

Citation: *R. v. Skookum*, 2015 YKTC 54

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13-00013C
13-00013D
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Judge Cozens

REGINA

v.

MARIO SKOOKUM

Publication of information that could disclose the identity of the complainant or witness has been prohibited by court order pursuant to s. 486.4 of the *Criminal Code*.

Appearances:
Jennifer Grandy
Gordon R. Coffin

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] COZENS J. (Oral): Mario Skookum has entered guilty pleas to having committed offences contrary to ss. 266, 271, 145(5.1), and 145(5) of the *Criminal Code*.

[2] With respect to the s. 266 offence, on March 25, 2013, in Whitehorse, Mr. Skookum was in a domestic relationship with B.A.L. and in the course of a dispute they were having he pushed her to the ground and washed her face in the snow.

[3] With respect to the s. 271 offence in September of that year, the complainant, K.H., had been out drinking with others and ended up at home. She has no recollection of what happened. She was awakened by her boyfriend, who found her passed out naked on the bathroom floor with scratches on her bum. The boyfriend saw Mr. Skookum in the residence hiding behind a door dressed in only a T-shirt. Mr. Skookum ran out shortly afterwards in a blanket. It was noted that bodily fluids were visible on K.H.

[4] Mr. Skookum has accepted responsibility for having committed a sexual assault. However, this is a somewhat unusual set of circumstances. There was no sampling done of the bodily fluids and they cannot unnecessarily be ascribed to Mr. Skookum; there were others present earlier on. But in the circumstances, Mr. Skookum is prepared to admit, despite having no recollection of the events, that he had done something that resulted in the circumstances of K.H. being naked on the bathroom floor, and his pants being down.

[5] The Crown is prepared to concede that there is no evidence of intercourse or sexual offending to that extent, as balanced against defence counsel's admission, on behalf of Mr. Skookum, that he did something of a sexual nature.

[6] Mr. Skookum failed to appear in court on October 23, 2013, despite that he was required to attend in court.

[7] Between April 10 and May 28, 2013, Mr. Skookum did not report to his bail supervisor as he was required to do.

[8] On March 9, 2013, he was located in an intoxicated state in Carmacks, contrary to the terms of the undertaking to a peace officer he was bound by.

[9] There is a joint submission before me for eight months of custody with respect to the s. 271 offence, less credit of four months for Mr. Skookum's time in custody on remand. I note that he has 121 days of pre-trial custody for which he is only entitled to 1:1 credit, as s. 524 applications were made on the two occasions he was brought into custody.

[10] Crown's position, in which defence counsel is concurring, is that there be a further 60 days consecutive with respect to the other four counts.

[11] Mr. Skookum comes before the Court with no prior criminal history. He is a member of the Little Salmon Carmacks First Nation. He is about to turn 23 years of age in July.

[12] Mr. Skookum had a very close relationship with his grandmother and lived with her for a period of time. The letter filed by Pastor Andy Nieman in support of Mr. Skookum detailed his success with a period of sobriety. Unfortunately, Evelyn Skookum died in the spring of this year, which was a significant blow to Mr. Skookum and he relapsed into some substance abuse at that time.

[13] Family and Children Services workers related that Mr. Skookum has a file with them and the file indicated considerable neglect and some sexual investigations. He considers his childhood to have been good. I do note a statement in the Pre-Sentence Report that his "childhood included neglect, violence, and uncontrolled substance use."

[14] Mr. Skookum has a significant problem with alcohol abuse that he needs to continue to take steps to deal with. There is some information that he does not have a complete an understanding of the issue of substance or alcohol abuse in his life and that he needs to address it more fully. He is noted as requiring a high level of supervision, again, related in part to some lack of insight. In the STATIC-99R actuarial measure of relative risk for sexual offence recidivism, Mr. Skookum is scored as being consistent with someone who shows a moderate-low risk category for being charged or convicted of another sexual offence.

[15] Certainly this is a case for the application of *Gladue* factors which underlie many of the issues that Mr. Skookum is dealing with now and have contributed to him being where he is.

[16] Mr. Skookum has expressed his remorse for what has taken place and he has wished to engage in counselling and take other steps that will ensure that he does not find himself in this situation again. I am satisfied that he is sincere in his remorse and that he is sincere in his efforts to engage in counselling and be involved in such other treatment as will ensure that he does not find himself in this situation again. While in custody at the Whitehorse Correctional Centre, he has taken the For the Sake of the Children course and he is currently involved in the Aggressive Behaviour and Violence Programming course that will be completed in July. He has been attending AA virtually every Friday while he has been incarcerated.

[17] I will accede to the joint submission. I believe it finds an appropriate balance in this case between all the purposes, objectives, and principles of sentencing on the facts that are before me.

[18] With respect to the s. 271 charge, the sentence will be eight months' custody less four months' credit for time served, leaving a remanet of four months.

[19] With respect to the s. 266 offence, although the level of the violence is not significant, it occurred in the context of a domestic relationship. There will be a sentence of 45 days consecutive.

[20] With respect to the two s. 145(5.1) and the s. 145(5) offence, there will be a sentence of 15 days concurrent on each consecutive to the 60 days. Therefore there is a total of six months' custody left to be served. This will be followed by a period of probation. The probation will attach itself to the s. 266 and the s. 271 charges.

[21] The terms of the probation order will require you, Mr. Skookum, 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 Probation Officer in advance of any change of name or address, and promptly of any change of employment or occupation;
4. Have no contact directly or indirectly or communication in any way with K.H. or B.A.L. except with the prior written permission of your Probation Officer and with the consent of K.H. or B.A.L.;

5. Do not go to any known place of residence, employment or education of K.H. or B.A.L. except with the prior written permission of your Supervisor and with the consent of K.H. or B.A.L. in consultation with Victim Services;
6. Remain within the Yukon Territory unless you obtain written permission from your Probation Officer or the court;
7. Report to a Probation Officer immediately upon your release from custody and thereafter, when and in the manner directed by the Probation Officer;
8. Reside as approved by your Probation Officer and not change that residence without the prior written permission of your Probation Officer;
9. Not possess or consume alcohol and/or controlled drugs or substances that have not been prescribed for you by a medical doctor;
10. Not attend any premises whose primary purpose is the sale of alcohol, including any liquor store, off sales, bar, pub, tavern, lounge or nightclub;
11. Attend and actively participate in all assessment and counselling programs as directed by your Probation Officer, and complete them to the satisfaction of your Probation Officer, for the following issues:
 - alcohol abuse,
 - any other issues identified by your Probation Officer,

and provide consents to release information to your Probation Officer regarding your participation in any program you have been directed to do pursuant to this Order;

12. Make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts.

[22] With respect to the s. 271 offence, there is a mandatory DNA order so you will provide a sample of your DNA.

[23] There will also be an order for 10 years under the *Sex Offender Information Registration Act*, so a *SOIRA* order, under s. 490.012 will go forward. It will be for a period of 10 years.

[24] I am not going to make a s. 110 firearms prohibition. I do not consider it necessary in this case.

[25] I am going to waive the victim surcharges in all of these cases, given the circumstances of Mr. Skookum.

[26] As for the remaining counts?

[27] MS. GRANDY: If they could be marked as withdrawn, please?

[28] THE COURT: Withdrawn.

[29] It is up to you, Mr. Skookum, to move forward. If you stay motivated and work with Pastor Andy Nieman and others like him, and work with your Probation Officer, I

have every reason to believe that you will never be back in this courtroom again; all right? Do that for your grandmother. Honour her memory.

COZENS T.C.J.