

Citation: *R. v. Skookum*, 2024 YKTC 30

Date: 20240826  
Docket: 22-00762  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before His Honour Chief Judge Cozens

REX

v.

JARED MCKAY HAPPY SKOOKUM

Appearances:  
Kathryn Laurie  
Jennifer Cunningham

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCE**

[1] Jared Skookum has entered a guilty plea to having committed the offence of manslaughter, contrary to s. 236(b) of the *Criminal Code*. The offence occurred on April 6, 2022. The Information charging the offence was sworn on March 29, 2023.

[2] Mr. Skookum initially entered a not guilty plea on September 20, 2023, and an initial trial date of May 13, 2024 was set, with pre-trial applications occurring on dates in April 2023. Subsequently, the April and May dates were vacated, and the guilty plea was entered on May 29, 2024 before me. A finding of guilt was made, and the matter was then set over to August 20, 2024 for submissions on sentence. It was further

adjourned to today's date for my decision. Pursuant to Territorial Court Practice Direction DOC-5, a Victim Impact Statement ("VIS") and Community Impact Statement ("CIS") were made available for review to Crown counsel, Defence counsel, and the Court.

[3] The Agreed Statement of Facts upon which the guilty plea was proffered is as follows:

1. On March 21, 2022, Jared McKay Happy Skookum ("Mr. Skookum") and Stephanie Pye ("Ms. Pye") partied at the same location. They both overdosed after using illicit drugs. Medical attention was sought, and Ms. Pye was briefly admitted to hospital.
2. On April 5, 2022, while visiting Whitehorse, Yukon Territory for a dental appointment, Ms. Pye contacted Mr. Skookum by text message to purchase "down" from him. "Down" is a common street term for opioids.
3. A deal was arranged for Ms. Pye to purchase 4 points of down from Mr. Skookum for \$200. They met briefly outside the Yukon Inn for the transaction at just after 10:30 pm that evening.
4. Approximately four hours later, during the early morning of April 6, 2022, Mr. Skookum contacted Ms. Pye by text message to confirm that she was alive.
5. Ms. Pye felt that the drugs Mr. Skookum had provided weren't very strong, as they hadn't done anything for her. Mr. Skookum told Ms. Pye that he sold her his weaker stuff, as he was worried given her recent overdose, but he had a different batch called "purple man eater".
6. Ms. Pye was immediately interested and inquired how quickly Mr. Skookum could attend the hotel. Mr. Skookum indicated he could be there in twenty minutes and agreed to provide Ms. Pye with 2 points of "purple man eater" in exchange for \$100.
7. At approximately 3:45 am on April 6, 2022, Mr. Skookum texted Ms. Pye to advise that he was outside the Yukon Inn. She exited soon afterwards and met him to purchase drugs, before returning to her room.

8. At the time, Ms. Pye was staying in the hotel with her 11-year-old daughter.
9. In the early afternoon of April 6, 2022, Ms. Pye's daughter discovered her in the bathtub of their hotel room. As Ms. Pye was non-responsive and her face was submerged in bath water, the child took Ms. Pye's cell phone and went for help.
10. Paramedics attended Ms. Pye's room at the Yukon Inn, and police arrived shortly afterwards at approximately 12:40 pm. Ms. Pye was pronounced deceased.
11. Near Ms. Pye, in the bathroom, police located drug use paraphernalia, along with small quantities of substances that tested as fentanyl or a combination of fentanyl, etizolam, and caffeine.
12. On April 27, 2022, police arrested Mr. Skookum for trafficking drugs to Ms. Pye. He was also detained for a related manslaughter investigation and provided his *Charter* rights.
13. That day, Mr. Skookum was interviewed by police about trafficking drugs, specifically "down", to Ms. Pye on April 6, 2022.
14. Mr. Skookum told the interviewing officer that he provided drugs to Ms. Pye on April 5<sup>th</sup> and 6<sup>th</sup> and that he skims some of the funds to put towards drugs for his own personal use. He expressed remorse for having provided drugs to Ms. Pye on April 6, 2022.
15. An autopsy was later performed on Ms. Pye. No signs of trauma or disease that would otherwise explain Ms. Pye's death were found. A forensic toxicology examination revealed that Ms. Pye's blood contained fentanyl, etizolam, and caffeine, as well as tetrahydrocannabinol (THC).
16. The forensic pathologist found that Ms. Pye's cause of death was "acute combined fentanyl and etizolam intoxication". Ms. Pye died of a drug overdose.
17. At the time of her death, Stephanie Pye was a 36-year-old member of Liard First Nation.
18. Today, Jared Skookum is a 34-year-old member of Little Salmon Carmacks First Nation.

