

COURT OF APPEAL FOR YUKON

Citation: *R. v. Rutley*,
2014 YKCA 9

Date: 20140627
Docket: YU716

Between:

Regina

Appellant

And

Darren Troy Rutley

Respondent

Before: The Honourable Chief Justice Bauman
The Honourable Madam Justice Newbury
The Honourable Madam Justice MacKenzie

On appeal from: An order of the Supreme Court of Yukon, dated January 25, 2013
(*R. v. Rutley*, 2013 YKTC 7, Dawson City Docket 11-11015).

Oral Reasons for Judgment

The Appellant appeared in person

Counsel for the Respondent: D. McWhinnie

Place and Date of Hearing: Vancouver, British Columbia
June 27, 2014

Place and Date of Judgment: Vancouver, British Columbia
June 27, 2014

Summary:

An application to dismiss the appeal was adjourned but a timetable for the future conduct of the appeal was imposed.

- [1] **BAUMAN C.J.B.C.:** This is an application brought on behalf of the prosecution service for an order dismissing Mr. Rutley's appeal for want of prosecution.
- [2] The background of the matter is set out in the most recent set of reasons for judgment from Mr. Justice Frankel of this Court found at 2014 YKCA 6, which sets out in some detail the history of these proceedings - the unfortunate history of these proceedings.
- [3] Mr. Rutley, the Crown's application is fully warranted. You have pressed the patience of the Court and indeed anyone's sense of justice, mightily, through your behaviour in this matter. However, we are prepared to give you one last chance and in that regard, I ask Mr. McWhinnie to provide us with his schedule of deadlines that he would like to see imposed, because we are going to impose those and sir, let me underline that it is exceedingly important that you comply with these deadlines or there will be another application to this Court for an order dismissing the appeal for want of prosecution and I am sure that the division hearing that application will not be extending a second or third chance in this matter.

[discussion with counsel]

- [4] In the circumstances, I am not going to ask for Mr. Rutley's position on those dates. The division is of a mind to impose them. Accordingly, the order of the Court is that the Notice of Application for dismissing the appeal for want of prosecution will be adjourned generally. However, a timetable is hereby imposed under which Mr. Rutley will file the appeal books and transcripts in the matter - that is the complete transcripts necessary for the disposition of the appeal, by the 1st day of August 2014. He will thereafter file his factum, his argument based on the appeal books and transcripts, by the 15th day of September 2014. The Crown in turn will

provide its factum by the 15th day of October 2014, with a view to the matter being heard by a division of this Court sitting in Whitehorse, Yukon, in November of 2014.

[5] The Rule 13(3) application is otherwise adjourned generally.

[discussion with counsel]

[6] **NEWBURY J.A.:** I agree.

[7] **MACKENZIE J.A.:** I agree.

[8] **BAUMAN C.J.B.C.:** The timetable for Mr. Rutley is hereby imposed as set out above and the Rule 13(3) application is adjourned generally.

“The Honourable Chief Justice Bauman”