

Citation: *R. v. Leslie*, 2010 YKTC 54

Date: 20100514
Docket: 09-00492
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Chief Judge Ruddy

REGINA

v.

LIAM WADE LESLIE

Appearances:
Peter Chisholm
James Sutherland

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] RUDDY C.J.T.C. (Oral): Liam Leslie is before me having entered a plea of guilty to a single count of conspiracy to traffic in cocaine. The offence arises between the 15th day of April 2009 and the 20th day of September 2009. It is not my intention to go through the facts of this particular case in detail. Suffice it to say that Mr. Leslie was a major player here in the Yukon in a scheme intended to bring cocaine to the Yukon for the purpose of trafficking. This was a sophisticated commercial operation, which involved large quantities of cocaine and large sums of money.

[2] Mr. Leslie is currently 34 years of age, born and raised in Whitehorse. He has family here that are supportive of him. He has a grade 12 education, supplemented by some additional work both at Yukon College, and at SAIT in 2003. His employment

history includes welding, painting and a small business, which he recently opened himself, which has subsequently been lost as a result of the charges that bring him before the Court today.

[3] He also comes before the Court with a prior criminal record. It is not a lengthy criminal record, but it does, however, have one notable conviction which is related to the conviction that is before me today. That is a conviction for conspiracy to traffic in heroin, for which he was convicted to a period of three and one half years in 2000. He is before the Court once again with a similar offence, albeit a different drug, however, a drug which is considered to be an extremely dangerous drug and one which has devastating effects on any community, but which, as has been noted in any number of cases in the Yukon, has particularly devastating effects in northern communities that are ill-equipped to respond to the results of drug addictions.

[4] There is a joint submission that has been put before me by counsel suggesting a sentence of five years less time served by Mr. Leslie. He has been in custody since September, some 232 days. That time spent in custody does fall before the recent amendments for which he would therefore be entitled to credit at one and a half to one, which, as I understand it from counsel, amounts to some 348 days or 11 and a half months. The suggestion, therefore, is five years less that 11 and a half months, for a remaining 48 and one-half months.

[5] There are a number of aggravating factors with respect to the matter before me. They include the major role that Mr. Leslie played in this particular conspiracy, although the information before me suggests that his co-accused, Mr. Vanderheide, was perhaps

the head of the scheme. In addition, as noted, it was a profit-based offence, involving substantial amounts of both drugs and money.

[6] There are, however, some mitigating factors which are before the Court as well today. They include the fact that Mr. Leslie has entered a guilty plea. It is my understanding through the Crown that this has saved the state considerable resources which would have been required to prosecute the offence against Mr. Leslie. In addition, he has been cooperative with police since his arrest. This has led to the seizure of a number of items, including a number of firearms, which will be the subject of a forfeiture order.

[7] I also understand, through his counsel and through a memorandum from Whitehorse Correctional Centre, that Mr. Leslie's performance while in custody since his arrest has been positive and he does, as well, appear to be a young man that has some support within the community. Filed as Exhibit 2 in these proceedings are a series of letters which describe Mr. Leslie as a young man who, aside from this offence and those on his record, is otherwise industrious, hardworking, supportive and caring. He is apparently a young man that has some positive future plans and it is hoped that those are ones which he will pursue upon his release, as opposed to those that have brought him before the Court today.

[8] I am also advised that Mr. Leslie's co-accused, Mr. Vanderheide, also entered a guilty plea to conspiracy to traffic in cocaine and he received a similar sentence as is being suggested today, that of five years in custody.

[9] In support of the joint submission, Crown has filed a number of cases setting out the appropriate principles to be considered with respect to the offences before me today, as well as the range of sentences which have been given in this Territory for similar behaviour. They range from a low of three and a half years to a high of eight years, with the majority of them falling somewhere in the middle of that range. Indeed, one of the cases filed before me is Mr. Leslie's previous conviction, for which he received three and one half years. The case which resulted in an eight year sentence is one that did involve an individual who had a considerably more aggravated criminal history as it relates to these types of offences. But the rest, as I indicated, fall well within the middle of the range that is before me.

[10] In considering the joint submission that is before me, I am mindful of the fact that it does fall within the range that is presented in the cases that I have reviewed. I am also mindful of the fact that it is a result of careful and considered discussions by experienced senior counsel. I am also of the view that it would not bring the administration of justice into disrepute in this particular case for me to adopt the joint submission as presented. As indicated, I am also mindful of the fact that it is consistent with what was received by Mr. Leslie's co-accused with respect to the same offence.

[11] Accordingly, in all of the circumstances, while noting the extreme seriousness of the offence that is before me and the need that any sentence that I pass today meets the principles of denunciation and deterrence, I hereby order Mr. Leslie to serve a period of time in custody as set out in the joint submission. There will, therefore, be an effective sentence of five years reduced by the credit for the time that Mr. Leslie has

spent in custody, that credit being 11 and one half months, for a remaining sentence to still be served of 48 and one-half months in custody.

[12] In addition to the custodial term, there are a number of ancillary orders sought by the Crown, some of which are mandatory, but none of which are contested by Mr. Leslie. I would therefore make the following orders as well. Pursuant to s. 109, Mr. Leslie is hereby prohibited from having in his possession any firearms, ammunition or explosive substances for the remainder of his lifetime, there having been a prior ten year ban in relation to his prior offence in 2000.

[13] This is a secondary designated offence for the purposes of DNA and I would make the order that Mr. Leslie provide such samples of his blood as are necessary for DNA testing and banking.

[14] Finally, I have been provided with a draft order of forfeiture outlining some 18 items which have been seized, including a number of firearms, several large sums of money and a fair amount of drug paraphernalia. I would hereby make that order and I have signed the order that has been presented to me. So those items are hereby forfeited.

[15] Any submissions with respect to the victim fine surcharge?

[16] MR. CHISHOLM: No, Your Honour.

[17] THE COURT: Given his custodial status that will be waived.
Anything further? The remaining counts?

[18] MR. CHISHOLM: I would direct a stay of proceedings on those secondary counts.

[19] THE COURT: Okay. Thank you.

[20] Now, Mr. Chisholm, you had spoken to the publication ban, just so that it is clear for the record, I understand your position is that that is hereby lifted --

[21] MR. CHISHOLM: That's correct.

[22] THE COURT: -- given the fact that Mr. Leslie's sentencing is now completed? So for those of you in the body of the courtroom, Mr. Leslie can be identified; the publication ban no longer applies. Anything further?

[23] MR. CHISHOLM: No, Your Honour, thank you.

[24] MR. SUTHERLAND: Thank you, Your Honour.

[25] THE COURT: Okay. Thank you.

RUDDY CJ.T.C.