Citation: *R. v. Vaneltsi*, 2016 YKTC 14

Date: 20160303
Docket: 15-00320
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Judge Cozens

REGINA

v.

JOEY PIERRE JASON VANELTSI

Appearances:
Kevin W. MacGillivray — Counsel for the Crown
Lynn MacDiarmid — Counsel for the Defence

REASONS FOR SENTENCE

[1] COZENS J. (Oral): Joey Vaneltsi has entered a guilty plea to having committed the offence of robbery, contrary to s. 344 of the *Criminal Code*.

[2] Circumstances are set out in an Agreed Statement of Facts, as follows:

> 1. On August 26, 2015 in the City of Whitehorse, Yukon Territory, at approximately 7 pm Sheri Saari and Greg Tamm parked their tour van and trailer in the east side parking lot outside of the 202 Motel. Ms. Saari and Mr. Tamm were tour operators returning bikes and equipment from Alaska to Montana. Mr. Tamm bought some beer entered the 202 Motel and Ms. Saari dealt with some things in the trailer.
>
> 2. Joey Jason Vaneltsi was intoxicated and outside of the 202 Motel parking lot. When Mr. Tamm entered the 202 Motel, Mr. Vaneltsi asked Mr. Tamm for some beer and offered to sell Mr. Tamm some

marijuana. Mr. Tamm said he didn't want any marijuana and didn't give Mr. Vaneltsi any beer.

3. Mr. Vaneltsi then exited the 202 Motel and broke the window of the tour van and took Ms. Saari's purse and Patagonia bag, containing an Apple computer and tips from the summer tour operation. Ms. Saari heard the disruption in the tour van and saw Mr. Vaneltsi taking the Patagonia bag. Mr. Vaneltsi apologized to Ms. Saari for smashing the window and then Ms. Saari and Mr. Vaneltsi got into a tug of war over the Patagonia bag.

4. Ms. Saari hollered for help and Mr. Vaneltsi said he needed $40 dollars. Ms. Saari gave him $40 dollars and Mr. Tamm, having seen the altercation through a window, ran out and started to wrestle with Mr. Vaneltsi.

5. Mr. Vaneltsi broke free and ran a few metres with the Patagonia bag and Mr. Tamm caught Mr. Vaneltsi at which point Mr. Vaneltsi dropped the Patagonia bag and then fled again.

6. Mr. Tamm discovered the window of the tour van was broken and he caught Mr. Vaneltsi again and Mr. Vaneltsi apologized for the damage to the window.

7. Ms. Sheri's shoulder was sore from the tug-of-war with Mr. Vaneltsi and she was shaken up.

8. Mr. Vaneltsi was arrested on August 27, 2015, and has remained in custody since that time.

[3] Crown counsel submits that Mr. Vaneltsi should be sentenced to three and one half years' imprisonment. Counsel submits that a term of imprisonment of this length is based upon the application of the step-up principle.

[4] Counsel for Mr. Vaneltsi submits that an appropriate disposition is 12 to 18 months of custody to be followed by two years of probation.

[5] Both counsel agree that Mr. Vaneltsi is entitled to receive credit for his time in custody in remand at a rate of 1.5:1. This is a total of 285 days, which can be deducted from any custodial disposition.

Circumstances of Mr. Vaneltsi: Criminal record

[6] As a youth, Mr. Vaneltsi has the following record:

- two convictions for assault, contrary to s. 266;
- three convictions for break and enter, contrary to s. 348(1)(b);
- five convictions for theft, contrary to s. 334;
- one conviction for possession of property obtained by crime, contrary to s. 354;
- one conviction for mischief, contrary to s. 430(1);
- one conviction for obstruct peace officer, contrary to s. 129;
- two convictions for failure to appear, contrary to s. 145(5); and
- four convictions for fail to comply with dispositions, contrary to s. 26 of the *Young Offenders Act,* R.S.C., 1985, c. Y-1.