[4] Counsel have put forward a joint submission as to the appropriate sentence, being two years less one day custody, all accounted for by time served in custody

awaiting disposition of this matter. The custodial portion of the sentence is to be followed by three years of probation.

[5] A VIS was provided by Cindy Pye, the mother of Stephanie Pye.

[6] Section 722(1) of the *Code* reads:

722 (1) When determining the sentence to be imposed on an offender or determining whether the offender should be discharged under section 730 in respect of any offence, the court shall consider any statement of a victim prepared in accordance with this section and filed with the court describing the physical or emotional harm, property damage or economic loss suffered by the victim as the result of the commission of the offence and the impact of the offence on the victim.

[7] Subsection (5) provides that:

(5) The court shall, on the request of a victim, permit the victim to present the statement by

(a) reading it;

...

[8] Subsection (8) provides that:

(8) In considering the statement, the court shall take into account the portions of the statement that it considers relevant to the determination referred to in subsection (1) and disregard any other portion.

[9] In accordance with my obligation under subsection (8), I determined that portions of the VIS were outside of what was allowable under s. 722(1). As a result, I edited those portions from what would be read into the record and chose to read into the record myself those portions of the VIS that were in compliance with s. 722(1). It is not

enough, in my opinion, to allow those portions of a VIS that I am not supposed to consider, to nonetheless be read into the record.

[10] In addition, in consideration of the remainder of the VIS that had been determined to be inadmissible as written, I provided a comment that, in my opinion, gave recognition to some of the impact upon Cindy Pye of her participation in the judicial process following the unlawful death of her daughter while this matter was before the Court.

[11] Cindy Pye has been greatly impacted by the death of her daughter. She says that her heart is broken. She feels tremendous grief and has struggled with depression. She was shocked by Stephanie's death and feels traumatized and numb. Stephanie's children have also been traumatized and left without their mother.

[12] It is clear to me that the emotional and psychological impact of the death of Stephanie upon Cindy Pye has been made more difficult by how she feels it has been for her in understanding and navigating the criminal justice system, and I am aware that the process, a process that she would not have had to go through without the offence having been committed, in particular in circumstances as devastating and tragic as this, was additionally painful and difficult. It is part of the pain that the offence causes. I understand it and I am aware of it.

[13] A CIS from the Liard First Nation was also provided and read into the record in its entirety.

[14] Section 722.2(1) of the *Code* reads:

722.2 (1) When determining the sentence to be imposed on an offender or determining whether the offender should be discharged under section 730 in respect of any offence, the court shall consider any statement made by an individual on a community's behalf that was prepared in accordance with this section and filed with the court describing the harm or loss suffered by the community as the result of the commission of the offence and the impact of the offence on the community.

[15] The CIS detailed the history of the Kaska Dene and its five distinct groups, ("Kaska"), in particular noting the interaction with western culture and the devastating impacts this interaction had on the Kaska people.

