

Citation: *R. v. Gattie, Levesque and Power*, 2008 YKTC 69

Date: 20080930

Docket: 07-11023

07-11024

07-11048

Registry: Dawson City

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Chief Judge Ruddy

R e g i n a

v.

James Daniel Gattie, Andie Levesque and Seamus Casey Power

Appearances:

Eric Marcoux

Emily Hill

Emily Hill (acting for David Christie)

Nils Clarke

Counsel for Crown

Counsel for Defence for J. Gattie

Counsel for Defence for A. Levesque

Counsel for Defence for S. Power

REASONS FOR SENTENCES

A. Introduction:

[1] On August 6, 2008, a sentencing hearing was conducted with respect to three adults, Andie Levesque, James Gattie and Seamus Power, and one youth, B.L., jointly charged with criminal negligence causing bodily harm contrary to section 221 of the *Criminal Code*. The charge relates to an explosion in Dawson City caused by the actions of the accused on July 14th, 2007.

[2] The hearing took the better part of a day to complete, covering a large volume of information, and required more than ordinary care to organize and articulate reasons for sentence. However, the outcome of the sentencing is of significant interest to the community of Dawson City, to the victims and their

families, and to the accused and their families. To avoid adjourning sentence to the next sitting of the Dawson City circuit, I sentenced each of the accused and advised that written reasons for sentence would follow. These are my reasons for sentence with respect to Mr. Levesque, Mr. Gattie and Mr. Power. As B.L. is a youth and subject to the jurisdiction of the Youth Court, my reasons for sentence with respect to him are included in a separate document.

B. Facts:

[3] The circumstances leading to the explosion began sometime prior to the actual offence date, when Mr. Levesque assisted his father in moving some mining equipment being stored on their family property. Included with the equipment was a quantity of gunpowder. Without his father's knowledge, Mr. Levesque helped himself to some of that gunpowder.

[4] Subsequently, on July 14th, the four accused attended an outdoor party at the Shipwrecks together with a number of other individuals. Mr. Levesque brought with him the gunpowder he had obtained. Several individuals, including the four accused, began placing small amounts of the gunpowder in tinfoil, and then throwing them on the bonfire, as makeshift firecrackers.

[5] The four accused then jointly decided to construct a "cannon" using a four to seven foot long piece of old metal pipe, with a view to attempting to shoot a rock across the Yukon River. Together they filled the pipe with gunpowder and the rock, then placed the end of the pipe in the fire, using a bicycle to prop the pipe up on a 45 degree angle.

[6] Both Mr. Gattie and Mr. Levesque indicate that they advised people to stand back; however, this warning was either not heard or not heeded by the others present.

[7] It appears nothing happened for some time after the pipe was placed in the fire. Mr. Power and B.L. approached the fire. Mr. Power then poked the pipe with a stick. The pipe exploded sending shrapnel everywhere, causing serious injury to Mr. Power, B.L. and to Lisa Perry, a young woman in attendance at the party, who is also B.L.'s cousin.

[8] Several witnesses offer disturbing accounts of the events and injuries, including noting a "chunk missing from B.L.'s leg" and "a hole in Ms. Perry's hand". Fortunately, a number of individuals from the nearby campground came running to the scene upon hearing the explosion. These included Dr. Alton, who was able to provide emergency medical intervention to the injured parties.

[9] Ultimately, it was determined that Mr. Power had suffered two broken bones in his left leg; the injury to B.L.'s leg has resulted in two surgeries with ongoing care required; and a piece of shrapnel lodged itself in Ms. Perry's hand requiring surgery to repair the nerve damage. Her injury required 36 stitches, and, while her hand is partially recovered, she has some ongoing loss of sensation and it is unknown whether she will regain it in the future.

[10] Both Mr. Gattie and Mr. Levesque provided warned statements fully admitting their involvement in the offence. Each advised they were under the influence of alcohol and/or drugs, but both were clear, through the submissions of their counsel, that their foolish act is not one which they blame on intoxication.

[11] In addition to the substantive offence, Mr. Gattie has entered guilty pleas for two counts of breaching the abstain condition of his undertaking. On October 13, 2007, he was observed by an RCMP member in an altercation with another individual. When he was arrested for causing a disturbance, the officer noted a smell of alcohol and Mr. Gattie provided a breath sample which registered 138 milligrams percent. On July 26, 2008, Mr. Gattie was observed drinking beer in

the Midnight Sun bar. He was given a warning and told to leave, but was later found still in the bar with a pitcher of beer in his possession.

C. Background Circumstances of the Accused:

Andie Levesque:

[12] I have had the benefit of a detailed pre-sentence report with respect to Mr. Levesque's background and circumstances. This is Mr. Levesque's first encounter with the criminal justice system. At 25 years of age, he is a lifelong Yukon resident who enjoys a good relationship with both his mother, Marie (Collette) Levesque, and his adoptive father Emile (Red) Levesque.

[13] Mr. Levesque struggled in school, repeating grade two and ultimately dropping out in grade 11. To his credit, he enrolled in Yukon College at the age of 17, subsequent to dropping out, and participated in the "Youth Employment and Training Program". He then became the youngest participant in KIAC's "Arts for Employment Program".