[7] As an adult, Mr. Vaneltsi has the following record:

- one conviction for robbery, contrary to s. 344;
- one conviction for attempted robbery, contrary to s. 344 — and, of course, s. 24(1), which deals with attempts;
- one conviction for assault peace officer, contrary to s. 270;
- one conviction for assault, contrary to s. 266;
- three convictions for break and enter, contrary to ss. 348(1)(a) and (b);
- one conviction for care and control over 80 mg, contrary to s. 253(1)(b);
- one conviction for unlawfully at large, contrary to s. 145(1)(b);
- one conviction for escape lawful custody, contrary to s. 145(1)(a);
- two convictions for theft, contrary to s. 334;
- four convictions for possession of property obtained by crime, contrary to s. 354(1)(a);

- one conviction for fail to attend court, contrary to s. 145(2);
- two convictions for fail to comply with disposition, contrary to s. 26 of the *Young Offenders Act*;
- seven convictions for fail to comply with probation order, contrary to s. 733.1(1); and
- four convictions for fail to comply with recognizance, contrary to s. 145(3).

[8] Mr. Vaneltsi's record of convictions was fairly unbroken between 1997 and 2009. Since his release from prison after the 2009 robbery and other convictions, there were convictions in 2011 and 2015 with one offence of violence for assaulting a peace officer in 2011. This was the most notable gap in Mr. Vaneltsi's pattern of criminal offending.

Pre-sentence Report ("PSR")

[9] Mr. Vaneltsi is 32 years old. His mother, Pauline Johnston, is Tetlit Gwich'in First Nation. His biological father was white and died when Mr. Vaneltsi was approximately two years old. His mother remarried. His stepfather, Thomas Johnston, is Teslin Tlingit First Nation. Mr. Vaneltsi identifies as Tetlit Gwich'in First Nation. Mr. Vaneltsi states he grew up with little connection to his First Nation culture and knows little about it.

[10] Mr. Vaneltsi has two brothers who still live with his parents. He says he was raised in a stable and supportive home with no drinking or family violence. His parents continue to be supportive of Mr. Vaneltsi.

[11] Ms. Johnston attended a residential school for kindergarten and grade 1, when living in Fort McPherson, Northwest Territories. Her mother also attended a residential school. This was a day school. Ms. Johnston's family moved to British Columbia when she was approximately seven years old. While her family practices some of her First

Nation's traditions, Ms. Johnston says that she does not practice them much anymore. Her family moved to Inuvik when she was 13, and she began drinking at that time. Both her parents drank, as did Mr. Vaneltsi's father. However, she decided she did not want that lifestyle and quit drinking when she was 17 years old.

[12] Mr. Johnston was raised under traumatic circumstances in Teslin. His mother died when he was five and he was placed in foster care with his three older brothers. He attended residential school in Whitehorse. Two of his brothers have substance abuse issues. Mr. Johnston quit drinking 20 years ago.

[13] Mr. Vaneltsi attended school until he dropped out in grade 10 due to his use of alcohol and drugs. Apart from that, he described his school experience as being pretty good. He said his marks were good and he got along well with his teachers and the other students. He attended Yukon College when he was 25 for upgrading but dropped out after one semester. He subsequently took a 12-week job training program while attending the Yukon College campus in Carcross. He indicates that he wants to go back to school to take additional courses, however he has not taken any steps to inquire about courses or to see whether there is any First Nation funding available to assist him.

[14] Mr. Vaneltsi had a variety of friends while growing up. He says he got along well with people. However, he began to get into trouble when he was hanging around friends who also got into trouble. He says he has friends who are not in trouble as well as those who are.

[15] He has a limited work history, comprised mostly of general labouring at odd jobs. He describes himself as a hard worker who is focused, on time, and rarely absent from work. He has, however, mostly lived off of social assistance and has often utilized the food bank.

