

Citation: *R. v. Smith*, 2010 YKTC 122

Date: 20101103
Docket: 09-00271L
10-00386
10-00387
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

REGINA

v.

WESLEY VERN SMITH

Appearances:
Bonnie Macdonald
Gordon Coffin

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] CAMERON J.P.T.C. (Oral): Mr. Smith has pled guilty to one count under s. 266, and two counts under s. 733.1.

[2] The facts presented are that on August 22nd of this year, in the early morning hours in Carmacks, police responded to a couple of 9-1-1 calls that had come from the residence of Bella Bresse. When they attended, they found several members of the Blanchard family there, including Pamela Blanchard and Toni Blanchard. The indication from Toni Blanchard was that Mr. Smith had assaulted Pamela Blanchard, who is Mr. Smith's common-law girlfriend. The assault involved him pushing her very hard; hard enough that it knocked her down. On her way down, she came in contact with a stove.

Mr. Smith was very intoxicated at the time.

[3] On one of the 9-1-1 calls that was placed by Toni Blanchard, during the call you could hear her being assaulted by Mr. Smith as well, and that assault consisted of him hitting her or punching her in the side while she was making the call. Mr. Smith took off from the location as the police arrived. He was, however, found about ten hours later.

[4] He was, at the time, subject to probation with a number of conditions, including a condition that he not attend at the home of Bella Bresse. This put him in breach of that condition. He was required to report on his probation and, in fact, one of his last reportings would have been some time before June 12th and after June 7th, and he was required to make that appearance, and just failed to do so.

[5] I have a joint submission. Crown and defence have agreed that the sentence should be in the range of six months for the assault, and 30 days consecutive for the breach of the no-go clause, and 30 days concurrent for the breach of the report clause. Mr. Smith has been in custody now for 74 days, and he should be given credit for that. They are also seeking a one year probationary term with a number of conditions.

[6] The Court is in agreement that the joint submission is appropriate and is in the right range, and will endorse that submission. So I will impose a six month jail term on the assault charge, Mr. Smith. I will give you credit for 74 days that have been served. It means that you have 106 days left to serve on that. In addition to that, you have 30 days to serve for breaching your condition of no-go to Bella Bresse's place of residence. That is consecutive, Madam Clerk. In regards to failing to report, that will be 30 days; it will be concurrent.

[7] There will be, upon your release, a probationary term of one year. The terms and conditions of your probation are going to be as follows:

1. You must keep the peace and be of good behaviour;
2. You are to report to a Probation Officer immediately upon your release, and thereafter as often and in the manner directed by the Probation Officer;
3. You are to report any changes in your name, your address, status of education or occupation to your Probation Officer;
4. You must attend court as required by the Court;
5. You are to have no contact direct or indirect or communication in any way with Pamela Blanchard, Toni Blanchard, Logan Blanchard, Harold Blanchard or Bella Bresse, except with the prior written permission of your Probation Officer;
6. You are not to go or be found in attendance at the residence of Pamela Blanchard, Toni Blanchard, Logan Blanchard, Harold Blanchard, or Bella Bresse, except, again, with the prior written permission of your Probation Officer;
7. You are not to be found on the premises of the Tatchen Centre Store in Carmacks;
8. You are not to be found in any licensed premises whose primary purpose is the sale of liquor or alcohol;

You cannot go in there to see who is in there, use the phone, use the toilet, get out of the weather, and this is any bars, taverns, off-sales, liquor stores, those kinds of places.

9. You are to abstain absolutely from the possession or consumption of alcohol and the non-prescription use of drugs, except for drugs that are prescribed to you by a qualified medical practitioner;
10. You are to provide your Probation Officer with your resident address, and not change that resident address without the prior approval of your Probation Officer;
11. Attend for such alcohol assessment, treatment, and programming as directed by your Probation Officer;
12. Attend for such domestic violence counselling, treatment and/or programming as directed by your Probation Officer;
13. Not to be in the possession of any firearms, ammunition, explosive devices, prohibited devices, et cetera;
14. You are to provide your Probation Officer with consents to release information in regards to your attendance at any counselling.

[8] Are there any of the conditions you do not understand on your probation, Mr. Smith? You understand them all?

[9] Your victim fine surcharges will be waived as you are of limited means.

[10] The outstanding charges?

[11] MS. MACDONALD: Any charge to which a guilty plea was not entered, the Crown enters a stay of proceedings.

[12] THE COURT: Stayed.

CAMERON J.P.T.C.