

Citation: *R. v. Geoghegan*, 2010 YKTC 22

Date: 20100212
Docket: 09-00664A
09-00715
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Chief Judge Ruddy

REGINA

v.

DAVID ALLEN GEOGHEGAN

Appearances:
Ludovic Gouaillier
Gordon Coffin

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT

[1] RUDDY C.J.T.C. (Oral): David Geoghegan is before me with respect to two very serious offences. The first is assault causing bodily harm, and the second is a s. 433(a) with respect to setting fire to his bed in Whitehorse Correctional Centre.

[2] The assault arises on the 23rd of November 2009. At that time Mr. Geoghegan was in custody. He had been advised by the correctional officers that he was going to have to work in the laundry room because of the volume of work that had to be done. He told them that he was supposed to be attending school. They spoke to the teacher, who agreed to give him study materials so that he could work. When he was advised that he would be working instead of going to school, he became angry and abusive, and it was decided that he would be returned to his dorm room because of his behaviour.

On the way he threatened to punch one of the officers, and upon arriving he did in fact turn and punch one of the officers in the face, breaking his nose and chipping his teeth. He then began grappling with the second officer and it took a third officer to assist in restraining him.

[3] Some three days later, on November 26th, a call was received by the Whitehorse Fire Department as a result of Mr. Geoghegan having lit the bed clothes of his bed on fire. He had also covered the security camera with wet toilet paper and had tied a bed sheet to his cell door, attempting to prevent entry. He was found in the cell once the officers were able to gain access, unconscious, and taken to Whitehorse General Hospital. A lighter was found on his person during transport.

[4] Mr. Geoghegan is only 19 years of age, but notwithstanding his young age, he comes before the Court with an extensive criminal record with a number of violent offences and a number of breaches. He has a longstanding problem with authority and has not been particularly amenable to any of the non-custodial approaches that have been tried in the past. He is before the Court once again with very serious offences and counsel are jointly submitting that, in this particular case, a penitentiary term of two years on all matters, after consideration for time spent in remand, is appropriate.

[5] It appears, from listening to Mr. Geoghegan's counsel and also from his record, that he continues to have issues with respect to authority, and, in this particular case, appears to have been housed next to someone who also has fairly well-known issues with authority. The two appear to have encouraged each other in their behaviour and it has not been a positive experience for anyone, not the least of which, the correctional officers in the facility, one of whom was seriously injured, and all of those officers and

the other prisoners that were put at serious risk as a result of Mr. Geoghegan's behaviour in setting fire to his bedding.

[6] In all of the circumstances, I am satisfied that denunciation and deterrence ought to be the dominant sentencing principles. I am also satisfied that a lengthy custodial term is appropriate in all of the circumstances and I am hopeful, perhaps, that Mr. Geoghegan can find some assistance in the federal system that may assist him in re-visiting and perhaps changing his behaviour.

[7] In any event, I am prepared to accede to the joint submission as being appropriate in all of the circumstances. With respect to the s.433(a) there will be a sentence of 18 months, consecutive to any other sentence being served.

[8] With respect to the s. 267(b) there will be a sentence of six months, again consecutive to any sentence being served.

[9] As it is mandatory, there will be an order that Mr. Geoghegan provide such samples of his blood as are necessary for DNA testing and banking. There will also be a mandatory 10-year firearm prohibition in the wording of the section.

[10] I will waive the victim fine surcharge, given his custodial status.

[11] The remaining counts?

[12] MR. GOUAILLIER: There will be a stay of proceedings.

[13] THE COURT: Okay. Thank you.

RUDDY C.J.T.C.