[16] Mr. Vaneltsi has been in a relationship with Trisha James for approximately 12 years. He describes this relationship as being a good one with no violence. This was confirmed by Ms. James. Both of them have, however, struggled with substance abuse issues. Ms. James has continued to maintain the relationship while Mr. Vaneltsi has been incarcerated, whether in jail serving a sentence, or while in custody on remand awaiting the disposition of his matters.

[17] Ms. Johnston has expressed concerns about this relationship not being a healthy one for Mr. Vaneltsi, in part due to the ongoing substance abuse issues he and Ms. James both struggle with.

[18] Mr. Vaneltsi and Ms. James were homeless at the time of his arrest on this charge. Prior to that, they had resided at a home arranged for with Blood Ties assistance. They had to leave this residence due to their drug-using lifestyle. Previously, they had lived for several years with Ms. James' mother and stepfather.

[19] Mr. Vaneltsi states that he wishes to live with his parents when he is released from custody until he gets back onto his feet. Ms. Johnston confirmed that he is welcome to live there.

[20] Mr. Vaneltsi has never attended for counselling or treatment in the past. He has been meeting with Hannah Zimmering, Justice Navigator, from Blood Ties Four Directions while in custody on remand. They have discussed treatment options, including alcohol and drug services and a Jackson Lake treatment program. Ms. Zimmering provided a letter indicating that, in her opinion, since Mr. Vaneltsi first connected with Blood Ties in 2013, he has "shown a strong desire to make positive changes in his life." He was noted to be respectful of the staff and others when involved with Blood Ties and he meaningfully participated in workshops and support groups.

[21] Since his recent incarceration at Whitehorse Correctional Centre (“WCC”), Mr. Vaneltsi has actively participated in a three-part program offered by the health education coordinator. In Ms. Zimmering's opinion, Mr. Vaneltsi's “commitment to continue to access services while incarcerated further indicates his commitment to change. Mr. Vaneltsi is working hard to ensure he has supports in place to help facilitate his transition into the community.”

[22] It is noted in the PSR that, although Mr. Vaneltsi has indicated numerous times that he wants to address his substance abuse issues, he has never attended treatment or long-term counselling. Mr. Vaneltsi is noted as having a moderate level of problems with alcohol and a substantial level of problems with drug use. He does not consider alcohol abuse to be a problem for him.

[23] Ms. James is not a drinker and is not supportive of Mr. Vaneltsi using alcohol, as her father died as a result of alcohol abuse. Ms. James, however, states that Mr. Vaneltsi struggles with both alcohol and drug abuse, although he has periods of

sobriety followed by binge drinking. She states that whenever he gets into trouble, he has been consuming alcohol. I note that Mr. Vaneltsi was under the influence when he committed the offence for which he is now being sentenced.

[24] Ms. James has taken advantage of counselling opportunities. She has, however, expressed concerns about her attempts to live a sober lifestyle when Mr. Vaneltsi is released from custody.

[25] Mr. Vaneltsi states that he stopped smoking marijuana two years ago as well as stopping using cocaine one year ago. He states he has began a methadone treatment program about two years ago that assisted him in stopping using street drugs. This program was not available to him when he was incarcerated in WCC for these charges — and as I understand it, he was taken off methadone.

[26] The author of the PSR states that the areas that Mr. Vaneltsi struggles with are as follows:

- poor impulse control;
- difficulty planning and working towards goals;
- poor judgment;
- severe substance abuse problems;
- school difficulties;
- lack of consistent employment; and
- poor insight into his problem areas.

[27] The author believes that a psychological assessment would be useful in order to assist Mr. Vaneltsi in identifying his problem areas and treatment needs. Of particular

concern is the lack of any in-depth assessment and treatment for his substance abuse problem over the years.

[28] Mr. Vaneltsi states it was his intent to do a smash-and-grab of the bags that were in the vehicle. He expressed remorse for what happened. He said the victim told him he was a "polite robber" who should get treatment. He said that he apologized to her for committing the offence while he was committing it. When asked how she may have felt, he noted that she did not appear to have been traumatized in the statement she provided to the police and she was not hurt.

