

Citation: *R. v. Redies*, 2010 YKTC 31

Date: 20100310
Docket: 08-00796
Registry: Whitehorse
Heard: Ross River

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Judge Faulkner

REGINA

v.

ALLAN RAYMOND REDIES

Appearances:
Kevin Komosky
Malcolm Campbell

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): In this case, Allan Raymond Redies was convicted after trial on a charge of operating a motor vehicle while his ability to do so was impaired by alcohol or a drug, contrary to s. 253(1)(a) of the *Criminal Code*. There was in fact evidence of consumption of both alcohol and marihuana and there was evidence of bad driving, which carried on over a fairly considerable period, both in time and distance.

[2] Most significantly, with respect to fixing the quantum of sentence, Mr. Redies has six prior related convictions. About the best that can be said for him is that the last of them was in late 2004. He has not had any entries on his criminal record since that time.

[3] Despite the recent gap in his criminal record, Mr. Redies, nevertheless, having regard to the number of his prior convictions, finds himself perilously close to joining the select group of impaired drivers that the Court of Appeal contemplated in the decision of *R. v. Donnessey*, [1990] Y.C. No. 138 (Y.T.C.A.).

[4] Giving as much credit as I can for the gap in Mr. Redies' record and his personal circumstances as outlined by defence counsel, I think that Mr. Redies is still looking at a sentence substantially above the four months contended for by Mr. Campbell.

[5] I should add that the Crown proceeded by indictment; however, there is no indication that notice of intention to seek greater punishment was served. If it had been, the minimum would have been four months, but certainly Mr. Redies could hardly expect, in his present circumstances, to receive anything approaching the minimum sentence.

[6] In respect to the charge of impaired driving, Mr. Redies is sentenced to a term of imprisonment of one year. You are prohibited from operating a motor vehicle on any street, highway or other public place in Canada for a period of two years, in addition to the period of imprisonment. The surcharge is \$100, to be paid forthwith.

[7] With respect to the charge of possession of cannabis, seven days concurrent. Surcharge is \$50, payable forthwith.

FAULKNER T.C.J.