

Citation: *R. v. Vaneltsi*, 2009 YKTC 70

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08-00735
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Judge Faulkner

REGINA

v.

JOEY JASON VANELTSI

Appearances:
Noel Sinclair
Gordon Coffin

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): Joey Jason Vaneltsi stands convicted of five charges. The first is a robbery, on which he was convicted after trial. In that case, Mr. Vaneltsi accosted a man outside of the bar, assaulted him and stole his wristwatch. In addition, he has entered guilty pleas to a number of other charges. The first of them is an attempted robbery. It was in some ways similar to the robbery, in that Mr. Vaneltsi accosted a bar patron outside the bar and assaulted him. The man was eventually able to flee. The third charge is a charge of breaking and entering. That was a break and entering at the Midnight Sun Gallery here in Whitehorse. That offence occurred back in

2006, but it took some time until forensic evidence was able to pin down Mr. Vaneltsi as the culprit. Additionally, there is a charge of breach of recognizance involving a failure to abstain from the consumption of alcohol; and lastly, a charge of failing to appear. The failure to appear in question was Mr. Vaneltsi's failure to appear to stand trial on the charge to which he eventually entered a plea of guilty to attempted robbery.

[2] Mr. Vaneltsi has a horrendous criminal record, over 40 offences on it, and the charges for which he now stands convicted, of course, are extremely serious, particularly the robbery matters.

[3] With that background, I am asked to agree to a joint submission for an effective sentence of three years globally. It seems to me that the sentence contended for is at the very lowest end of the range. A three year sentence could have been fittingly imposed on the robbery itself. However, the Crown suggests that there are some reasons to accept it. In particular, the Crown concedes that it would have had some difficulty in proceeding on the attempted robbery charge because of difficulties with identification and also notes that although Mr. Vaneltsi has a long record, the three-year sentence will be his first taste of the penitentiary and will represent a substantial jump up from the sorts of sentences he has faced in the past.

[4] Mr. Vaneltsi has pre-trial custody amounting at this point to eight and one-quarter months, grossed up at the usual rate of 1.5 to one, which would leave a remanet to be served, if the joint submission is accepted, of 27 and three-quarter months.

[5] As I have already said, the sentence contended for is at the very lowest end of what might be considered an acceptable sentence for this offender and these offences,

but I have decided not to depart from the joint submission.

[6] So to give effect to the submission, the sentences will be as follows. On the charge of robbery, Mr. Vaneltsi, you are sentenced to a period of imprisonment of three years; however, I allow nine months credit, leaving two years and three months yet to be served. On the attempted robbery, two years. On the break and entering, one year. On the breach, 60 days; and on the failing to appear, 21 days consecutive to any other sentence.

[7] The surcharges will be waived.

[8] I also make an order pursuant to s. 109 of the *Criminal Code*, prohibiting you from having in your possession any firearm, crossbow, restricted weapon, ammunition or explosive substance for a period of ten years following your release from imprisonment; and 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. Any such items now in your possession are to be surrendered forthwith to the RCM Police in Whitehorse.

[9] Additionally, there will be an order whereby you will provide samples of bodily substances for the purpose of DNA analysis and banking.

[10] THE CLERK: I think there were a couple of outstanding charges still.

[11] MR. SINCLAIR: Crown directs a stay of proceedings on all of the remaining outstanding charges.

[12] THE COURT: Thank you.

FAULKNER T.C.J.