

IN THE SUPREME COURT OF THE YUKON TERRITORY

BETWEEN:

RACHEL PLOURDE

Victim

AND:

DANIEL PLOURDE

Respondent

Rachel Plourde

Did not appear

Bonnie Ross

Co-ordinator of Victim Services

Gordon Coffin

Appearing for the Respondent

**MEMORANDUM OF RULING
DELIVERED FROM THE BENCH**

[1] HUDSON J. (Oral): Here is what I propose. That Mr. Plourde may, forthwith, return to the house. That he may stay there until such time as he receives a call from -- your name again?

[2] MS. ROSS: Bonnie Ross.

[3] THE COURT: And you are the --

[4] MS. ROSS: Coordinator of Victim Services.

[5] THE COURT: A representative of the Victim Services Branch. Is it a branch?

[6] MS. ROSS: A unit.

[7] THE COURT: A unit, thank you. To remove himself from the premises within two hours after receipt of the call, or the placing of a notice saying, you are directed to leave, signed victim.

[8] This order is made on the condition that upon receipt of the call from the complainant/victim, from Fort Nelson, to the representative of the Victim Support Unit, that is to say within two hours of that call, will, forthwith, call to the respondent directing him to leave the house within two hours.

[9] The complainant is directed -- this is the toughie.

[10] MS. ROSS: Perhaps there would be a third party that could pick up the truck and camper?

[11] THE COURT: You mean the camper?

[12] MS. ROSS: Well, if she brings back the camper. I'll ask her if she can possibly do that and if there would be a third party that could pick it up.

[13] THE COURT: Not that much traffic between Hay River and Whitehorse.

[14] MS. ROSS: No, but I mean when she gets here.

[15] THE COURT: Well, it seems the people that we are speaking of make an 18-hour trip to Hay River without too much hesitation. I cannot bring myself -- I would like to, for you, Mr. Plourde, but I cannot direct that this woman transport herself and her two kids over that road when I am told, and I am inclined to believe it, either the road, or the weight of the camper, it is unsafe. I have to go with that. So she is directed to, upon return to the house, to immediately return the truck to Mr. Plourde and we will go from there.

[16] MS. ROSS: And how will he get it?

[17] THE COURT: She will call him. She will take it somewhere within -- the house in on Lowe Street?

[18] MS. ROSS: Jeckell.

[19] THE COURT: Jeckell. All right, she will park it on 4th Avenue in front of the fish store. How close is that?

[20] MS. ROSS: A few blocks.

[21] THE COURT: Leave the keys in it for that moment of time. That is the best I can do. Or leave the keys with you? No. Leave the keys in the fish store? No.

[22] MS. ROSS: Why doesn't she leave it parked on 5th Avenue near Jeckell Street and that --

[23] THE COURT: Within 100 feet of Jeckell Street?

[24] MS. ROSS: Yes.

[25] THE COURT: And leave the keys in it, having told him where it is, or that she is there? No, I mean told you that she is there and you tell him?

[26] MS. ROSS: She'll tell me and I'll tell him.

[27] THE COURT: Have you got that down, Mr. Coffin?

[28] MR. COFFIN: I think so.

[29] THE COURT: Would you read it back to me?

[30] MR. COFFIN: Well, I don't have it in the way that I would phrase a --

[31] THE COURT: No, no, just the scheme of it, you know, the whole thing.

[32] MR. COFFIN: About the whole thing? As I understand it, Mr. Plourde may return to the house on Jeckell Street.

[33] THE COURT: Forthwith.

[34] MR. COFFIN: Forthwith. He can stay there until he receives a call from Victim Services that they have received a call from Rachel Plourde that she's in Fort Nelson. Upon receipt of that call he's to vacate within two hours.

[35] THE COURT: Yes.

[36] MR. COFFIN: She's to return with the truck to Whitehorse and to advise Victim Services when she's in town and where the truck is.

[37] THE COURT: Yes.

[38] MR. COFFIN: They are to advise Mr. Plourde -- it will be difficult to contact him, I suppose.

[39] THE COURT: Why?

[40] MR. COFFIN: He won't have a residence then. He'll be out because there's going to be --

[41] THE COURT: He can leave a number with Victim Services.

[42] MR. COFFIN: Yes, but there will be a considerable time between her arrival in Fort Nelson and her arrival here in Whitehorse that he will be out of the house.

[43] THE COURT: Yes, okay. Make it three hours. He has to be out within three hours of the call. That does not do it entirely, but it brings it closer.

[44] MR. COFFIN: Brings it closer. And upon her arriving in Whitehorse, she'll advise Victim Services, who will then contact Mr. Plourde about the truck.

[45] THE COURT: Yes. And he can be advised to start looking at the corner of 5th and Jeckell. And she is to leave the keys in the car. If she would not want to do that, she can leave them, I suppose -- well, the police are not going to want to get involved. They probably will not receive them. She can leave them with the sheriff's office or the president of the Law Society. No.

[46] In addition to that, pursuant to 9(a), I direct that all peace officers to whose attention this matter may come, to take necessary steps, including arrest of the respondent, using reasonable force, to enforce the compliance with this order. I am reading s. 9(a).