[29] The criminogenic risk assessment noted Mr. Vaneltsi to require a high level of supervision, to have a high criminal risk rating, and to have a high level of criminogenic needs.

[30] An interesting comment in the pre-sentence report was when Mr. Vaneltsi stated that … “it was too bad that the Judge couldn't give me a condition to explore my First Nation culture."

Authorities

[31] Crown counsel filed several cases, including *R. v. Vaneltsi*, 2009 YKTC 70, which was the sentencing decision of Faulkner J. following Mr. Vaneltsi's conviction after trial on a charge of robbery, as well as on guilty pleas to attempted robbery; breaking and entering; breach of recognizance for fail to abstain from the consumption of alcohol; and failing to appear in court on his trial date.

[32] Faulkner J. acceded to the joint submission for three years' custody, which he stated was at the very lowest end of the range. He considered that three years' custody could have been an appropriate sentence on the robbery conviction on its own. Submissions from counsel indicated that there were some difficulties with proving the attempted robbery charge and the three-year sentence would be a substantial jump from previous sentences.

[33] The circumstances of that robbery were that Mr. Vaneltsi accosted the victim outside of a bar, assaulted him, and stole his wristwatch. In the attempted robbery, Mr. Vaneltsi accosted the victim outside of a bar and assaulted him. The victim in that case was able to flee. I note the similarities to the case at bar, in that Mr. Vaneltsi had an initial contact with the owner of the van outside of a bar, and, while not assaulting him at that time, which differentiates it from the other, it is the location that is still similar.

[34] In *R. v. Bush*, 2006 BCCA 350, the Court of Appeal upheld a sentence of two years' imprisonment on a charge of robbery, effectively considered to be three years' imprisonment when his five months in pre-trial custody was factored in. (see para. 10)

[35] In *Bush*, the 39-year-old offender rode up behind the victim on a bicycle and snatched the wallet she was holding in her hand. The victim tackled the offender and wrestled him to the ground in an attempt to recover her wallet. The offender was able to escape with the wallet but was stopped by the police a block away. The victim suffered a bleeding lip and a cut as a result of this incident.

[36] The offender had 29 prior convictions with 10 property offences, including two counts of robbery for which he had received a nine-month conditional sentence. He

also had four prior convictions for assault. He had a sad history of drug and sexual abuse and was HIV-positive.

[37] The Court reiterated the "step-up" principle, which:

> 9 …is one that is often used to describe the philosophy that sentences should usually increase in moderate steps since a sudden, large increase in the length of the sentence may interfere with the goal of rehabilitation, if that is the focus of the sentence. The step-up principle has little application where a sentencing judge determines that the offence in question calls for a sentence in which the primary goals are denunciation and deterrence. …

[38] The Court agreed that denunciation and deterrence were properly the primary goals of the sentence imposed by the sentencing judge, noting that the offender was on probation at the time of the offence; he was undeterred by the victim's resistance; she was injured in the struggle; and he had a lengthy record for property offences and assault, including the two prior robbery convictions.

[39] In *R. v. Cochrane*, 2008 YKTC 57, I acceded to a joint submission for a 12-month sentence of incarceration on a guilty plea to the offence of assault causing bodily harm. The offender and a youth approached two 10-year-old boys outside of a movie theatre and demanded money from them, threatening to beat them up if they did not give them any. The youth punched one of the victims in the face, breaking his glasses, causing bruises, and some minor scrapes around his eye. Mr. Cochrane was a party to the assault. Mr. Cochrane had two prior convictions for assault. While the offence pled to is that of assault causing bodily harm, I noted that the facts certainly fell within what would constitute a robbery which could have attracted a sentence closer to the two-year range.

