

Citation: *R. v. Sidney*, 2008 YKTC 40

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07-00188B
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

SASHA TAMARA SIDNEY

Appearances:
Jennifer Grandy
Elaine Cairns

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Anton Andre is 83 years old and lives alone.

On an evening in June 2007, Mr. Andre was in bed when he was awakened by a knock on the door. There was a woman at that the door who Mr. Andre did not know. The woman wanted to borrow money to buy gas for her car and offered to pledge a camera as collateral. Mr. Andre loaned the woman \$40. The woman promised to return later to repay the money.

[2] At around 3:00 a.m. Mr. Andre was awakened by a fresh commotion at his door.

The woman was at the door and asked for her camera. Mr. Andre asked for his \$40.

The woman said she had it and reached into her pocket. Mr. Andre opened the door to receive the money, whereupon the woman produced a can of pepper spray and sprayed Mr. Andre in the face with it. The woman and a male accomplice then entered the house. Mr. Andre was attacked by the male and thrown to the floor and held there while the woman ransacked the house looking for money.

[3] As Mr. Andre struggled with the male, the woman pepper-sprayed Mr. Andre in the face a second time. Having found Mr. Andre's wallet, the pair fled the house. The wallet contained approximately \$150 and Mr. Andre's identification. The invaders also took two rifles that were in the house. Not surprisingly, Mr. Andre suffered significant pain from the pepper spraying. It must be noted as well, however, that he suffered from multiple other injuries sustained during the course of the attack. Of particular note was a significant bruise on his face, which is quite graphically shown in the photos of Mr. Andre that were entered into evidence at the trial.

[4] After the man and woman left, Mr. Andre tried to wash the pepper spray out of his eyes. Eventually, he was able to see well enough to dial 9-1-1.

[5] The woman was Sasha Sidney. The male has never been identified. After trial, Ms. Sidney was convicted of forcible entry and robbery with violence.

[6] Today she entered guilty pleas to three additional offences. The first of these was a charge of being unlawfully at large. Ms. Sidney was convicted on a charge of breach of probation and received 30 days intermittent sentence to be served on weekends. She served the first weekend, but failed to report for the second weekend. The second is a charge of breach of recognizance. Although Ms. Sidney was originally

detained on the charges relating to the attack on Mr. Andre, she was later released on bail when the trial was delayed. That release was on a recognizance, which contained a number of conditions, one of which was that she was to have no alcohol or controlled drugs or substances and was to submit to drug testing.

[7] On the occasion in question, Ms. Sidney reported to her bail supervisor, in circumstances that suggested she might have been consuming drugs. She was asked to take a drug test, but left the building and failed to take the test. She then remained at large for a period of time, up until the date of the third charge, which is a charge of obstructing a peace officer. Just prior to Christmas 2007, a car, in which Ms. Sidney was a passenger, was stopped at a check stop. Her demeanour at the time prompted the police to ask for her name. To make a long story short, she provided a couple of names, neither of which were her own. It is to be noted that the police officer recognized Ms. Sidney. So she was, in fact, arrested despite the attempt to obstruct the peace officer.

[8] It goes without saying that the most serious offences are those that were committed against Mr. Andre. Incidents of this kind are often called home invasions, and this is a particularly aggravated crime of its type. The victim was elderly and lived alone. His kindness in lending the offender money was repaid with a brutal attack that resulted in significant injuries and pain. Mr. Andre was robbed. The attack was clearly premeditated. Ms. Sidney twice used a weapon to assault her victim.

[9] Such crimes demand that denunciation, deterrence and protection of the public be the primary focus of sentence. Most Yukon cases similar to the case at bar have

suggested a range of sentence beginning at around three and a half years. In this case, the Crown sought a sentence of four to six years. It should be noted, however, that the enactment of s. 348.1 and recent decisions from the British Columbia Court of Appeal, particularly the *R. v. Moore* case, [2008] B.C.J. No. 600, suggests to me that the range may now actually have a significantly higher starting point than prior Yukon cases might have indicated.

[10] In this case, there is little to find by way of mitigation. According to Ms. Cairns, Ms. Sidney now admits the offences, says she is remorseful and is aware of the effects of her crime on the victim and his family. However, it must be noted that Ms. Sidney did not plead guilty, but put her elderly victim through the ordeal of testifying at trial. Ms. Sidney has a significant criminal record containing over 20 prior entries. About the best that can be said for her is that none of them were apparently sufficiently serious to warrant more than relatively brief periods of imprisonment on the occasions when she did receive custodial sentences.

[11] It is also clear that Ms. Sidney has had a difficult life. Her parents were alcoholics and Ms. Sidney was, at one point, apprehended by Family and Children's Services. She left home at a very early age owing to the difficulties at home. Since then she has herself suffered assaults at the hands of male partners. She struggles with an addiction to crack cocaine.

[12] It must also be noted that Ms. Sidney has some seven and a half months of pre-trial custody, and of course she is entitled to credit for that. At the normal rate of 1.5 to one, this would amount to over 11 months of pre-trial custody.

[13] Considering the egregious nature of the offences for which Ms. Sidney stands convicted, it is my view that a sentence in the range sought by the Crown is fully warranted. Indeed, as I have suggested earlier, they could have, with some justification, sought an even harsher sentence. I do accept that Ms. Sidney needs treatment to get her life in order, but that treatment will be more available in the federal system. I want to make it clear that, were it not for the fact that I am keeping in mind the need to consider her rehabilitation, the sentence I am about to impose would be even longer.

[14] On the charge of robbery with violence, you are sentenced to a period of imprisonment of five years. I allow, however, one year credit for time already served, leaving a remanet of four years. There will be no surcharge.

[15] There will also be an order whereby you will provide samples of bodily substances for the purpose of DNA analysis and banking. Additionally, there will be an order whereby you will be prohibited from having in your possession any firearm, cross-bow, restricted weapon, ammunition or explosive substances for a period of 10 years following your release from imprisonment. You are prohibited from having in your possession any prohibited firearm, restricted firearm, prohibited weapon, prohibited device or prohibited ammunition for the remainder of your life.

[16] On the charge of forcible entry, you are sentenced to a period of imprisonment of 18 months to be served concurrently.

[17] On the remaining three offences, again, considering your pre-trial detention and the global effect of all of the sentences being imposed today, I impose on each of those

three charges a sentence of 30 days to be served concurrently. The surcharges are waived.

[18] MS. GRANDY: Your Honour, if I could ask for the two remaining charges to be marked as withdrawn, please.

[19] THE COURT: Withdrawn at the request of the Crown.

FAULKNER T.C.J.