[16] Portions of the CIS are as follows:

...There is a prevailing feeling of hopelessness among the community as they describe the drug epidemic as complex, scary, intimidating, and not knowing how best to help those actively in addictions. ...Now with 'harder' substances entering communities at such a rapid pace, members shared they feel it is "difficult to keep up with" and that resources and supports are struggling to adjust to the needs of those actively in addiction. It was also noted on multiple occasions that many communities are losing their young First Nation women. For matriarch[ically]al societies, members fear the repercussions on their First Nation culture.

...

Another member noted, with the loss of young First Nation women, "our connection to the future is being severed...young people are supposed to take care of the Elders". This fear of loss of connection was expressed by many. One member said "as we watch our youth grow, we silently hope they aren't next to be impacted", or lost to the substance use crisis.

...

...One member noted, "the increase in drug use has impacted our culture gatherings. Less people attend as their addictions prevent them from engaging. Elders speak openly about how this is impacting their ability to share knowledge and traditions. We see this as another way our culture is being threatened", particularly with losing the younger generation to substance use. ...

After Stephanie's passing, many community members commented they saw a 'cycle' begin with other young people who were close with her. "Some of them got harder into the drugs" to cope with the loss and grief.

...The ripple effect of loss on small communities, “puts a larger strain on those who attend work, as smaller communities feel the absence of one employee” which in turn puts strain on other colleagues and “doesn’t allow time for them to grieve”. ...

[17] With respect to hope for the future, the CIS stated:

In discussion with community members on healing going forward, five major themes were present: spiritual healing, harm reduction approaches, education, social supports and services, and community safety.

Every member that CYFN [Council of Yukon First Nations] spoke to mentioned the lack of resources in their community of Watson Lake, both social supports and community safety services. Many members expressed it’s difficult to know where to start, stating “It’s hard to grasp what the answer is – is it more counsellors, is it more programming?” When overdoses happen, it sometimes creates a catalyst for others struggling with addiction to seek treatment although community members expressed, “its so difficult for people to access those services in a timely way”, speaking to the barriers of needing to travel outside of their community to access treatment. Many spoke to the importance to train and build capacity within their own community to fill these gaps. “Hiring and training local community members” promotes healing in a culturally safe way “to discuss addictions from the Indigenous perspectives and experience.

[18] To me, if I were to think of, in particular, Yukon and Northern British Columbia Indigenous people and communities as both being individual trees, and being stands of trees on a sloped land, facing a landslide, the only way to prevent it is to build a solid barrier to shore up the foundation. Piecemeal efforts will not suffice. However, without a strong commitment to develop and maintain the appropriate infrastructure, in particular in regard to social services and support, the loss associated with a resultant landslide will be immense and unrecoverable.

## **Circumstances of Mr. Skookum**

[19] Mr. Skookum is a 34-year-old member of the Little Salmon Carmacks First Nation.

[20] Mr. Skookum has a criminal record as follows:

### Youth

2008

- s. 344 robbery
- s. 266 assault

### Adult

2009

- s. 253(1)(b) driving over .08 mg%

2011

- s. 129(a) obstruction
- s. 175(1) causing a disturbance

2014

- s. 72(1) forcible entry

2017

- s. 266 assault

2018

- s. 267(b) assault causing bodily harm



- s. 348(1)(a) break and enter with intent  
2021
- s. 423.1(3) intimidation of a justice system participant

[21] Alcohol and or substance use have been factors in all of Mr. Skookum's criminal convictions.

[22] I have been provided with a **Gladue** Report dated October 25, 2017, a Yukon Adult Fetal Alcohol Spectrum Disorder ("FASD") Assessment Composite Report dated January 14, 2021, a Yukon Health and Social Services ("YHSS") Mental Wellness and Substance Use Services letter from Counsellor Ricki Tardiff dated March 7, 2024, a letter from Elder Jerry SoltSani of Fetal Alcohol Syndrome Society Yukon ("FASSY") dated May 23, 2024, as well as a number of Certificates of Completion from both programming and counselling opportunities, as well as work-related skills and training that Mr. Skookum has participated in.

