

Citation: *R. v. Gallan*, 2011 YKTC 79

Date: 20111125  
Docket: 09-00367E  
11-00544  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**

Before: Her Honour Judge Ruddy

REGINA

v.

CHRISTIAN JAMES GALLAN

Appearances:  
Susan Bogle  
Christian Gallan

Counsel for the Crown  
Appearing on his own behalf

**REASONS FOR SENTENCING**

[1] RUDDY T.C.J. (Oral): Christian Gallan is before me for sentencing with respect to one count of having committed an indecent act and three counts of breaching the terms of his probation order. The substantive offence occurred November 5th, at which time, Mr. Gallan, who was apparently in an extremely intoxicated state, was noted to be masturbating in the lobby of the Gold Rush Inn, in view of two women to whom he was smiling and waving.

[2] At the time he was on probation requiring him to abstain from the possession or consumption of alcohol and to keep the peace and be of good behaviour. As noted, he was intoxicated on this night. In addition, as a result of the substantive offence, he was in breach of keeping the peace as well.

[3] There is an additional count before me for breaching his probation order, which includes him failing to report as required. There appear to have been some initial efforts at reporting and then he seems to have disappeared.

[4] He comes before the Court with a prior criminal record. It is a lengthy record, with numerous offences, including a number of offences for failing to comply with orders. It does not appear that he was doing particularly well on the probation order that he was on. There was some indication that treatment had been offered to him that he had refused to take, although he advises me that his reasons for doing so related not to the treatment that was offered but to the other individuals that were in the group program.

[5] Crown has provided cases, both of which have sentences of six months for similar offences, both of which seem to be somewhat more serious in terms of the nature of the offences and the related history, which is not to say that in this particular case there is not a concerning history. In particular, the probation order that Mr. Gallan was on related to a sexual assault committed in 2009, for which it appears he received a 21-month sentence and a two-year probationary term. Crown is suggesting a sentence that would amount effectively to somewhere between five and seven months.

[6] Mr. Gallan has indicated, in terms of his future plans, while he has not worked in some time, upon his release, his plan would be to see if he can find work.

[7] In all of the circumstances, considering the principles of sentencing, in particular, the ones that I feel are appropriate in this case, and most important, which are denunciation, deterrence and protection of the public, I am satisfied, Mr. Gallan, that the

appropriate sentences are as follows: With respect to the offence for failing to report, there is going to be a sentence of one day deemed served by your attendance in court today, and I am going to credit you for the 21 days spent in pre-trial custody. That leaves me with the offences of November 5th. With respect to the s. 173, there is going to be a sentence of four months. With respect to the two breaches, the sentence for the keep the peace breach will be 30 days, but it will be served concurrently. The sentence for failing to abstain will be 30 days consecutive, which gives you an additional five months in custody.

[8] Any questions? No. I will waive the victim fine surcharge, given the fact that you are in custody. I believe we have covered all of the charges, is that right?

[9] MS. BOGLE: Yes, that's correct.

[10] THE COURT: So that is it for today, Mr. Gallan, but for serving your sentence.

[11] There was a question about probation to follow. I would simply note that Mr. Gallan is already on a probation order that is going to extend for the next year. So it does not make sense, in my view, to duplicate that, so I am not going to add probation to the end.

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RUDDY T.C.J.