[14] More recently, he returned to Yukon College for upgrading with a view to obtaining his GED. On his first attempt, he passed all courses with the exception of English. He returned to Yukon College in December 2007 to work towards a re-write of the English exam in April. Unfortunately, his extreme difficulties with spelling proved to be his downfall, and he was again unsuccessful. However, he intends to persevere so that he may pursue his ultimate goal of becoming a land surveyor.

[15] In the meantime, Mr. Levesque has held a number of employment opportunities, both in mining with his father and working for a number of local hotels. He is currently employed as a dishwasher at the Downtown Hotel. A letter from Mr. Levesque's employer, filed as exhibit 9, attests to his diligent efforts at work and describes him as the best dishwasher/prep person they have hired.

[16] Both alcohol and drug use are something of a concern with Mr. Levesque. While he does not blame his actions on intoxication, he nonetheless was under the influence of both alcohol and marijuana at the time of the incident. In addition, the pre-sentence report indicates a pattern of significant usage up to and including the offence, and difficulties with abstaining since the offence.

James Gattie:

[17] Mr. Gattie's background and circumstances are also outlined in a thorough pre-sentence report. At 23 years of age, he comes before the court with a prior conviction for impaired driving. He has also previously been discharged with respect to a break and enter offence.

[18] His early environment was characterized by conflictual relationships, exposure to substance abuse, and financial struggles. More recently he has been able to establish stable relationships with his parents and step-father.

[19] His educational history includes his being expelled from high school, but to his credit he enrolled in the Riverfront school in Whitehorse as the only student not court-ordered to be there and completed his high school education. In the fall of 2007, he attended and completed Yukon College's "Carpentry Pre-employment Program". This has evolved into plans to pursue carpentry as a career.

[20] His employment history includes a number of short term positions doing labour or cashier work. Upon completion of the carpentry program, he secured employment with a construction company, but ultimately had to leave as a result of a broken finger. He is currently employed doing maintenance at the Bunkhouse. He also arranged for a mentally challenged friend to secure similar employment and has acted as a mentor to him.

[21] Alcohol figures prominently as a concern for Mr. Gattie, as is evident in his two abstention breaches. He was drinking heavily around the time of the offence and has clearly struggled with maintaining sobriety since the offence. He has participated in some counseling sessions with ADS since the offence and has relied on assistance from his parents who are heavily involved in AA. His consumption has decreased, but he notes a difficulty with abstaining if attending a bar with friends. Accordingly, he asks that any abstain condition also be accompanied by a condition that he not attend licensed establishments to assist him in maintaining sobriety.

Seamus Power:

[22] Although ordered, there is no pre-sentence report with respect to Mr. Power. His report was to have been done by a probation officer in Whitehorse; however, his counsel indicates there was some confusion on Mr. Power's part as to what was required of him in contacting the Whitehorse office and the report was not completed. His counsel was able to provide some basic information regarding Mr. Power's background and circumstances.

[23] Mr. Power is 23 years old. He resides with his mother and works doing painting and construction. He is also involved in a pre-apprenticeship program at Yukon College.

[24] It appears that Mr. Power is a strong athlete who has competed internationally. He has also used his athletic skills in coaching minor soccer and hockey, working on the ski hill, organizing two rock-climbing groups, and assisting to organize the Canadian road hockey tournament.

[25] There was little information provided with respect to the role alcohol and drugs play in Mr. Power's life. However, I would note that Mr. Power has a prior criminal record for impaired driving in 2006. In addition, he has no recollection of this offence due to his extreme level of alcohol consumption, which was

confirmed by the police who spoke to Mr. Power at the health centre after the explosion, and found him to be highly intoxicated and laughing. I would also note that Mr. Power was quite vocal in his objection to conditions requiring him to abstain and prohibiting him from attending licensed premises when I passed sentence. These factors together suggest potential concern about Mr. Power's use of substances.

[26] It should also be noted that, unlike Mr. Levesque and Mr. Gattie, Mr. Power has not been subject to any conditions since the offence date.

D. Victim and Community Impact:

[27] This incident has had a profound impact on the community of Dawson City as a whole. In response, the Dawson Community Group Conferencing Society ("DCGCS") organized a Victim/Offender Resolution Conference with a view to providing recommendations on sentencing. The Conference took place on June 8, 2008 with 22 participants, including all four accused, Ms. Perry, members of their respective families, and others. At the conclusion, the participants agreed to make the following recommendations to the Court:

[28] That each accused:

1. Complete personalized letters of apology to the City of Dawson Nursing Station, the Ambulance crew, Dr. Susan Alton, the parents of the four accused, RCMP members in Dawson City, and Lisa Perry within six weeks;
2. Complete 80 hours of community work service to be determined by DCGCS, which may include cleaning up around Dawson City, education on explosives, or providing a presentation to youth on the dangers of explosives within six months;
3. Attend for an alcohol assessment as directed by the court;
4. Donate \$100 to the Yukon Foundation for the Matthew Webster Memorial Trade Scholarship within six weeks. (Mr. Webster was a

peer and a friend of the four accused who was tragically killed in a recent traffic accident in Vancouver).

