

Citation: *R. v. Blanchard*, 2008 YKTC 19

Date: 20080229
Docket: T.C. 06-00661
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Judge Ruddy

REGINA

v.

HAROLD TONY BLANCHARD

Appearances:
Melissa Atkinson
Gordon Coffin

Counsel for the Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] RUDDY T.C.J. (Oral): Harold Blanchard is before me in relation to a single count of driving while the concentration of alcohol in his blood exceeded the legal limit. The circumstances arose on the 13th of December 2006, at which point the RCMP were on patrol with respect to a complaint of an intoxicated driver. They located the vehicle, being driven by Mr. Blanchard. They followed it for some 100 metres and observed him swerving back in forth in the lane. They also noticed that he did slow while going through a school zone - it should be noted that it was 4:16 p.m. on a school day - however, he was noted to speed up to 70 kilometres at the end of that, once he had left that school zone.

[2] He was stopped, there was some indicia of impairment noted, sufficient for the police to make an ASD demand. Mr. Blanchard failed the ASD and a breath demand

was given. He provided two samples of 280 and 270 milligrams percent. He comes before the Court with a prior criminal record, which includes some six prior convictions between 1975 and 1989 for alcohol-related driving offences, two driving while disqualified convictions in 1978 and 1990, which are prior related offences for the purposes of greater punishment, and two additional impaireds for which he received curative discharges in 2000.

[3] He has been in custody on remand for some 26 days. The Crown is suggesting that a sentence of 12 months is appropriate, plus a five-year driving prohibition. Defence is suggesting a sentence in the range of eight to 10 months, based on the fact that there are two lengthy gaps in Mr. Blanchard's record between 1990 and 2000, and again between 2000 and 2006, which, it is suggested, are indicative of the fact that he has at times had the ability to control his consumption of alcohol, though it does not appear that he has done particularly well recently.

[4] As Mr. Coffin indicated, following his discharge in 2000, Mr. Blanchard was able to maintain sobriety for some time. It appears he was then the victim of a stabbing incident and began to self-medicate with alcohol such that it again presented a significant problem in his life. He was on a binge at the time this offence occurred. Ironically, it appears that he was driving to get insurance for his vehicle to go down and pick up his daughter in Edmonton, as she was having some difficulties there and was seeking that he come and get her. Clearly, alcohol was having a serious impact on his judgment; that he would consider picking up his child, at a time when he was on a binge is something of concern.

[5] In terms of his personal circumstances, he is 56 years of age, born and raised in the Yukon. Of particular note, he was in residential schools for a period of ten years in different places in the Territory. There is some possible employment for him down the road at the Minto mine. Obviously, this matter needs to be addressed first.

[6] I am mindful of the fact that he has exhibited periods of apparent sobriety in the past, or at least periods where he is not offending. Of concern to me, however, is that this offence dates back to December of 2006. It is being resolved at this point in time as it appears that Mr. Blanchard was at large for some time with a warrant outstanding. When he was picked up on the warrant, he was under the influence and registered some 290 milligrams percent with respect to a breath sample he provided on arrest. So, at least at the time he was arrested, alcohol still clearly presented a significant problem for him. I do not have any information to suggest that he is actively addressing that.

[7] I do, however, take notice of the fact that there are these two significant gaps, and the majority of his impaired driving record is 18 plus years old. For that reason, I am satisfied that the appropriate custodial sentence would be a term of 10 months less the 40 days credit that I give him for the time that he spent in remand. So that would amount to a sentence of 260 days, if my math is correct. If it is not, somebody please let me know.

[8] However, I have serious concerns as it relates to the risk that he presents, because alcohol, as I said, was still clearly a significant issue for him when he was picked up on the outstanding warrant. For that reason, in addition to his history of

driving while under the influence, I am fully satisfied that, from a public safety standpoint, a driving prohibition of five years is entirely appropriate in this particular case and I so make that order.

[9] Any submissions as it relates to the victim fine surcharge?

[10] MR. COFFIN: It will be some time before he will have any income, so I will ask that it be waved.

[11] THE COURT: Any issue?

[12] MS. ATKINSON: No issue.

[13] THE COURT: Okay. The victim fine surcharge is waived. Count 1?

[14] MS. ATKINSON: With respect to the remaining counts, the Crown directs a stay of proceedings.

[15] THE COURT: Okay. That includes the single count Information as well?

[16] MS. ATKINSON: That's correct.

[17] THE COURT: Stay of proceedings will be registered on those.

RUDDY T.C.J.