[23] I note that in the **Gladue** Report, the author has stated that, in speaking with the individuals who provided information, that the contents of the **Gladue** Report would be kept confidential and "not be open to the public, unless given permission by Jared Skookum". It is, of course, at times necessary for me to provide some information as to the contents of **Gladue** Reports in order to explain, in part, why a particular sentence is imposed upon an offender. This said, care should always be taken not to say more than is necessary in order to, not only protect the privacy interests of those individuals who are interviewed, but also to further the ability of **Gladue** Report authors to obtain as much relevant and informative material as possible.

[24] Given that I have a joint submission before me that I will accept as being an appropriate sentence, I do not feel it necessary to provide more than a brief recounting of the personal circumstances of Mr. Skookum.

[25] Mr. Skookum was raised in Carmacks, Yukon, another Yukon community severely negatively impacted by the residential school system. He was raised primarily by his maternal grandmother, a residential school survivor, although he was also in the care of Family and Child Services in both group and foster homes for several years in his later childhood and early teens.

[26] Mr. Skookum was raised in an environment that exposed him to alcohol abuse, physical violence, as a witness to sexual abuse, and the need to fend for himself.

[27] He both witnessed and experienced the tragic death of several family members. Although having achieved sobriety when Mr. Skookum was 18 years of age, his grandmother passed away in 2015. Her death had a huge impact upon Mr. Skookum.

[28] Mr. Skookum was able to upgrade his education at Yukon College in 2009-2010. From 2010 to 2017 he worked in mining camps.

[29] Mr. Skookum has been diagnosed as meeting the criteria for FASD. Assessment shows that he has been significantly negatively impacted across a number of cognitive domains, including mental health, being prone to suffering from depression. He struggled with learning throughout school, something that impacted his interactions with others. While Mr. Skookum possesses some strengths, it is clear that he will require support and assistance in order to help him achieve a stable pro-social lifestyle.

[30] He has struggled with substance use and abuse issues since his very early teen years, which has progressed from primarily alcohol abuse to hard drugs and opioids in recent years.

[31] The YHSS information indicates that Mr. Skookum has, since being in custody on remand, participated in a five-day substance use treatment primer, two five-week substance use treatment programs, a transition group, and additional individual therapy sessions. Mr. Skookum is noted to have been excellent in his attendance and engaged when there. He is open to feedback and has expressed a desire to make changes and do things differently. He has indicated to Ms. Cardiff that he wishes to continue in his counselling relationship with her, as well as participating in additional other treatment opportunities when he is released from custody, including out-of-territory treatment.

[32] Ms. Soltani has been interacting with Mr. Skookum on average twice a week while Mr. Skookum has been incarcerated. Mr. Skookum has been engaged in his discussions with Ms. Soltani and has expressed a desire to continue with alcohol and substance use treatment, and to positively reintegrate himself into society. Ms. Soltani believes that Mr. Skookum can be successful if he has the proper care and support.

[33] Crown counsel quite correctly submits that the primary sentencing principles at play here are denunciation and deterrence. The trafficking of highly addictive and potentially lethal drugs to individuals, in particular to those that are part of a vulnerable community, as Stephanie Pye was, and as was known by Mr. Skookum, is an act that requires sentences that strongly denounce this offence and deter others from doing so. As stated in s. 718.04 of the *Code*:

When a court imposes a sentence for an offence that involved the abuse of a person who is vulnerable because of personal circumstances – including because the person is Aboriginal and female – the court shall give primary consideration to the objectives of denunciation and deterrence of the conduct that forms the basis of the offence.

[34] However, Crown counsel also recognizes that Mr. Skookum is a user-trafficker whose involvement in trafficking is at the lower level and is committed by him in order to feed his own addiction. He also is a member of a vulnerable community, with a life damaged by the systemic discrimination inherent in the residential school system and associated governmental and authoritative actions. The sentencing principle of rehabilitation is also very much at play here.

