

Citation: *R. v. Lutz*, 2008 YKTC 75

Date: 20080917
Docket: 07-00757A
08-10060
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

REGINA

v.

RYAN WILSON LUTZ

Appearances:
Kevin Komosky
Gordon Coffin

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] CAMERON J.P.T.C. (Oral): Mr. Lutz has pled guilty to two counts under s. 733.1 with one count under s. 267 and one count under s. 88. The facts presented to the Court are that Mr. Lutz was subject to probation terms on July 22nd, and he was directed to in fact attend for an appointment, which he failed to do.

[2] On August 12th, Mr. Lutz was involved in an incident whereby an individual who had stopped to check on what appeared to be a fight going on, observed Mr. Lutz with a knife. He yelled at Mr. Lutz. Mr. Lutz ran towards him in an attempt to stab at him through the window of his truck. The police then went in search of Mr. Lutz and he was found in his mother's house. At the time he was found, he was in possession of a clear

plastic gun that turns out to have been an air gun. Police eventually got the gun away from him without incident. He was intoxicated at the time of this occurrence, and this was in violation of his abstain condition.

[3] Mr. Lutz has a number of prior convictions. He has five prior violence convictions, nine prior process convictions. There certainly are concerns in regards to cognitive disabilities that Mr. Lutz may suffer from. Crown and defence are not greatly apart in what they are suggesting. Crown is seeking a global six month sentence, less time served. Defence is in agreement that it is probably in the right range. Crown is seeking probation to mirror the probation he is currently on. Of note, Mr. Lutz will be on his probation for another, it appears, about 14 months.

[4] The Court is in agreement with the general range suggested that it would be appropriate. It is clear that Mr. Lutz must spend some additional time in jail, and particularly with these violent offences. He has, however, spent 37 days in custody at this point. He should be given credit for that.

[5] I propose to deal with it in this way then, Mr. Lutz. For the possession of the weapon for a purpose dangerous to public, I am going to impose 60 days and indicate that as time served. For the assault with a weapon, the knife incident, I am going to impose 120 days, and I am going to impose 30 days on each of the breaches. However, they should be concurrent to the 120 days. What that all means, Mr. Lutz, is that you have another 120 days to spend incarcerated and then you will be released.

[6] The Court does direct that you provide a sample of your DNA for the DNA bank, and further directs that the victim fine surcharge on each of the Counts be waived, as

Mr. Lutz is of limited means. I am not going to place you on any further probation. The existing probation is still in place and will remain in place for the next 14 months, Mr. Lutz. Those conditions will all remain in full force and effect. So you do not need to now learn a new probation or anything, the old one still applies.

[7] Outstanding charges then?

[8] MR. KOMOSKY: Be withdrawn please.

[9] THE COURT: Outstanding charges are withdrawn.

[10] THE CLERK: I am sorry, the DNA primary or secondary?

[11] THE COURT: Pardon me?

[12] THE CLERK: DNA primary or secondary?

[13] MR. KOMOSKY: I believe that it's primary.

[14] THE COURT: I believe it is primary.

[15] THE CLERK: Thank you.

[16] THE COURT: Thank you.