver and the hospital in Alberta. There is a hospital in Whitehorse, but the usual course in situations like this is a person with a mental illness or mental difficulties or problems of this sort is kept at Whitehorse Correctional Centre.

[6] I am not sure if Mr. Mills is being kept in -- or he is being kept in isolation. I am not sure if it is in the same place as was discussed at length in a decision out of these courts last week, *Regina v. Steven Troy Rathburn*, decision of Chief Judge Lilles. That is 2004 YKTC 24. In that, it is somewhat different circumstances where Mr. Rathburn was found to be not criminally responsible on account of mental disorder pursuant to section 16 and 672.34 of the *Code*. He was being held in isolation in what is called "the hole" in appalling circumstances, and Chief Judge Lilles ordered that he be removed from there as it was a violation of the section 12 and section 7 *Charter* rights. He further found the designation of Whitehorse Correctional Centre as a hospital "inoperative for the purpose of that case".

[7] It is hopeful that Mr. Mills can be transferred as quickly as possible to one of the hospitals either in Vancouver or in Alberta or a psychiatrist come up to see him quickly and the matter dealt with quickly. However, I hope that the Correctional Services has recognized the problems with “the hole” and I hope that although I can see that Mr. Mills would be very difficult to place in with general population in the prison, it is hopeful that he will be put in the hospital, the Whitehorse General Hospital or some other place, but certainly not in the conditions that Mr. Rathburn was kept in.

[8] I have asked for a person, a lawyer, from the Legal Services to attend, and Mr. Coffin is here today as an officer of the court to monitor Mr. Mills’ well being while he is kept in a facility if he is kept in the Yukon. That is all I am going to say about that, but I am sure Mr. Coffin is well aware of the *Rathburn* decision and will take appropriate steps if it appears that Mr. Mills is being kept in isolation at Whitehorse Correctional Centre.

[9] So I am making that order for a period of 30 days for a 30-day assessment and have Mr. Mills return to these courts. Is there a day the week of the 17th of May that might be most appropriate?

[10] THE CLERK: Your Honour, do you mean like the judges’ docket?

[11] THE COURT: Yes.

[12] THE CLERK: There is a judges' docket on May 21st and there is one on May 14th at 9:30 in the morning.

[13] MR. PARKKARI: The 21st, does that put us within 30 days, Your Honour?

[14] THE COURT: Yes, with one, I believe, count today. Yes.

[15] So you will have to be back on the 21st, May 21st.

[16] MR. MILLS: Your Honour, I -- personally, I've had some problems with depression in the past at the Whitehorse Correctional Centre. Also, I've been denied certain counsel. Presently, I am seeking counsel with my family here. Probably, they will be able to get in contact with him. Also, I have been assessed before at the General Hospital by a Dr. Norman White at the facility here. Also, I am seeking a job.

[17] THE COURT: Well, I am sure the psychiatrist that sees you will get that information so that it can be ---

[18] MR. MILLS: I have access to -- rather than Legal Aid, I can get good lawyers from Toronto or Montreal.

[19] THE COURT: Well, Mr. Mills, you had your chance this morning.

[20] MR. MILLS: Well, no, see, what you people did is, first of all, you scheduled me for a preliminary on Thursday prior to Easter, and then you switched -- you cancelled that and switched it and now you're dealing with these indictable offences. I'm not a lawyer, but I studied the *Criminal Code of Canada*. It's based on -- what I've seen in our country and in this town, it seems that it's a real perversion of justice. That's what I can see.

[21] THE COURT: Well, Mr. Mills, you will have a chance to speak to a lawyer after this. So you can talk to Mr. Coffin and he can ---

[22] MR. MILLS: I don't want to talk to Mr. Coffin. I'm seeking counsel outside the Yukon. That's my choice.

[23] THE COURT: Well, that's your right, and I sincerely hope you do that.

[24] MR. MILLS: I'm afraid to not be -- I prefer not to be arbitrarily imposed ---

[25] THE COURT: Well, you are going for a psychiatric assessment, a 30-day psychiatric assessment.

[26] MR. MILLS: This is in private form. It's for different purposes.

[27] THE COURT: Well, that is what is happening. All right.

MALTBY T.C.J.