[29] In addition to attending the Resolution Conference, many of the participants attended the sentencing hearing to provide further input. This included Lisa Perry, who provided both to the participants at the Resolution Conference and to the Court a five page document which eloquently describes the traumatic impact of the explosion and the pain and struggle of dealing with her injuries. Notwithstanding all that she has gone through, she has demonstrated a generosity of spirit well beyond her years in extending forgiveness to the very individuals responsible. In her own words:

There are times when I wonder what my cousin and his friends were thinking, and that gets frustrating. I was angry at what they did, that is understandable, forgive but never forget, I guess. It is easy for me to say this because I know these people; I know that they weren't thinking. That's the thing that hit so close to home for them: the fact that this accident escalated into something it wasn't. It was after all, just an accident. Legally I can't sit at the dinner table with my cousin at Christmas. He was charged with "intention to cause bodily harm to..." himself, B.L., and myself? I know he didn't intend for all this to happen. That night in July was definitely unfortunate, but it wasn't a total tragedy. A lot of the people were changed by it, and I know it has all been for the better.

[30] These sentiments were echoed by Ms. Perry's parents in their letter to the residents of Dawson City, which was published in the Klondike Sun on August 1, 2007:

We, as the parents of the only innocent person physically injured in this unfortunate event want it known that we in no way have any bad feelings nor do we intend to lay any charges against the boys involved in this tragedy. In our opinion laying charges will only make a bad situation worse.

These boys would never intentionally hurt anyone and will be paying for their actions emotionally for the rest of their lives. Is there any one among us that has not done things in their youth which may have caused harm, or

know someone who has done things that could have had the same, if not worse outcome than this event? ...

It is our hope that we as a community can get past this terrible occurrence and get on with our lives and as well as letting these boys (also part of this community) get on with theirs.

[31] It is clear that those most affected by the incident hold no grudge against the young men responsible.

**E. Post-offence Conduct and Response to Community Recommendations:
Andie Levesque:**

[32] I accept that Mr. Levesque did not in any way intend the devastating consequences to his co-accused and to Ms. Perry. His remorse is clearly evident in his comments to Ms. McBride, the author of the pre-sentence report; in his comments to the Court; in his letters of apology; and in his struggles with depression since the event, as described by his mother.

[33] It is also evident in his commendable response to the expectations of the community. While Mr. Levesque bears somewhat greater responsibility for the events, as the individual who provided the gunpowder, he has, by far, been the most diligent and sincere in his response to the community's recommendations.

[34] All of his apology letters were completed on time and involved some thought and effort. His donation was similarly received on time.

[35] Most notable, however, is his response to the community work service. For example, on July 21st, Mr. Levesque was the only one of the four individuals who showed up to work at the Music Fest dike clean-up; he completed the work of all four individuals; and he sought to do more work than what was expected of him. Similarly, on June 26th, Mr. Levesque is noted as having "worked really well and hard, filled more buckets than everyone, told other boys to shut up and do their jobs. He also helped the boys fill their quota" (Exhibit 6, page 4).

[36] Mr. Levesque also appears to have learned from the incident, as can be seen in the incident cited by his counsel in which Mr. Levesque intervened to stop some kids who were intent upon using spray cans inappropriately in the community.

[37] Mr. Levesque's actions demonstrate that he is sincere in his wish "to try and make this right...well as right as you can get it" (Pre-sentence report page 5).

James Gattie:

[38] Mr. Gattie expressed his remorse in his apology to the court and the community, indicating that it was not their intention to hurt anyone. Indeed, he stated that he wished it had been him that was hurt rather than the others. He also noted the stress of no contact conditions which prevented him from satisfying himself that his friends were going to be okay.

[39] Mr. Gattie's mother observed his remorse and his despondency, noting that Mr. Gattie and Mr. Levesque, as the two uninjured accused and those first charged, bore the brunt of the blame from the beginning. She described her son as honest, compassionate, caring, and still trying to come to terms with what happened.

[40] Mr. Gattie has responded relatively well to the community recommendations. His letters of apology were reasonably thoughtful and met the deadline as did his donation. With respect to his community hours, he has completed more hours than Mr. Levesque, but there have been some issues with respect to his attendance and his attitude. He failed to attend for scheduled work on a couple of occasions; and one agency for whom he did work described him as being "rude, worked well but did not pay attention to how well the buckets were filled" (Exhibit 4, page 6). He is, however, described by Ms. Gaudet of

DCGCS as being “usually quite good at checking in and getting the other individuals involved in partaking in the community hrs” (Exhibit 4, page 1).

Seamus Power:

[41] Mr. Power echoed the comments of his co-accused by apologizing, noting the stupidity of their actions, and indicating they would not try to hurt people.