[47] MR. COFFIN: 9(b)?

[48] THE COURT: Okay, right, 9(b); I was in error. Yes, 9(b). So we do not have to cut the truck in half.

[49] MS. ROSS: My Lord?

[50] THE COURT: Yes.

[51] MS. ROSS: Are you going to address the issue of him removing contents of the house, or destroying contents, or is that assumed?

[52] THE COURT: It probably is assumed, but on the other hand, why not? The respondent is enjoined, from in any way, interfering with the property of the complainant, the victim.

[53] MR. COFFIN: All right, perhaps we should raise the issue of his goods that are there. He can take those, or he should leave everything?

[54] THE COURT: I think he has been given --

[55] MS. ROSS: Yes, he has.

[56] MR. COFFIN: The right to go and --

[57] MS. ROSS: Yes, he has.

[58] THE COURT: He has been given that at a time when she was still there. There was to be an accompaniment. She is not there, so yes, he can do that. But if I find that he has taken more than is his -- we are not going to fight over a radio or an oven, or a microwave, or anything like that, are we? Is there any such property -- I am talking about clothes.

[59] MR. COFFIN: Yes, clothes.

[60] MS. ROSS: Tools.

[61] THE COURT: And brushes and toothpaste --

[62] MR. COFFIN: Tools.

[63] MS. ROSS: Tools.

[64] THE COURT: -- and toothbrushes and things like that. But if there are articles which are, in any way, jointly owned, he may not take them. I would like to know if Mr. Plourde understands that.

[65] MR. PLOURDE: No, not really.

[66] THE COURT: If I was to say that you could take your own property from the house when you go, tell me what that property would consist of?

[67] MR. PLOURDE: What I had before. My stuff that I had in Quebec.

[68] THE COURT: Toaster?

[69] MR. PLOURDE: Pardon me, sir.

[70] THE COURT: Kitchen appliances? Yes?

[71] MR. PLOURDE: What I had before the marriage.

[72] THE COURT: Yes, but you see, I cannot resolve that dispute until she is here.

[73] MR. PLOURDE: You were asking me.

[74] THE COURT: I am. So you have indicated to me that I need to be specific. And I am telling you --

[75] MR. PLOURDE: I'm indicating to you, sir, in my belief, what was before the marriage, I think that things that I work and buy, I still believe today that they belong to me.

[76] THE COURT: Sure, you do. I want to hear from her before I permit you to take those.

[77] MR. PLOURDE: Yes, sir, I understand that. I understand that.

[78] THE COURT: Okay. And the first instance then, until we come back to court and deal with this, I am afraid I will not be here, you are take only your clothes and your toothbrush, and what do we call that?

[79] MS. ROSS: Personal possessions.

[80] THE COURT: Well, no. A toaster, a microwave, that is a personal possession, okay.

[81] MR. PLOURDE: Sir, can I take my tools?

[82] MR. COFFIN: Tools.

[83] MR. PLOURDE: Tools.

[84] THE COURT: Yes.

[85] MR. PLOURDE: My working tools.

[86] THE COURT: Your cooking -- your knives and --

[87] MR. PLOURDE: My knives and also my working tools, my toolbox
--

[88] THE COURT: I would prefer it if you did take your knives, yes.

[89] MR. PLOURDE: Pardon me, sir?

[90] THE COURT: Pardon?

[91] MR. PLOURDE: I said my toolbox and --

[92] THE COURT: Sure, all of that. That is okay. But kitchen utensils, no; like toaster, microwave.

[93] MR. PLOURDE: Okay, I understand. I understand.

[94] THE COURT: Gosh, I hope so. Okay.

[95] MR. PLOURDE: I understand, sir.

[96] THE COURT: I think that is the best -- yes?

[97] MR. PLOURDE: My request --

[98] THE COURT: So if this truck -- you are going to have to get that camper back over here somehow yourself, if it does not come. I am not requiring her to travel on that road with two children with a camper on it when the information I have is that that may break down the truck again. What does he want, Mr. Coffin?

[99] MR. COFFIN: I'm sorry?

[100] THE COURT: What does he want?

[101] MR. COFFIN: Well, he's concerned that she went one way with the truck and camper, why can't she come back with it?

[102] THE COURT: Because it broke down.

[103] MR. COFFIN: Yes.

[104] THE COURT: The evidence I have is that it broke down because of the weight of the camper. But I suspect that the gravel road had something to do with it and I am familiar with small Rangers. She has two kids. There is no way I can require her to drive back with the camper on it when she says she plans not to do that for safety reasons. Yes, sir?

[105] MR. PLOURDE: Your Honour --

[106] THE COURT: If you do not mind, Mr. Coffin. If you can talk to your client, go ahead.

[107] MR. COFFIN: Yes, fine. That's fine, My Lord.

[108] THE COURT: All right. Just tell your client that what I am doing here is, if anything -- my first inclination was simply on the evidence, because it is evidence by statute, of what is in the original complaint, to leave him out of the house and without the car. I am trying to be fair to him and recognize the circumstances so that nobody gets injured, nobody goes without a place to sleep for any longer than they have to and that is the reason that I have spent this time on it. I hope he understands. Thank you.

HUDSON J.