[35] The primary aggravating factor, outside of the circumstances of the offence itself, is Mr. Skookum's prior criminal history, noting however, that there are no *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, ("CDSA") convictions. While there are several offences of violence, the circumstances in this offence of manslaughter are dissimilar from what is generally associated with robbery and assault offences.

[36] I also consider it to be aggravating that Mr. Skookum was aware of Stephanie's recent overdose and yet sold her drugs when he knew there was a risk to her safety. Crown counsel has pointed out, however, that Mr. Skookum was not aware that the drugs he provided Stephanie with contained fentanyl.

[37] The mitigating factors in this case are:

- the guilty plea, albeit it not early in the process and following an initial not guilty plea and the fixing of trial dates. This was a case with triable

issues that Mr. Skookum has chosen not to litigate. It is also clear that Mr. Skookum has been remorseful from the beginning, as seen in his cooperation with the RCMP, (in regard to his direct role in providing the drugs to Stephanie only), and in phone call recordings from Whitehorse Correctional Centre (“WCC”), and continues to be very remorseful for having committed this offence, and having Stephanie die as a result;

- the numerous steps Mr. Skookum has taken to actively and positively engage in counselling opportunities;
- the **Gladue** factors that are not only systemic but very present in Mr. Skookum’s life and circumstances;
- his FASD assessment results and the diminished moral culpability that arises from this;
- somewhat connected to both his **Gladue** factors and FASD diagnosis, his struggles with substance abuse, primarily in relation to hard drugs and opioids; and
- his addiction-based trafficking was at a lower level.

## **Analysis**

[38] As I have a joint submission for sentence before me, I must apply the considerations made clear in the case of **R. v. Anthony-Cook**, 2016 SCC 43, in which

the Court stated at para. 34:

...a joint submission should not be rejected lightly...Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead responsible and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system has broken down. ...

[39] The sentencing range for the offence of manslaughter can range from no custody to imprisonment for life.

[40] In *R. v. Chief*, 2018 YKTC 36, the 33-year-old Indigenous offender was sentenced on a manslaughter guilty plea to an effective sentence of four years and seven and one-half months, after providing him credit for time served. The resultant sentence of two years less one day allowed for Mr. Chief to be placed upon probation for three years. Mr. Chief brutally beat the 87-year-old Indigenous victim to death after a night of drinking. The circumstances of the offender were similar to those of Mr. Skookum in many ways. The circumstances of the offence, however, were much more egregious.

[41] In *Chief*, consideration was given to the impact of an offender's FASD diagnosis on sentence. As the sentencing judge, I considered prior jurisprudence and stated in para. 57:

57 ...

...

66 The question raised by Judge Lilles in *Harper*, [2009] Y.J. No. 14 in considering the meaning of the degree of responsibility of the offender in s. 718.1 was put as follows:

What does this mean for an offender who, like Mr. Harper, suffers from an organic brain disorder that affects not only his ability to control his actions, but also his understanding of the consequences that flow from them?

67 In balancing the principles of proportionality to address the sentencing principles most applicable to serious offences against the moral blameworthiness of the offender, Judge Lilles concluded:

...

69...

... a just sentence should result in a substantial reduction in the sanction imposed by this court. (Paragraph 42)

70 I concur with the comments in *Harper* that the role of specific deterrence in sentencing FASD offenders must be proportional to the individual offender's ability to understand the connection between the sanction imposed and the offence committed. The greater the cognitive deficits of the offender, the less role specific deterrence should play.

[42] I agree with the submission of Crown counsel that specific deterrence plays a lesser role in Mr. Skookum's sentencing, due to his cognitive deficits resulting from FASD.

[43] An examination of case law for sentences imposed for manslaughter and criminal negligence causing death arising from trafficking a substance that resulted in the death of the user, is set out in paras. 16 to 25 of *R. v. Adams*, 2023 ONCJ 63. The sentence proposed in the joint submission before me is on the lower end of the sentencing range. However, I find that it is not an unfit sentence. The circumstances of the offence and the offender before me justify a sentence at the lower end of the range.

