

Citation: *R. v. Casey*, 2013 YKTC 11

Date: 20130128  
Docket: 11-00768A  
11-00768B  
11-00874  
11-00881  
11-00881A  
12-00488  
12-00489  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**

Before: Her Honour Judge Ruddy

REGINA

v.

DANIEL ROBERT CASEY

Appearances:

Eric Marcoux  
Brook Land-Murphy

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCING**

[1] RUDDY T.C.J. (Oral): Daniel Casey is before me for sentencing with respect to seven counts to which he has entered pleas of guilty. They include two process offences, four break and enters, and one arson.

[2] The first break and enter occurred May 21, 2010. There was a break and enter into the Whitehorse Star where a cash box containing three to four hundred dollars, and a camera worth approximately a thousand dollars were taken. The footprints were ultimately matched to Mr. Casey.

[3] Then on March 23, 2010, there was a break and enter into two separate businesses that are located in the same building. Again, there was a fair amount of damage in terms of broken windows and drywall. The individuals made their way from one business to the other through the wall. There was a cash box that was missing, but, unfortunately, the business was unable to say how much may have been contained in it. There was DNA on an open bottle of beer that was ultimately linked to Mr. Casey. At that time he was on probation with a condition requiring him to keep the peace and be of good behaviour, which he was then in breach of.

[4] On January 3rd, there was a break and enter to the gatehouse at the landfill. The safe was forced open; approximately \$400 cash was taken; then a fire was set, destroying the gatehouse, causing \$50,000 to \$100,000 worth of damage. It is my understanding that Mr. Casey, with respect to that offence, has pled guilty as a party. He admits to having broken the window and then having been involved in the break and enter but he says he did not start the fire. He, however, admits that he is responsible as a party to the offence of arson.

[5] On January 16th, there were two additional break and enters, again, two businesses located in the same building, one being Jacobs Industries, in which a safe had been moved, the keypad destroyed, although entry into the safe was not achieved. They also found one of their trucks backed through a closed garage door. The truck was located sometime later. Also a consignment store located next door lost some \$3,000 in gold jewellery. There was damage and missing liquor as well.

[6] Mr. Casey comes before the Court with a lengthy criminal record with numerous

process and property related offences dating back to 2002. I have before me a summary of his performance in Wellness Court, along with a couple of additional reports with respect to his involvement in substance abuse management programs. There is also a psychological assessment that has been completed. It is not my intention to go through those in detail.

[7] Mr. Casey has been before the Court a number of times. He has an extremely disturbing background that involves a fair amount of neglect, abandonment, abuse, and exposure to substance abuse. He himself began using both drugs and alcohol at a very early age. He has struggled with addiction ever since, and that addiction has brought him continually into conflict with the law.

[8] He has entered into our Community Wellness Court process for the second time. My impression was that he initially appeared to do well. He struggled with maintaining his sobriety, which ultimately resulted in him going AWOL a couple of times, including leaving the Territory, where he was ultimately arrested and has been in custody since that time. There is an indication before me that he is interested in going into the federal system in the hopes that he can access some programming that might be more beneficial to him than what he has been able to access in custody in the past. As I indicated, it is my hope that he is able to find what he needs in that system, so that when he transitions back out to the community he can do so in a way that might keep him out of trouble with the law, and might allow him to become the role model that I believe he is capable of being for his child, who is four. It is my hope that now is the time that you start making those changes, Mr. Casey. I know if your mother could do it, you certainly can.

[9] There is a joint submission before me. Mr. Casey has spent periods of time in remand over the last several months. That has been factored into the joint submission, so I am not going to assign any particular credit to it other than to say that counsel have obviously considered it, as have I. I also think the sentence that is being proposed does reflect his performance in Wellness Court as well, as it could be, with his history, considerably higher than what is being suggested before me today. So I think it accurately reflects performance in Wellness Court, his own interests in accessing programming in the federal facility, the fact that he struggles on probation - so it is probably not very helpful for us to put him on further probation at this point in time - and I also think it fairly considers his First Nation status and his very difficult and traumatic upbringing.

[10] All that being said, I would adopt the joint submission. So the sentences are going to be as follows. With respect to the s. 348(1)(b) on March 21st, eight months. With respect to the s. 348(1)(b) on March 23rd, eight months concurrent. With respect to the s. 733.1, 30 days concurrent. With respect to the s. 434, 17 months consecutive. With respect to the two break and enters on January 16, 2012, each will have sentences of 17 months but they will be served concurrently to everything else. Then a 30 day concurrent sentence on the fail to appear.

[11] So, Mr. Casey, one of the main things I think that has been factored into this joint submission, in considering how to address some of the issues that I have talked about, your performance in Wellness Court, your First Nation status, those types of things, is the fact that so many of these sentences are to be served concurrently, because I could conceivably made them all consecutive, in which case you would be spending

significantly longer in the federal facility than I think you want. I also do not think we have reached the point yet where we give up on you, because you have a lot of potential and I think once you get to that moment where you know you are ready to start making changes, then I have every confidence that we are not going to see you back. I am hoping this is the time.

[12] I am going to ask that the warrant of committal be endorsed with a recommendation that Mr. Casey be given access to the National Substance Abuse Program High Intensity, and to the Aboriginal Offender Substance Abuse Program while he is within the federal correctional system, along with any other programming that might be of benefit to him. I would certainly urge you, Mr. Casey, to take advantage of everything they will offer you.

[13] I will waive the victim fine surcharges given your custodial status. The remaining counts?

[14] MR. MARCOUX: Stay of proceedings.

[15] THE COURT: All right, thank you.

[16] MR. MARCOUX: Before we're finished, I think there is one mandatory order that has to be made; it's the firearms one.

[17] THE COURT: Firearms under the s. 434?

[18] MR. MARCOUX: No, under the 348.

[19] THE COURT: All right. Do we have to issue a mandatory DNA

order under anything?

[20] MR. MARCOUX: It's not mandatory but I would ask to do it, given the –

[21] MS. LAND-MURPHY: DNA is already in the –

[22] THE COURT: It is already in the databank, that is pretty obvious from the record. I think if we have some certainty it is in the databank I do not need to make the order, and at least three of the offences came to light because of, I am assuming, a DNA databank match.

[23] MS. LAND-MURPHY: Yes.

[24] THE COURT: But I will make the firearms prohibition order in relation to the break and enters. Does he have any previous firearms prohibition orders?

[25] MR. MARCOUX: Not that I'm aware of but the Crown is seeking a ten-year minimum.

[26] THE COURT: All right. So that will be for a period of ten years.  
Okay, good luck.

---

RUDDY T.C.J.