[42] His response to the community recommendations, however, can hardly be described as diligent. He has written only five of his 10 apology letters, and those he has written are more properly described as thank-you letters rather than apologies. To his credit, however, he did write an additional, unsolicited thank-you letter to Ms. Gaudet for her assistance. Similarly, he has paid only half of the required donation.

[43] With respect to the community hours, Mr. Power has a number of no-shows which he attributes to surgery required in July, though I would note, he appears not to have thought to extend the courtesy of letting people know he would not be available. He also appears to have a tendency to arrive late for scheduled jobs, but, nonetheless, he appears to be relatively on track for completing the required hours.

F. Position of Parties:

[44] The Crown takes the position that the recommendations of the community are insufficient to meet the principles of sentencing. In the alternative, the Crown submits that jail could meet the principles of sentencing, but concedes that on the circumstances of these accused a straight jail term may be excessive.

Accordingly, the Crown argues that a conditional sentence of six to 12 months would be appropriate for each of the three adult accused.

[45] Ms. Hill, counsel for Mr. Levesque and Mr. Gattie, argues for a conditional discharge for Mr. Levesque and a suspended sentence with probation for Mr.

Gattie. Similarly, Mr. Clarke, counsel for Mr. Power, puts forward a range of a conditional discharge to a suspended sentence as appropriate for Mr. Power.

[46] It was and is my determination that the principles of sentencing in this case are best met by suspending the passing of sentence and placing each of these young men on a term of probation, with conditions addressing rehabilitation and incorporating the community recommendations.

G. Applicable Principles of Sentencing:

[47] In reaching this determination, I have considered the principles of sentencing outlined in sections 718 to 718.2, reaching the following conclusions with respect to those conditions relevant on the facts of this case:

Deterrence, Denunciation and Proportionality:

[48] The Crown filed two cases (*R. v. Warawa*, [1998] Y.J. No. 110 and *R. v. Hummel*, 2002 YKTC 73, intended to demonstrate the serious nature of this type of offence and the need for a proportionate sentence which addresses deterrence and denunciation. However, I would note that both cases involved situations in which the accused acted out of anger, without regard to the potential for harm to others.

[49] In the case before me, while I fully accept that the offence, as charged, and its tragic consequences, can only be described as serious, the accused were not in any way acting out of anger. Instead this offence falls more in the realm of youthful stupidity and thoughtlessness. As so aptly noted by the Perry's: who among us has not been involved in an ill-conceived youthful exploit with the potential for tragic consequences? The difference is that most of us are fortunate not to have that potential for tragedy realized in a way that we and others affected must pay for our youthful stupidity for the rest of our lives.

[50] In addition, it is important to note that this offence occurred very visibly in a small, tight-knit community, with the accuseds suffering a significant amount of public scrutiny, condemnation and notoriety as a result of both the actual facts and numerous factually incorrect rumours.

[51] Based on all of the information before me, I am satisfied that the combination of the tragic consequences to themselves and others, the public notoriety, the laying of criminal charges, the resulting criminal records, and the accountability to the community operate to address the need for denunciation and deterrence, both general and specific, such that neither a jail term nor a conditional sentence is necessary to achieve these objectives. A probationary term is, in my estimation, proportionate to the unique circumstances of this case.

Rehabilitation:

[52] While at least Mr. Levesque and Mr. Gattie do not blame their behaviour on their state of intoxication, the information clearly suggests that each of these young men have issues with respect to drugs and alcohol which must be addressed. They are not at the level where they represent an unacceptable risk to the community, but there is certainly the need for further assessment and likely programming. This need, in turn, can be addressed through the abstention and programming conditions included in the probation orders for each.

Reparations and Promoting a Sense of Responsibility:

[53] In my view, the dominant sentencing principles with respect to this disposition are to provide reparations for harm done and to promote a sense of responsibility in the offenders and an acknowledgement of harm done. Having accepted that this offence was a result of youthful stupidity and having noted the profound impact of the offence on the victims and the community, the focus must be on how these offenders assume responsibility for their actions and repay the community to repair the damage they have caused, insofar as that is possible.

[54] With such a focus, the community must have considerable input into how best to achieve this end. Through the DCGCS, the community has put considerable effort into crafting recommendations for an appropriate disposition in this case, and those recommendations must be respected.

[55] As is no doubt clear from these reasons and the ultimate disposition, I have given considerable weight to the community recommendations and have done my best to incorporate the spirit of those recommendations into the disposition.

[56] The community and the DCGCS deserve considerable thanks for their efforts in this case.

Similar Sentences for Similar Offenders:

[57] The aggravating and mitigating factors outlined in this decision differ somewhat from one offender to the next. I am, nonetheless, satisfied that all three offenders should receive the same sentence. I have reached this conclusion for two reasons.

[58] Firstly, I am mindful of section 718.2(b), requiring that similar sentences be imposed on similar offenders for similar offences committed in similar circumstances.

