

Citation: *R. v. Allaire*, 2010 YKTC 125

Date: 20101029
Docket: 10-00005
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: Her Honour Chief Judge Ruddy

REGINA

v.

RENE JOSEPH ALLAIRE

Appearances:
Ludovic Gouaillier
Robert Dick

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] RUDDY C.J.T.C. (Oral): Rene Allaire is before me having entered a plea of guilty to a single count of driving while impaired. The offence occurred on April 2, 2010, when the police were responding to a complaint of an intoxicated individual who had gotten into a vehicle. They located the vehicle and observed erratic driving, including crossing over both centre and shoulder lines, not signalling properly, narrowly missing curbs, and, most notably, failing to stop once the police initiated the stop. The emergency equipment was on and it was over a kilometre before Mr. Allaire actually did stop.

[2] Once he did stop, the police observed indicia of impairment, including slurred

speech, balance issues and fine motor coordination problems which were indicative of impairment. A demand was made. Mr. Allaire, it appears, was not cooperative and he refused to provide a sample. It is also notable that he had no valid driver's licence on this particular day.

[3] He has a prior related criminal record with convictions for impaired-related offences in 1988, 1991, 2000, and 2003. Crown is suggesting a sentence of six months with a five-year driving prohibition in this particular case. Defence is asking that I consider a four to five month period with a three-year prohibition.

[4] Mr. Allaire, it appears, is 55 years of age, born in Quebec but has been in the Yukon for the past 20 years. He is a journeyman plumber and carpenter and has been involved, most recently, in bridgework here in the Yukon. His counsel advises that he had not applied for his licence to be returned as he felt he ought not to be driving, but, as a result of some personal stressors, appears to have lost his resolve on this particular day.

[5] I do have significant concerns, Mr. Allaire, about the driving pattern. While I do not have readings, the symptoms that were observed suggest there was a fairly high level of intoxication on this particular date. There was potential for any number of people to be put at significant risk, and you know from your past history that there are consequences when you are driving while impaired, and also that there is real potential danger if you are driving while impaired.

[6] For those reasons, I am satisfied there needs to be a custodial term. I am of the view that six months is an appropriate term, and I am also of the view that a lengthy

driving prohibition is appropriate. So I am going to accept the Crown's submission that five years is appropriate in this case.

[7] Given his soon-to-be custodial status, I will waive the victim fine surcharges.

[8] The remaining count?

[9] MR. GOUAILLIER: There will be a stay of proceedings.

[10] THE COURT: Thank you.

RUDDY C.J.T.C.