[40] In *R. v. Jimmie*, 2009 BCCA 215, the Court upheld a sentence of two years plus a day on a guilty plea to a charge of robbery. This was in addition to 35 days of pretrial custody. The incident was described as a violent purse snatching with an 81-year-old victim. The victim suffered minor injuries in her unsuccessful struggle to hold on to her purse. The 46-year-old offender was a chronic alcoholic who was intoxicated at the time of the offence. She had a lengthy criminal record, undoubtedly related to her addiction, including 39 property related offences; 10 offences of violence, including one for armed robbery; and seven for breaches of court orders. Her longest period of incarceration previously had been nine months imposed for the armed robbery.

[41] The sentencing judge considered the application of *R. v. Gladue,* [1999] S.C.R. 688, and the Appeal Court considered the sentencing judge to have been clearly alive to the systemic factors that had negatively influenced Ms. Jimmie's formative years and had continued to impact her adult life.

[42] Ms. Jimmie was of the Kluskus community located in a rural area of the Chilcotin. Her life was described as being “full of horrors”. She attended residential school where she was exposed to an atmosphere of violence. The sentencing judge weighed Ms. Jimmie's “bleak prospect for rehabilitation” and concluded that the principles of denunciation and deterrence were paramount, requiring a federal sentence. Balanced against this was the need to craft a sentence that recognized Ms. Jimmie's expressed desire to renew her efforts in rehabilitation.

[43] The Court, in paras. 19 to 21, reiterated the step-up principle, as had been enunciated by Ryan J.A. in *Bush*, and concluded that it had no application in these

circumstances, as Ms. Jimmie's rehabilitation was not a significant sentencing factor at the time.

[44] The British Columbia Court of Appeal has further commented on the step-up principle in *R. v. T.A.N.*, 2012 BCCA 498, stating:

> [23] The "step-up" principle is discussed in *R. v. Kory* by Ryan J.A. at para. 6 she said:
>
> > [6] ... The "step-up principle" is not a principle or goal set out in the *Criminal Code*. It is a short hand way of expressing the idea that sentencing requires a measured approach, even for repeat offenders. As Mr. Justice Lambert put in *R. v. Robitaille*, [1993] B.C.J. No. 1404.
> >
> > > [8] In relation to that argument, I say that the theory that sentences should go up only in moderate steps is a theory which rests on the sentencing principles of rehabilitation. It should be only in cases where rehabilitation is a significant sentencing factor. So the conclusion, in any particular case, that the increase in sentence should not be too large rests on a consideration of the circumstance of the particular offender and a desire not to discourage any effort he may be making to rehabilitate himself by the imposition of a sentence that may be seen by him to be a dead weight on his future life.
> >
> > ...
> >
> > Thus, to achieve the goals of specific deterrence and rehabilitation it often is unnecessary to do more than increase punishment incrementally when an offender is engaged in repetitive offending. However, the step-up principle should be applied where the circumstances call for it.
> >
> > [7] <u>In a case such as this, where the respondent has a lengthy record for which he has received consistently low sentences for the same type of offence, the step-up principle is not of great assistance. It has not worked.</u>

> [8] Mr. Kory's record shows that he has not been deterred or rehabilitated by the sentences he has received and remains a threat to his community. This was a serious offence, committed by a persistent criminal. The principle of the protection of the public through a denunciatory sentence ought to have taken precedence in this case.
>
> [Emphasis added.]

Application for Mr. Vaneltsi

[45] I find that the circumstances of Mr. Vaneltsi's offence, in and of themselves, are less aggravating than in any of the above noted cases. Unlike Mr. Vaneltsi's prior convictions for robbery and attempted robbery, this robbery does not involve an act of violence against a victim committed at the outset in order to facilitate the robbery. Mr. Vaneltsi broke a vehicle window in what would, if not for the intervention of the victim, have been categorized as theft in the smash-and-grab category. This became a robbery when Mr. Vaneltsi continued to struggle with the victim and obtained $40 from her after she intervened to stop the theft. Had Mr. Vaneltsi simply dropped the items and fled, he would not have been facing a charge of robbery.