[59] Secondly, I am satisfied that when one weighs the various mitigating and aggravating factors for each offender, the net result is even. For example, while Mr. Levesque has clearly performed the best in his response to the community recommendations, he bears greater responsibility for instigating the offence by providing the gunpowder. While Mr. Power's performance in response to the community recommendations has been somewhat lackluster, he suffered significant injuries which will have an ongoing impact on his life. While Mr. Gattie

and Mr. Levesque did not suffer injuries, they were, unlike Mr. Power, subject to strict conditions for a considerable period of time.

[60] Once all factors are weighed, there is little to justify treating the three individuals differently.

H. Conditional Discharge:

[61] As I was asked to consider imposing a conditional discharge for Mr. Levesque and Mr. Power, it is necessary that I explain my reasons for not doing so.

[62] There are two pre-conditions to a discharge. The judge must be satisfied that a discharge is in the best interests of the offender and that a discharge would not be contrary to the public interest.

[63] The first pre-condition presupposes that an offender is of good character, normally without a prior criminal record; that the registering of a conviction is not necessary for the purposes of specific deterrence; and that a conviction may have significant adverse repercussions on the offender.

[64] With respect to Mr. Power, I am not satisfied that this pre-condition is met. I note that he does have a prior criminal record. In addition, given his lackluster performance in response to the community recommendations, I am not satisfied that a conviction is unnecessary for the purposes of specific deterrence. Finally, I was advised only that Mr. Power has traveled internationally for athletic events in the past. There was no clear information as to whether such travel is anticipated for the future and how Mr. Power would be adversely affected such that it would counter my other concerns with respect to this pre-condition.

[65] With respect to Mr. Levesque, I am satisfied he is of good character and that a conviction is not required for the purposes of specific deterrence. With

respect to the adverse impact of a conviction; however, again I was not provided with any concrete specifics only that it may adversely affect his future travel and educational opportunities whatever they may be. Nonetheless, I am satisfied that Mr. Levesque is of sufficiently good character, as demonstrated by his strong performance on the community recommendations, that, on balance, I would conclude that the first pre-condition to a discharge is met.

[66] My determination that a discharge would not be appropriate even for Mr. Levesque was based on an analysis of the second pre-condition that a discharge not be contrary to the public interest. One element of the public interest is the need to ensure that others are deterred by the sentence imposed. In this case, I have accepted that the circumstances of this offence are less serious than what is normally seen for offences of criminal negligence causing bodily harm; however, given the disastrous consequences of the actions of these young men, it is necessary to impose a sentence to send a clear message to others that there are serious repercussions for youthful exploits where one does not stop to consider obvious potential dangers. I am satisfied that the registering of a conviction is sufficient to meet those ends where a discharge would not.

[67] This is particularly true in the case of Mr. Levesque. He alone cannot be said to have reacted on impulse to an existing situation. Instead, he largely created the situation which the others then became involved in by stealing the gunpowder and bringing it to the party. This set the stage for the disastrous events of July 14th. I have concluded that a discharge in such circumstances would be contrary to the public interest.

I. Appropriate Disposition:

[68] Having considered the principles of sentencing in the context of this case, I am satisfied that a suspended sentence and probation with terms addressing the issue of rehabilitation and incorporating the recommendations of the community is the disposition which best meets the applicable sentencing

principles. To avoid the need to reiterate the conditions in these reasons, the probation orders are attached hereto as Appendix A. Each of the offenders was ordered to pay a Victim Fine Surcharge in the amount of \$100.

J. Firearms prohibition

[69] The one issue left outstanding was the issue of whether the section 109 mandatory firearms prohibition applies. The Crown takes the position that the prohibition is mandatory; however, the Crown also filed the decision of His Honour Judge Lilles in *R. v. Hummel* which raises a question about the applicability of the mandatory firearms prohibition to a criminal negligence charge.

[70] In the *Hummel* case, the offender, in anger, threw a clawhammer in the direction of the victim, without the intention of striking her, but reckless as to her safety. At issue was whether these facts amounted to an offence “in the commission of which violence against a person was used, threatened or attempted” as required by section 109. In addressing this issue, Lilles J. noted that section 109 “should be interpreted in such a way as to meet the objectives and purpose of Parliament in drafting this section. As mentioned earlier, Parliament intended these sections to be preventative and to enhance public safety” (para. 11). He went on to state the words “use”, “violence”, and “violent” do not of themselves suggest that intention to inflict harm is required. “Violence against a person” denotes the result of an action, not the intent accompanying the act which resulted in harm to the person” (para 11).

[71] Adopting this approach, I am satisfied that section 109 applies on the facts of this case. Notwithstanding the absence of intent to harm, the actions of the accused clearly resulted in harm which can be described as “violence against a person”. Having concluded that the mandatory firearms prohibition provisions apply, Mr. Levesque, Mr. Gattie, and Mr. Power are each hereby prohibited from

possessing any firearm, ammunition or explosive substance for a period of 10 years.

K. Mr. Gattie's Breaches:

[72] The sentences imposed with respect to Mr. Gattie's two breaches of the abstention term of his release conditions were a fine of \$300.00 on the first breach in time, and a sentence of one day deemed served on the second.

