

IN THE SUPREME COURT OF THE YUKON TERRITORY

BETWEEN:

HER MAJESTY THE QUEEN

AND:

DEVON JASON KINNEY

Keith Parkkari

For the Crown

Malcolm Campbell

For the Defence

**MEMORANDUM OF JUDGMENT
DELIVERED FROM THE BENCH**

[1] FOISY J. (Oral): I am prepared to go along with the joint submission. The test is basically one of reasonableness and under the circumstances I am satisfied that the joint submission made to me, with the exception of the firearms prohibition application, is a reasonable one and I am going to go along with it. I will deal with the s. 110 application in a moment.

[2] Accordingly, on the theft conviction, there will be a fine of \$100 plus a \$15 surcharge, and that is to be paid forthwith as counsel has that money in his possession.

[3] On the breach of recognizance or undertaking under s. 145, there will be a fine of \$100 plus \$15 victim surcharge that also is to be paid forthwith, as it is in the possession of counsel.

[4] With respect to Count 2, of uttering a threat, I am going to suspend the passing of sentence and order that the accused enter into a probation order for a period of six months.

[5] The statutory conditions are as follows: that you will keep the peace and be of good behavior: and appear before the Court when required to do so. You will notify the court or your probation officer in advance of any change of name or address. You will report to a probation officer by telephone here at Whitehorse within the next seven days, and thereafter you will report to the probation officer either here at Whitehorse or elsewhere as ordered or indicated by your probation officer. You will make all reasonable efforts to find and to maintain employment. You will take such counselling as required by your probation officer including any anger management counselling. You will pay the sum of \$400 to the Haines Junction Justice Committee and that will be within the six month period. I understand that that will be done forthwith, in any event; Mr. Campbell has the funds.

[6] Now with respect to the application for a firearms prohibition, it is discretionary. There does not appear to be anything in the record of the accused that leads me to believe that the possession of firearms would be a problem in this case, nor was there anything in this particular incident which would lead me to believe that it would be desirable that an order be made under s.110, and accordingly, I decline to do so.

FOISY J.