[44] In saying this, I repeat, with necessary modification, what I said in para. 17 of **Chief**.

[45] As is the way of sentencing proceedings, much more has been said of Mr. Skookum's life and circumstances, than of Stephanie Pye's. As Mr. Skookum is the one being held accountable for committing this offence and the one being sentenced, it must of necessity be this way. This is not, however, reflective in any way that the sentencing process, and those involved in it, place a higher value and worth on Mr. Skookum's life than Stephanie's life. The value of Stephanie's life is priceless and her worth incalculable. The sentencing process is not designed to be a comparator of the offender as against the victim, or a scale measuring the value and worth of the one against the other. The loss of the life of this young daughter and mother is a tragedy that cannot be compensated for in any way.

[46] In addition, the three-year period of probation that I am able to impose, that I would not be able to impose were I to sentence Mr. Skookum to a sentence in excess of two years, not only provides Mr. Skookum with greater support and prospects for a successful rehabilitation into a pro-social life, in doing so it provides a better chance for society to be protected against the commission of further offences by Mr. Skookum than an additional period of custody.

[47] I therefore sentence Mr. Skookum to a custodial disposition of two years less one day, all time served. He is further sentenced to a period of probation of three years on the following terms:

1. You must keep the peace and be of good behaviour;



2. You must appear before the court when required to do so by the court;
3. You must notify the court or the Probation Officer in advance of any change of name or address, and promptly notify the court or Probation Officer of any change of employment or occupation;
4. You are not allowed to leave the Yukon unless it is for a treatment program or if you have the prior written permission of your Probation Officer;
5. You are not allowed to communicate with Cindy Pye, Leo Stuart, Karen Pye, or any of the children of Stephanie Pye. This means that you cannot communicate with them by talking, writing, or using the internet or cell phone. This means that you cannot communicate by passing messages to them through another person;
6. You are not allowed to go to any place you know that Cindy Pye, Leo Stuart, Karen Pye, or any of the children of Stephanie Pye live or go to school or work;
7. You are not allowed to attend any liquor store, off sales, bar, pub, tavern, lounge, nightclub, or any other business whose main purpose is the sale of alcohol;
8. You are not allowed to have more than one operating cell phone in your possession. If you have one cell phone you must provide the telephone number to your Probation Officer;

9. You must report to a Probation Officer at 301 Jarvis Street within 48 hours of your release from custody, and then after that, you must keep reporting when and how the Probation Officer tells you to;
10. You must go see Kelly Allen, or her designate, at the Justice Wellness Centre at 4141-4<sup>th</sup> Ave, Suite C for any assessment and counselling that she asks you to do. You are to go to counselling with Ricki Tardiff at the Forensic Complex Care Team, and you must go to any other counselling that your Probation Officer directs you to. You must consent to release information to your Probation Officer about your attendance at counselling;
11. You are to advise your Probation Officer of your address within 48 hours of your release from custody, and you are not to change that address without telling your Probation Officer before you move;
12. You are to stay in touch with your supports at FASSY; and
13. You are to report to court for reviews of this probation order as directed by the court or your Probation Officer.

### **Ancillary Orders**

[48] As this is a primary designated offence, you will provide a sample of your DNA pursuant to s. 487.051(1) of the *Code*.

[49] You will be prohibited pursuant to s. 109 of the *Code* from possessing any firearm, other than a prohibited firearm or restricted firearm, and any crossbow,

restricted weapon, ammunition and explosive substance for a period of ten years, and from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life.

[50] I will waive the Victim Surcharge.

[51] In addition, a forfeiture order shall be made with respect to those items that are identified in a Forfeiture Order signed by the Crown and counsel for Mr. Skookum and provided to the Court.

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COZENS C.J.T.C.