

Citation: *R. v. Gill*, 2009 YKTC 57

Date: 20090313
Docket: 08-00189
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Overend

REGINA

v.

GURPREET SINGH GILL

Appearances:
Jennifer Grandy
André Roothman

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] OVEREND T.C.J. (Oral): Mr. Gill has been convicted of common assault, as indicated earlier in this trial. He appears today before the Court for the purpose of sentencing.

[2] No one disputes that this is, on the scale of physical assaults, in the lower end of that offence. The assault was a strike to the mouth with a fist or hand which caused some small swelling and some temporary bleeding.

[3] The victim impact statement suggests that the physical assault caused significant emotional injuries, and I have some difficulty accepting that the victim has suffered from the assault as she has described it. I do not dispute that she may be suffering, but her

suffering is not directly related, in my view, to the assault. My view is that her suffering is largely due to her recognition that her marriage is over and that she has some problems in her community with having a failed marriage, as I pointed out in my Reasons for Judgment.

[4] Looking at this objectively one would say no reasonable person would have suffered in the manner put forward by Ms. Dhillon in her victim impact statement. Having said that, I appreciate that I do not have to concern myself with the reasonable person but only with Ms. Dhillon. I still say that I do not accept that Ms. Dhillon's slight injury on this occasion could have caused the emotional impact that she sets out in her victim impact statement.

[5] She appears in the victim impact statement to -- and I want to say that I have rejected an earlier victim impact statement because it was flagrantly outside the bounds permitted under s. 722 of the *Code* because it dealt with far more than harm or loss. It was clear in that earlier statement that she was, as Mr. Gill's counsel suggested, trying to be vindictive. I still read that, in part, into the current victim impact statement.

[6] This was a minor assault. I do not doubt -- I do not try to minimize or minimize in any way the fact that this was an assault to a spouse, which is an aggravating factor. I do not minimize that it took place in the presence of a child of the marriage. Those are significant matters. But at the end of the day, it was a very minor assault which took place in the matter of seconds. It was so insignificant that the victim did not pursue the matter of charges until many months later on, although she did complain to the police initially. She complained to the police but did not want charges laid, initially. These are

factors which I take into consideration in determining an appropriate sentence, as well as all of the other matters.

[7] Mr. Gill has been subject of a pre-sentence report which, as counsel have both pointed out, has no outside or external corroboration; however, no one takes issue with the contents of that report, and that report is quite favourable to Mr. Gill. He is a person who is steadily employed and has no criminal history. He is not an abuser of drugs or alcohol. The contents of the recommendations of the pre-sentence report are those with which counsel agree, in the sense that the terms of a probation order or a conditional sentence order are not disagreed with.

[8] All in all, I am satisfied that in this particular case a conditional discharge is the appropriate response to this relatively minor assault. Mr. Gill, would you stand, please?

[9] I am giving you a conditional discharge, placing you on probation for a period of 18 months. The terms of the probation are as follows:

1. You are to keep the peace and be of good behaviour.
2. You are to appear before the Court when required to do so by the Court.
3. You are to report to a probation officer within two working days, and thereafter at the times and in the manner directed by the probation officer.
4. You are to notify the probation officer in advance of any change of name or address, and promptly notify the probation officer of any change of employment or occupation.
5. You are to report to the Family Violence Prevention Unit to be assessed, and attend and complete, at the direction of your probation officer, the

Spousal Abuse Program.

6. You are to take such assessment, counselling and programming as directed by the probation officer, and complete any program to the satisfaction of your probation officer.
7. You are to have no contact, directly or indirectly, or communicate in any way with Harjinder Dhillon, except with the prior written permission of your supervisor and in consultation with Victim Services and Family and Children's Services, or as authorized by a court of competent jurisdiction.

I am putting that last part in because I do not know what the status is in Family Court. I do not want to deny this man an opportunity to have access to his child or children.

8. You are to provide your supervisor 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 conditional sentence (sic) order.
9. You are not to attend at the residence or place of employment of Harjinder Dhillon, again, unless authorized by a court of competent jurisdiction.

[10] Now, Mr. Gill, this is a conditional discharge. That means that if you comply to the letter with the terms of this discharge, at the end of this period of time you will not have a conviction for this offence. That should be very important to you. If you breach the terms of this conditional discharge, you may be returned to court and the other matters will be dealt with at that time. Do you understand that?

[11] THE ACCUSED: Yes, sir.

[12] THE COURT: Anything else?

[13] MR. ROTHMAN: Nothing from me, Your Honour.

OVEREND T.C.J.