[73] The circumstances of both breaches were somewhat aggravated with Mr. Gattie's involvement in a fight in connection with the first breach and his refusal to leave the bar following a warning on the second breach. Such offences would normally result in sentences of 30 days in jail. I determined that jail sentences were not necessary in this case for the following reasons: Mr. Gattie has no prior related record; he was subject to strict conditions for a considerable period of time, which, in turn, had a significantly negative impact on him as illustrated in the pre-sentence report and as attested to by his mother; and it would be counterproductive, in my view, to remove Mr. Gattie from the community to serve a jail sentence, thus jeopardizing both his employment and his rehabilitation.

[74] The dominant sentencing principle of deterrence, both specific and general, is adequately met by the sentences as imposed.

Ruddy C.J.T.C

09/29/2008 08:43 FAX 867 993 5311

DAWSON COURT REGISTRY

→ JUDGES CHAMBERS 004

Canada
YUKON TERRITORY
TERRITOIRE DU YUKON

PROBATION ORDER
(SUSPENDED SENTENCE)
ORDONNANCE DE PROBATION
(CONDAMNATION AVEC SURSIS)
Form/Formule 46
(Sections/article 732.1)
Criminal Code/Code criminel

2007-802390
ORIGINATOR'S FILE
07-11023
COURT FILE
01Mar1985
BIRTHDATE

DRIVERS LICENCE

WHEREAS on the 6th day of August 2008, before Her Honour Chief Judge Ruddy in Territorial Court, at Dawson City in the Yukon Territory, **James Daniel GATTIE**, hereinafter called the offender, pleaded guilty and was convicted on the charge that:

ATTENDU QUE le jour de , devant de la Cour à , dans le territoire du Yukon, ci-après appelé/e le ou la délinquant/e, et a été condamné/e après avoir été inculpé/e de :

COUNT #2 On or about the 14th day of July, 2007, at or near Dawson City, Yukon Territory, did unlawfully commit an offence in that : he did by criminal negligence, to wit : cause an explosion, cause bodily harm to Lisa PERRY, contrary to Section 221 of the Criminal Code.

AND WHEREAS on the 6th day of August 2008, the court adjudged that the passing of sentence on the offender be suspended and that the said offender be released on the conditions hereinafter prescribed:

ET ATTENDU QUE le jour de , le tribunal a ordonné que le prononcé de la sentence contre le ou la délinquant/e soit suspendu et que ledit ou ladite délinquant/e soit relâché/e aux conditions suivantes :

NOW THEREFORE, the said offender shall, for the period of TWELVE (12) MONTHS from the date of this order comply with the following conditions, namely:

A CES CAUSES, ledit ou ladite délinquant/e doit, pour une période de à compter de la date de la présente ordonnance, se conformer aux conditions suivantes :

- (a) keep the peace and be of good behaviour,
(b) appear before the court when required to do so by the court,
(c) notify Probation Officer in advance of any change of name or address, and promptly notify the Probation Officer of any change of employment or occupation, and in addition,
- (d) Report to a probation officer within Two Working days and thereafter, when and in the manner directed by the Probation Officer.
- (e) Abstain absolutely from the possession or consumption of alcohol and controlled drugs or substances except in accordance with a prescription given to you by a qualified medical practitioner.
- (f) Not attend any bar, tavern, off-sales, including Gertie's or other commercial premises whose primary purpose is the sale of alcohol.
- (g) Take such alcohol and drug assessment, counselling or programming as directed by your Probation Officer.
- (h) Perform EIGHTY(80) hours of community service as directed by your Probation Officer or such other person as your Probation Officer may designate. This community service is to be completed within FOUR (4) MONTHS. The Probation Officer may apply hours already completed against your total.
- (i) Take such other assessment, counseling and programming as directed by your Probation Officer.
- (j) Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts.
- (k) Participate in at least ONE (1) presentation at Robert Service School as directed by your Probation Officer.
- (l) Pay to Dawson City Group Conferencing Committee ONE HUNDRED DOLLARS (\$100.00) in trust for the Matthew Webster Memorial Foundation.
- (m) Provide your Probation Officer with consents to release information with regard to your participation in any programming, counselling, employment or educational activities that you have been directed to do pursuant to this Probation Order.
- (n) Attend for a review of this Probation Order on October 7, 2008, at 2 :00 PM in Dawson City, Yukon Territory.

DATED this 6th day of August 2008, at Dawson City in the Yukon Territory.

FAIT le jour de , à , dans le territoire du Yukon.

Clerk of the Court

Greffier de la Cour

I, **James Daniel GATTIE**, of Dawson City in the Yukon Territory, the within name offender have read, or have had read to me, the probation order and acknowledge receipt of a copy. I have been given an explanation of section 732.2(3) and (5) and 733.1 of the Criminal Code and of the procedure for applying under subsection 732.2(3) for a change to the optional conditions.

Je, de , dans le territoire du Yukon délinquant ici nommé, ai lu, ou on m'a lu, l'ordonnance de probation et j'accuse réception d'une copie. J'ai reçu une explication des paragraphes 732.2(3) et (5) et de l'article 733.1 du Code Criminel; j'ai également reçu une explication des modalités de présentation de la demande de modification des conditions facultatives prévue au paragraphe 732.2(3) ainsi que des procédures à suivre pour soumettre une demande afin de modifier les conditions facultatives.

