

Citation: *R. v. Blake and Charlie*, 2007 YKTC 13

Date: 20070220
Docket: T.C. 06-11064
06-11336
Registry: Whitehorse

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

REGINA

v.

PHILLIP BLAKE AND JOHNNY CHARLIE

Appearances:
Lee Kirkpatrick
Nils Clarke

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] RUDDY T.C.J. (Oral): Johnny Charlie and Phillip Blake are before me in relation to one count of illegally hunting within the Dempster Highway corridor. It appears from the Information that I have received that Mr. Blake was the actual hunter, having shot nine caribou within the corridor. Mr. Charlie is a party to the offence, having assisted Mr. Blake in gutting the animals after they had been killed.

[2] The Crown is suggesting that it is appropriate to deal with those matters by way of relatively low fines, such that the intention is more to educate than to punish. I am advised that the going rate for a caribou is \$300. In terms of the fine, the Crown is

suggesting \$400 for Mr. Blake and somewhat more for Mr. Charlie, which I must say initially struck me as odd if Mr. Charlie was party to the offence as opposed to the actual hunter. I am advised that they are basing that submission on the fact that at the time of these offences Mr. Charlie was a Natural Resources Officer in the NWT and a Conservation Officer in the Yukon Territory, and as a Conservation Officer he had an obligation to see to the animals rather than to assist in processing them.

[3] In considering the submissions before me, and I should point out that Mr. Clarke, as duty counsel, has suggested that perhaps the aggravating factor of Mr. Charlie's status as a Conservation Officer is balanced out by the aggravating factor of Mr. Blake having been the hunter and that the fines should be more consistent with each other.

[4] In considering all of the submissions that I have heard, in my view the appropriate disposition is as follows. There will be a fine in relation to both individuals. I see no difficulty with the \$400 being suggested for Mr. Blake. So there will be fine of \$400 for Mr. Blake. Three months time to pay.

[5] With respect to Mr. Charlie, which is the more problematic submission, I do find that I am concerned with the breach of his duties as a Conservation Officer at the time. I am also mindful of the fact that he was not the hunter. In balancing both of those interests, I think that there needs to be a somewhat larger fine, but perhaps not as large as suggested by the Crown. So for Mr. Charlie there will be a fine of \$500. How much time will he need to pay that? The six months was based on the \$700.

[6] ACCUSED CHARLIE: Three months.

[7] THE COURT: Okay, three months time to pay for that as well.

[8] MR. CLARKE: Are there fine orders in these matters?

[9] THE COURT: Any submissions on the victim fine surcharge?

[10] MS. KIRKPATRICK: No submissions.

[11] MR. CLARKE: How much is it?

[12] MS. KIRKPATRICK: Fifteen percent.

[13] MR. CLARKE: There would not be an application to waive the victim fine surcharge at this time.

[14] THE COURT: The victim fine surcharge with respect to Mr. Blake is \$60, same amount of time to pay. The victim fine surcharge with respect to Mr. Charlie is \$75, three months time to pay.

[15] MR. CLARKE: Thank you.

[16] THE COURT: Thank you.

RUDDY T.C.J.