[46] Similarly in the *Bush* and *Jimmie* cases, the theft was from a person with the intentional use of force against the victim in order to commit the offence. Mr. Vaneltsi's use of force came after the initial theft. The violence in the *Cochrane* case was intentional and much more significant, particularly considering the young age of the victims.

[47] This said, the aggravating feature of Mr. Vaneltsi's case is his significant criminal record. I agree with the principle that a sentence should not be increased as a result of

prior convictions in a manner that effectively re-punishes the offender for crimes for which he or she has already been sanctioned. However, the existence of a significant criminal record, and in particular where there are convictions for the same offence for which the offender is now being sentenced, often calls for longer jail sentences due to the increased risk for the commission of future crimes that the offender poses as demonstrated by the fact of the prior convictions.

[48] While this assessment of increased risk is not inevitable, certainly in the absence of information regarding the offender that would counter the notion of increased risk, the need to separate the offender from society in order to protect society is an elevated consideration. There is also an increased emphasis on denunciation and deterrence.

[49] The information regarding Mr. Vaneltsi paints a portrait of an individual who, despite having the support and ability to lead a pro-social life, has simply chosen not to put any real effort into doing so. He has chosen a lifestyle in which he defaults to substance abuse and does not attempt in any serious way to take steps to obtain assistance and support and make day-to-day decisions to change his lifestyle.

[50] On the one hand, Mr. Vaneltsi's criminal history and seemingly entrenched criminal lifestyle would appear to call for a sentence that emphasizes denunciation and deterrence and puts little emphasis on Mr. Vaneltsi's prospects for rehabilitation, which could perhaps be considered to be slim. On the other hand, there is some information before me to indicate that Mr. Vaneltsi is taking at least some initial positive steps towards obtaining an understanding of the issues that he has failed to deal with to date.

His involvement with Blood Ties since 2013 is indicative of some recognition of a need for help and of steps towards changing his lifestyle.

[51] As Mr. Vaneltsi has not availed himself of any treatment or counselling in the past, there is a reasonable possibility that should he put any effort into involving himself in treatment and counselling, he may actually acquire some ability to end his current destructive lifestyle. I am not prepared to discount Mr. Vaneltsi's expressed desire to begin to engage in assessment, counselling, and treatment. However, he is certainly not at the point where I can minimize the importance of denunciation and deterrence in order to emphasize rehabilitation. Mr. Vaneltsi has a ways to go yet.

[52] Certainly the principles of *Gladue* as reinforced in *R. v. Ipeelee,* 2012 SCC 13, apply. While there is not the type of dysfunctional home life and childhood in Mr. Vaneltsi's case that is often seen when sentencing Aboriginal offenders, s. 718.2(e) nonetheless requires me to consider all other alternatives to imprisonment. This, of course, includes requiring me to consider, in the event that a custodial disposition is warranted, just how long a sentence needs to be imposed. I am satisfied that the appropriate disposition needs to strike a balance between the need to denounce this offence to deter Mr. Vaneltsi and others from committing similar offences and to separate him from society in order to protect the public.

[53] In this case, I find that, given Mr. Vaneltsi's historical lack of motivation to pursue a positive change in his life and his expressed desire to now begin doing so, that a sentence that emphasizes specific deterrence will, in fact, assist him in his rehabilitative efforts. It will do so by sending him a message now that he needs to find the motivation

to begin and follow through on assessment, counselling, and programming and then to put into practice what he learns there. He is young enough to make the changes necessary to have a positive and pro-social life. He is also, however, at the age where, if he fails to make the necessary changes, he will soon find himself watching life pass him by while he sits in custody and opportunities disappear. In this sense, specific deterrence serves the objective of enhancing the prospects for rehabilitation.

