

Citation: *R. v. Quash*, 2008 YKTC 99

Date: 20081217
Docket: 08-00456
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

CHRISTOPHER QUASH

Appearances:
Edith Campbell
Nils Clarke

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Christopher Quash has entered pleas of guilty to charges of theft over \$5,000, impaired driving and dangerous driving. All of the matters arose on October 6, 2008.

[2] Mr. Quash stole a taxi cab which had been stopped by the side of the road while the driver went to find her fare. After Mr. Quash drove off, he was observed to be driving erratically. The police were called. Mr. Quash was followed for some considerable distance from downtown Whitehorse up on to the Alaska Highway and toward the Carcross corner.

[3] The police were eventually able to stop Mr. Quash, but not before he had been driving very erratically along the Alaska Highway, swerving between the right hand shoulder and the opposite lane of the road and, in fact, travelling for some considerable distance along the wrong side of the Alaska Highway, despite oncoming traffic.

[4] The police were ultimately able to stop Mr. Quash and he was arrested. It should be noted, just so the facts are clear, that while Mr. Quash was driving in an extremely erratic fashion, he was not driving quickly. This all happened at relatively low speeds.

[5] After arrest it became quite apparent that Mr. Quash was substantially under the influence of alcohol and his ability to operate a motor vehicle was impaired by alcohol. It is further noted that, at the time, Mr. Quash was disqualified from operating a motor vehicle by operation of territorial law.

[6] Counsel have jointly submitted that I should impose a global sentence of 12 months, allowing four months credit for the time that Mr. Quash has already served. Having regard to the serious prior record of the accused, which includes numerous thefts and prior impaired and dangerous driving convictions, considering the circumstances of the offences and considering the sentencing precedents referred to by counsel, I am prepared to accept the joint submission.

[7] With respect to the charges of theft over and dangerous driving, Mr. Quash, you are sentenced to a period of imprisonment of eight months on each count in addition to time served, which I calculate at four months.

[8] On the charge of impaired driving, 30 days.

[9] Following your release from imprisonment you will be subject to a probation order for a period of one year. The terms will be:

1. That you keep the peace and be of good behaviour.
2. That you report to the court as and when required.
3. That you report within two working days to an adult probation officer, and thereafter as, when and in the manner directed.
4. You will advise the probation officer in advance of any change of name or address and promptly notify him of any change of occupation or employment.
5. You will not possess or consume alcohol or controlled drugs or substances, except in accordance with a prescription given to you by a qualified medical practitioner.
6. You will not attend at any place where alcohol is sold except a restaurant which might be incidentally licensed for the sale of alcohol with meals.
7. You will take such alcohol assessment, treatment and counselling as the probation officer directs, and you will take such other counselling and assessment as the probation officer directs.

[10] Additionally, you are prohibited from operating a motor vehicle on any street, highway or other public place in Canada for a period of three years.

[11] The Crown having proceeded by way of indictment, the surcharge in each case is \$100.

[12] MS. CAMPBELL: The Crown directs a stay of proceedings on the other charges before the Court, Your Honour. I was just wondering, does the probation attach to all the counts before the Court, and does the driving prohibition attach to both the dangerous driving and the impaired driving or only to the dangerous driving?

[13] THE COURT: The prohibition order should reference both driving offences and the probation order should refer to all three.

[14] MS. CAMPBELL: Thank you. May I be so blunt as to ask that the record shows that the global sentence is 12 months less four months for time served, for a remaining sentence of eight months, just to avoid the discrepancy that we seem to have on the prior conviction from 2006?

[15] THE COURT: You are shaking your head, Mr. Clarke.

[16] MR. CLARKE: Well, the only thing I'm concerned about, of course, is that the paperwork that ends up at -- what I'm most concerned about right away is the paperwork that ends up at the correctional centre is correct and it reflects the sentence that was imposed.

[17] THE COURT: Well, I think it is clear. It is eight months in addition to time served, which was four months.

[18] MR. CLARKE: Yes.

[19] THE COURT: There should not be any issue. Is he asking for time to pay the surcharges?

[20] MR. CLARKE: Well, my application, given that he's been in custody for some period of time and he will be in custody for some period of time, and he is of limited means, I would make application that the Court consider waiving the surcharge.

[21] THE COURT: No. It will be payable forthwith. He may serve the default time concurrently.

FAULKNER T.C.J.