

Citation: *R. v. Selamio*, 2009 YKTC 112

Date: 20091008
Docket: 09-00217
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Cozens

REGINA

v.

JASON CONRAD SELAMIO

Appearances:
Melissa Atkinson
Gordon Coffin

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] COZENS T.C.J. (Oral): Jason Selamio has entered a plea of guilty to having committed the offence of assault against Michelle Blanchard.

[2] The circumstances are that on one occasion, between April 1, 2009 and June 15, 2009, during the course of a dispute in a motor vehicle, that, as I understood it, did not cause any safety concerns otherwise, such as the motor vehicle being driven, Mr. Selamio held Ms. Blanchard and struck her. On June 15th, during the course of a verbal argument it became physical and Mr. Selamio grabbed her arm, slapped her in the head and pulled her hair. The complainant and Mr. Selamio were intoxicated on these occasions, at least on the 15th, and Mr. Selamio on the earlier occasion.

[3] The two had been in a relationship for about 10 months as of the time of these offences. Mr. Selamio is 37 years old now and Ms. Blanchard is 18.

[4] The aggravating factor in here, of course, is the breach of trust that occurs when an individual in a relationship assaults someone else in the relationship. Just looking at this practically, when there is such an age difference as this and you are dealing with a fairly young complainant, to some extent that breach of trust is somewhat more significant than if the two are close in age; subject to anything else changing that, but in these circumstances I consider that somewhat more aggravating.

[5] Also, there is the criminal record of Mr. Selamio, which has a number of similar offences: an assault in 1991; an assault bodily harm in 1992; an assault bodily harm and an assault in 1995, for which there was a substantial period of custody of 30 months on the assault bodily harm; another assault bodily harm and assault in 1999, which resulted in 16 months and one month concurrent; assault with a weapon in 2006, 12 months custody; assault in 2007, seven months consecutive to other time; and in 2008, assault with a weapon for which he received 14 months. I have no information that would indicate any of these prior assaults were domestic assaults.

[6] Mr. Selamio has been in custody for 116 days, which, at time and a half, comes out to approximately six months in custody. Crown's position is four to six months plus probation. Defence counsel agrees that a time-served sentence would be appropriate.

[7] We do have a guilty plea in this case which, while not really early, still was in sufficient time to spare the complainant from having to testify. Notwithstanding the criminal record, I recognize that these assaults are on the lower end of the spectrum of

assaults that we see and there is no indication that there were any physical injuries suffered by the complainant.

[8] We are dealing with two separate incidents of assault within the time span, so I will impose a sentence of six months time served. This will be followed by a period of probation of one year. The terms of the probation will be to:

1. Keep the peace and be of good behaviour;
2. Appear before the Court when required to do so by the Court;
3. Notify the Court or Probation Officer of any change of employment or occupation;
4. Report to a Probation Officer immediately upon your release from custody, and thereafter when and in the manner directed by the Probation Officer;
5. Reside as approved by your Probation Officer and not change that residence without the prior written permission of your Probation Officer;
6. Abstain absolutely from the possession or consumption of alcohol or controlled drugs or substances except in accordance with a prescription given to you by a qualified medical practitioner;
7. Take such alcohol assessment, counselling or programming as directed by your Probation Officer;
8. Report to the Family Violence Prevention Unit to be assessed, and attend and complete the Spousal Abuse Program if directed to do so by your Probation Officer;
9. Take such other assessment, counselling and programming as directed by your Probation Officer;

10. Have no contact, directly or indirectly, or communication in any way with Michelle Blanchard except with the prior written permission of your Probation Officer in consultation with the Family Violence Prevention Unit and Victim Services;
11. Not attend at the residence of Michelle Blanchard at Unit 39, 37 Sycamore Street, known as the Baranov Trailer Court, or any other residence at which Ms. Blanchard would reside, except with the prior written permission of your Probation Officer in consultation with the Family Violence Prevention Unit and Victim Services;
12. Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts;
13. Provide your Probation Officer with consents to release information with regard to your participation in any programming, counselling or employment activities that you have been directed to do pursuant to this probation order.

[9] As Mr. Selamio is currently under a mandatory s. 109 firearms prohibition imposed in 2008, I am not going to make a s. 110 firearms prohibition at this time. As he would have been subjected to a mandatory DNA order on the s. 267(a) charge in 2008, I am also not going to make a DNA order in this case.

[10] I am going to waive the victim fine surcharge. He has been in custody for a considerable period of time.

[11] Remaining counts?

[12] MS. ATKINSON: The Crown directs a stay of proceedings.

[13] THE COURT: Nothing else from counsel; that pretty much covers it?

[14] MR. COFFIN: Yes, thank you.

[15] MS. ATKINSON: Yes, thank you.

COZENS T.C.J.