OFFENDER/DÉLINQUANT/E



PROBATION ORDER
(SUSPENDED SENTENCE)
ORDONNANCE DE PROBATION
(CONDAMNATION AVEC SURSIS)
Form/Formule 46
(Sections/article 732.1)
Criminal Code/Code criminel

2007-802390
ORIGINATOR'S FILE
07-11024
COURT FILE
14Jun1985
BIRTHDATE

DRIVERS LICENCE

WHEREAS on the 6th day of August 2008, before Her Honour Chief Judge Ruddy in Territorial Court, at Dawson City in the Yukon Territory, **Andie LEVESQUE**, hereinafter called the offender, pleaded guilty and was convicted on the charge that:

ATTENDU QUE le jour de , devant de la Cour , à dans le territoire du Yukon, ci-après appelé/e le ou la délinquant/e, et a été condamné/e après avoir été inculpé/e de :

COUNT #3 On or about the 14th day of July, 2007, at or near Dawson City, Yukon Territory, did unlawfully commit an offence in that : he did by criminal negligence, to wit : cause an explosion, cause bodily harm to Lisa PERRY, Seamus POWER and Brandon LEMOINE contrary to Section 221 of the Criminal Code.

AND WHEREAS on the 6th day of August 2008, the court adjudged that the passing of sentence on the offender be suspended and that the said offender be released on the conditions hereinafter prescribed:

ET ATTENDU QUE le jour de , le tribunal a ordonné que le prononcé de la sentence contre le ou la délinquant/e soit suspendu et que ledit ou ladite délinquant/e soit relâché/e aux conditions suivantes :

NOW THEREFORE, the said offender shall, for the period of **TWELVE (12) MONTHS** from the date of this order comply with the following conditions, namely:

A CES CAUSES, ledit ou ladite délinquant/e doit, pour une période de à compter de la date de la présente ordonnance, se conformer aux conditions suivantes :

- (a) keep the peace and be of good behaviour,
- (b) appear before the court when required to do so by the court,
- (c) notify Probation Officer in advance of any change of name or address, and promptly notify the Probation Officer of any change of employment or occupation, and in addition,

- a) ne pas troubler l'ordre public et avoir une bonne conduite;
- b) répondre aux convocations du tribunal;
- c) prévenir de ses changements d'adresse ou de nom et aviser rapidement de ses changements d'emploi ou d'occupation. Il doit aussi respecter les conditions suivantes :

- (d) Report to a probation officer within Two Working days and thereafter, when and in the manner directed by the Probation Officer.
- (e) Abstain absolutely from the possession or consumption of alcohol and controlled drugs or substances except in accordance with a prescription given to you by a qualified medical practitioner.
- (f) Not attend any bar, tavern, off-sales, including Gertie's or other commercial premises whose primary purpose is the sale of alcohol ~~except with the prior written permission of your Probation Officer.~~
- (g) Take such alcohol and drug assessment, counselling or programming as directed by your Probation Officer.
- (h) Perform EIGHTY(80) hours of community service as directed by your Probation Officer or such other person as your Probation Officer may designate. This community service is to be completed within FOUR (4) MONTHS. The Probation Officer may apply hours already completed against your total.
- (i) Take such other assessment, counseling and programming as directed by your Probation Officer.
- (j) Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts.
- (k) Participate in at least ONE (1) presentation at Robert Service School as directed by your Probation Officer.
- (l) Pay to Dawson City Group Conferencing Committee ONE HUNDRED DOLLARS (\$100.00) in trust for the Matthew Webster Memorial Foundation.
- (m) Provide your Probation Officer with consents to release information with regard to your participation in any programming , counselling, employment or educational activities that you have been directed to do pursuant to this Probation Order.
- (n) Attend for a review of this Probation Order on October 7, 2008, at 2 :00 PM in Dawson City, Yukon Territory.

DATED this 6th day of August 2008, at Dawson City in the Yukon Territory.

FAIT le jour de , à , dans le territoire du Yukon.

Clerk of the Court

Greffier de la Cour

I, **Andie LEVESQUE**, of Dawson City in the Yukon Territory, the within name offender have read, or have had read to me, the probation order and acknowledge receipt of a copy. I have been given an explanation of section 732.2(3) and (5) and 733.1 of the Criminal Code and of the procedure for applying under subsection 732.2(3) for a change to the optional conditions.

Je, de , dans le territoire du Yukon délinquant ici nommé, ai lu, ou on m'a lu, l'ordonnance de probation et j'accuse réception d'une copie. J'ai reçu une explication des paragraphes 732.2(3) et (5) et de l'article 733.1 du Code Criminel; j'ai également reçu une explication des modalités de présentation de la demande de modification des conditions facultatives prévue au paragraphe 732.2(3) ainsi que des procédures à suivre pour soumettre une demande afin de modifier les conditions facultatives.

