

COURT OF APPEAL FOR THE YUKON TERRITORY

Citation: ***R. v. Shepherd,***
2006 YKCA 6

Date: 20060601
Docket: CA05-YU537

Between:

Regina

Respondent

And

**Edward Phillip Shepherd
(a.k.a. Edward "Ted" Phillip Shepherd)**

Appellant

Before: The Honourable Madam Justice Saunders
(In Chambers)

Oral Reasons for Judgment

No One

Appearing for the Appellant

M. Cozens

Appearing for the Respondent

Place and Date:

Whitehorse, Yukon Territory
June 1, 2006

(Application to Dismiss Appeal)

[1] SAUNDERS J.A. (Oral): This matter is a carryover from an application on Monday, May 29, 2006. The application was by the respondent Crown, to dismiss Mr. Shepherd's application for leave to appeal on the basis of want of prosecution.

[2] On Monday, Mr. Shepherd appeared and expressed a desire to proceed with his appeal, but also expressed confusion as to the legal process. The matter was adjourned until this morning in order that he could consult Mr. Pritchard, whom he had spoken to on a prior occasion about all of this. I expected either Mr. Pritchard or Mr. Shepherd to be here today and neither is here. Mr. Cozens has explained that he has spoken with Mr. Pritchard, and Mr. Pritchard indicated that Mr. Shepherd had missed an appointment with him.

[3] Mr. Cozens has also, fairly, expressed a reluctance to take advantage of Mr. Shepherd's absence today, indicating that it is rather unexpected that Mr. Shepherd would not be here, and is, perhaps, out of his pattern.

[4] There are two choices. One, I could simply dismiss the application for leave to appeal for want of prosecution, or two to set some timeframe by which certain things must be done. In the circumstances and given the delay on the file thus far and from what I heard from Mr. Shepherd as to his intentions, I think the wiser course is to order that Mr. Shepherd shall have 60 days from today's date within which to file the materials necessary to have his application for leave to appeal dealt with on the merits.

[5] I am adjourning the application for dismissal of the appeal for want of prosecution and if the material is not filed by Mr. Shepherd within 60 days, Crown counsel has leave to reset the application for dismissal. In either event, that is the leave application proceeds or the dismissal application proceeds, the matter should be dealt with the next time this court sits, which I understand may be sometime in the fall of this year.

[6] These comments will be transcribed and in addition to the order I have made today, no doubt, Mr. Cozens, you will provide Mr. Shepherd with a copy of the transcript so that he understands the basis on which his appeal is still somewhat alive.

[7] MR. COZENS: Yes. I will also inform Mr. Pritchard today by telephone, in the event that Mr. Shepherd contacts him.

[8] THE COURT: Thank you, Mr. Cozens, for offering to also contact Mr. Pritchard. Thank you.

[9] MR. COZENS: My Lady.

The Honourable Madam Justice Saunders