

Citation: *R. v. Haydon*, 2013 YKTC 1

Date: 20121214
Docket: 06-00214
06-00214A
06-00214B
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Lilles

REGINA

v.

DAVID RUSSELL HAYDON

Appearances:

Joanna Phillips
André Roothman

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] LILLES T.C.J. (Oral): I think counsel have said everything that can be said with respect to this particular case. I am not going to review the circumstances except to note that we are dealing with a 62-year-old man who, apparently, has a very good work record. He also has a history of drinking and driving. I accept the fact, and, indeed, it is not very difficult to infer, that he has a serious alcohol problem, namely, that he is an alcoholic and has been an alcoholic for some time. His first conviction for driving while impaired goes back to 1968. In total, including today's conviction, I think he has ten convictions for drinking and driving.

[2] I pause here to say that alcoholism can be characterized as a very serious disease, and it is not a criminal offence to be an alcoholic. It is, however, a criminal offence to drive while under the influence of alcohol. The punishment that is being given today is not because Mr. Haydon is an alcoholic; it relates to the decisions he makes, albeit poor decisions, and one might argue decisions made while his ability to make good decisions is impaired by alcohol, but nevertheless these are decisions he has made to get behind the wheel.

[3] The cases filed by the Crown are consistent with the case law that exists today. There is no question that over the past ten or 15 years the law has become more strict as it applies to drinking and driving offences. This is a direct result of our society appreciating the destruction, the harm, that drinking drivers can do.

[4] Ms. Phillips, on behalf of the Crown, has put forward a period of incarceration of approximately 18 months for the drinking and driving. She indicates that, in her view, the total sentence should fall within the Territorial range. I do not disagree with her on that recommendation. I take into account the letters of reference; I take into account his age.

[5] In the circumstances, the appropriate disposition with respect to Count 1, to which he pled guilty, failure to provide a sample, the offence contrary to s. 254(5), is 16 months incarceration. With respect to the July 19, 2006 failure to appear, contrary to s. 145(5), one month concurrent. With respect to the January 4, 2012 contrary to s. 145(2)(b), two months consecutive, for a total of 18 months.

[6] I am giving him credit for two months time served. I am going to suggest that that be applied to the January 4, 2012 offence. So, with respect to that charge, the sentence will be one day deemed served and showing credit for two months pre-trial custody.

[7] The victim fine surcharges will be waived.

[8] MS. PHILLIPS: And the driving prohibition?

[9] THE COURT: The driving prohibition will be a lifetime driving prohibition. I note that he is already subject to such an order.

[10] MS. PHILLIPS: Thank you, and a stay of proceedings on Count 2.

LILLES T.C.J.