

Citation: *R. v. Hunziker*, 2006 YKTC 1

Date: 20051202
Docket: T.C. 05-00460
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Judge Ruddy

REGINA

v.

JAMES ALLEN HUNZIKER

Appearances:
Kevin Drolet
Gordon Coffin

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] RUDDY T.C.J. (Oral): James Hunziker is before me having entered pleas of guilty to two counts of break and enter and one count breaching his undertaking by failing to abide by a curfew.

[2] The facts are that on the 7th of November, 2005, a particularly industrious and community-minded individual was sharp enough to notice Mr. Hunziker and his companion suspiciously moving about the neighbourhood and was able to observe the two loading goods into a vehicle. The neighbour was then able to disable the vehicle and contact the police. Mr. Hunziker and his companion were both located, tracked back to the vehicle and within the vehicle was found a number of stolen articles which

had been taken from two residences in the area that morning. These included camera equipment, jewellery and a quantity of alcohol. Mr. Hunziker was released on an undertaking, including a condition that he abide by a curfew.

[3] On the 25th of November, he was found at the Pioneer Hotel in breach of his curfew. Apparently, he was to reside at his father's and they got into a dispute and he was asked to leave the residence. He has been in remand for a period of seven days.

[4] He has a prior criminal record, including a youth record, which suggests some problems with alcohol, but more notably, he has a prior break and enter in May of 2004, for which he received a sentence of 30 days and one year probation.

[5] Crown is suggesting that an appropriate disposition, in this case, is time served on the s. 145 and a sentence of four to six months on each of the two break and enters to be served concurrently. Plus, potentially a period of probation.

[6] Mr. Hunziker is 22 years of age, born and raised in the Whitehorse area. It appears he has had employment here in the past, but is not currently employed. He has been in a common-law relationship for some five years and has two children, who are currently with his spouse in Edmonton, who is there attending school. There appears to be some problems and strain within that relationship.

[7] Mr. Hunziker, who had briefly been in Edmonton, returned to Whitehorse and I am advised by his counsel that the offences before the Court are ones which were impulsive in nature and did not involve the consumption of drugs and alcohol, at that point in time. All items were recovered.

[8] In the circumstances, I am of the view that the sentences should be as follows, with respect to the s. 145 there will be a sentence of one day deemed served by his attendance in court today, giving credit for the seven days he spent in remand. Given that that is such a short period of time, I imagine there was no programming that he could access, so I will credit that at two to one for a total of 14 days credit on the s. 145.

[9] With respect to the two s. 348 counts, there will be a sentence of six months on each, to be served concurrent to each other, but I decline to add a period of probation to follow, there does not appear to be any particular issues that have been placed before me to be addressed by a probation order.

[10] Victim fine surcharges are waived.

RUDDY T.C.J.