OFFENDER/DÉLINQUANT/E



Canada
YUKON TERRITORY
TERRITOIRE DU YUKON

WHEREAS on the 6th day of August 2008, before Her Honour Chief Judge Ruddy in Territorial Court, at Dawson City in the Yukon Territory, Seamus Casey POWER, hereinafter called the offender, pleaded guilty and was convicted on the charge that:

PROBATION ORDER
(SUSPENDED SENTENCE)
ORDONNANCE DE PROBATION
(CONDAMNATION AVEC SURSIS)
Form/Formule 46
(Sections/Article 732.1)
Criminal Code/Code criminel

2007-802390
ORIGINATOR'S FILE
07-11048
COURT FILE
01Jun1985
BIRTHDATE

DRIVERS LICENCE

ATTENDU QUE le jour de , devant de la Cour , à , dans le territoire du Yukon, ci-après appelé/e le ou la délinquant/e, et a été condamné/e après avoir été inculpé/e de :

COUNT #2 On or about the 14th day of July, 2007, at or near Dawson City, Yukon Territory, did unlawfully commit an offence in that : he did by criminal negligence, to wit : cause an explosion, cause bodily harm to Lisa PERRY, contrary to Section 221 of the Criminal Code.

AND WHEREAS on the 6th day of August 2008, the court adjudged that the passing of sentence on the offender be suspended and that the said offender be released on the conditions hereinafter prescribed:

NOW THEREFORE, the said offender shall, for the period of TWELVE (12) MONTHS from the date of this order comply with the following conditions, namely:

- (a) keep the peace and be of good behaviour,
- (b) appear before the court when required to do so by the court,
- (c) notify Probation Officer in advance of any change of name or address, and promptly notify the Probation Officer of any change of employment or occupation, and in addition,

ET ATTENDU QUE le jour de , le tribunal a ordonné que le prononcé de la sentence contre le ou la délinquant/e soit suspendu et que ledit ou ladite délinquant/e soit relâché/e aux conditions suivantes :

A CES CAUSES, ledit ou ladite délinquant/e doit, pour une période de à compter de la date de la présente ordonnance, se conformer aux conditions suivantes :

- a) ne pas troubler l'ordre public et avoir une bonne conduite;
 - b) répondre aux convocations du tribunal;
 - c) prévenir de ses changements d'adresse ou de nom et aviser rapidement de ses changements d'emploi ou d'occupation. Il doit aussi respecter les conditions suivantes :
- (d) Report to a probation officer within Two Working days and thereafter, when and in the manner directed by the Probation Officer.
 - (e) Abstain absolutely from the possession or consumption of alcohol and controlled drugs or substances except in accordance with a prescription given to you by a qualified medical practitioner.
 - (f) Not attend any bar, tavern, off-sales, Gertie's or other commercial premises whose primary purpose is the sale of alcohol except with the prior written permission of your Probation Officer.
 - (g) Take such alcohol and drug assessment, counselling or programming as directed by your probation officer.
 - (h) Perform EIGHTY (80) hours of community service as directed by your Probation Officer or such other person as your Probation Officer may designate. This community service is to be completed within FOUR (4) MONTHS. The Probation Officer may apply hours already completed against your total.
 - (i) Take such other assessment, counseling and programming as directed by your Probation Officer.
 - (j) Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts.
 - (k) Participate in at least ONE (1) presentation at Robert Service School as directed by your Probation Officer.
 - (l) Pay to Dawson City Group Conferencing Committee ONE HUNDRED DOLLARS (\$100.00) in trust for the Matthew Webster Memorial Foundation.
 - (m) Write apology letters to : Dawson City Ambulance Staff, Shelly Perry, Mike Perry, Lisa Perry, Red Levesque, Marie Levesque and Laralyn Cleland.
 - (n) Provide your Probation Officer with consents to release information with regard to your participation in any programming , counselling, employment or educational activities that you have been directed to do pursuant to this Probation Order.
 - (o) Attend for a review of this probation order on October 07, 2008 at 2:00 pm in Dawson City, Yukon.

DATED this 6th day of August 2008, at Dawson City in the Yukon Territory.

FAIT le jour de , à , dans le territoire du Yukon.

Clerk of the Court

I, Seamus Casey POWER, of Dawson City in the Yukon Territory, the within name offender have read, or have had read to me, the probation order and acknowledge receipt of a copy. I have been given an explanation of section 732.2(3) and (5) and 733.1 of the Criminal Code and of the procedure for applying under subsection 732.2(3) for a change to the optional conditions.

Greffier de la Cour
Je, de , dans le territoire du Yukon délinquant ici nommé, ai lu, ou on m'a lu, l'ordonnance de probation et j'accuse réception d'une copie. J'ai reçu une explication des paragraphes 732.2(3) et (5) et de l'article 733.1 du Code Criminel; j'ai également reçu une explication des modalités de présentation de la demande de modification des conditions facultatives prévue au paragraphe 732.2(3) ainsi que des procédures à suivre pour soumettre une demande afin de modifier les conditions facultatives.

OFFENDER/DÉLINQUANT/E