[54] Mr. Vaneltsi stated that he wished he could be required, as part of his sentence, to explore his First Nation culture. He does not need me to impose such a requirement. If that is something that Mr. Vaneltsi is interested in, then that is something he can pursue on his own. It is time for Mr. Vaneltsi to find the motivation within himself to put his current somewhat criminally entrenched lifestyle behind him and move forward into a more productive and useful life.

[55] I understood the Crown's submission on the step-up principle to be that the Crown was seeking a moderate increase from the three-year sentence imposed the last times, on the basis that rehabilitation is still a factor for Mr. Vaneltsi. In that sense, the Crown was giving some recognition to the positive steps towards rehabilitation while at the same time looking at his last sentence and seeking only a moderate increase. I have indicated in this decision that I find the facts of this case to be less aggravating than in the prior convictions for robbery and in the cases filed before me. I agree that this is a case where rehabilitation is still a realistic possibility and, as such, there should not be a significant increase in the sentence that is given to Mr. Vaneltsi.

[56] This said, and in note of what I said earlier given the somewhat different circumstances of this robbery, I nonetheless find that the appropriate disposition in this case is less than that sought by the Crown. I find that the appropriate sentence is one of 24 months. Applying nine and one third months' credit for Mr. Vaneltsi's time in custody on remand, this leaves a remanet of 14 2/3 months to be served in custody. This will be followed by a period of probation of two years.

[57] The terms of the probation order will be as follows:

1. Keep the peace and be of good behaviour;

2. Appear before the court when required to do so by the court;

3. Remain within the Yukon Territory unless you obtain written permission from your Probation Officer or the court;

4. Report to a Probation Officer immediately upon your release from custody and thereafter, when and in the manner directed by the Probation Officer;

5. Reside as approved directed by your Probation Officer and not change that residence without the prior written permission of your Probation Officer;

6. For the first four months of this order, you will not possess or consume alcohol and/or controlled drugs or substances that have not been prescribed for you by a medical doctor;

7. For the first four months of this order, you will not attend any premises whose primary purpose is the sale of alcohol, including any liquor store, off sales, bar, pub, tavern, lounge or nightclub;

[58] I have only put this on for a period of four months because the reality is that Mr. Vaneltsi needs to make the decision himself as to what role alcohol is going to play in his life and I do not intend to require him to abstain from alcohol. What he needs to do is abstain from committing offences and this provides a bit of a transition period.

8. Attend and actively participate in all assessment and counselling programs as directed by your Probation Officer, and complete them to the satisfaction of your Probation Officer, for the following issues:

   - substance abuse,
   - alcohol abuse,
   - psychological issues,
   - any other issues identified by your Probation Officer,

   and provide consents to release information to your Probation Officer regarding your participation in any program you have been directed to do pursuant to this condition;

9. Make restitution by paying into the Territorial Court the amount of $40 in trust for Sheri Saari. This restitution is to be paid within the first year of your probation order;

10. Participate in such educational or life skills programming as directed by your Probation Officer and provide your Probation Officer with consents to release information in relation to your participation in any programs you may have been directed to do pursuant to this condition;

11. Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts.

[59] Those are all the terms I intend to put on the probation order, unless there are any submissions from counsel.

[DISCUSSION]

[60] There is a DNA order, this being, a primary designated offence for DNA.

[61] There is a s. 109 firearms prohibition, as this is the second offence of robbery for which he has been convicted. It is a mandatory lifetime firearms prohibition. There is always the ability, in the future, to bring a s. 113 application, should Mr. Vaneltsi wish to do so.

[62] I believe those are all the ancillary orders.

[63] The victim surcharge is $200. I will order that payable forthwith. I note Mr. Vaneltsi to be in default. I order that he serve his default time concurrent to the time remaining to be served in custody.

[64] MR. MACGILLIVRAY: The Crown directs a stay, with respect to the remaining counts.

[65] The only other issue is the credit.

[DISCUSSION]

[66] THE COURT: It will actually read that he will receive nine months and 10 days' credit and that will leave a remanet of 14 months and 20 days. That is simpler.

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COZENS T.C.J.