

Citation: *R. v. Tarr*, 2012 YKTC 86

Date: 20110427
Docket: 09-00658
Heard: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Judge Ruddy

REGINA

v.

BEVERLY TARR

Appearances:
Terri Nguyen
André Roothman

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] RUDDY T.C.J (Oral): Beverly Tarr is before me for sentencing on a single count of common assault involving her adult son, Rob McKeddie. This is a change of plea during trial in a very difficult circumstance, as it is an altercation which occurred within the family, and I had heard evidence, not just from Mr. McKeddie, but from his grandmother, Ms. Barker, as well, and I had heard some evidence from Ms. Tarr before we reached this point. Altercations that occur within a family are always very difficult for everybody that is involved; no exception in this particular case.

[2] But what has been admitted to me today, in support of the guilty plea to common assault, is that Mr. McKeddie and Ms. Tarr got into an altercation on the evening in question, and through the course of the altercation, Ms. Tarr bit Mr. McKeddie's finger

for some 30 seconds, and there were some minor injuries as a result that did not result in any ongoing problems to Mr. McKeddie.

[3] There is a joint submission before me in terms of resolving this matter for an absolute discharge. For me to grant an absolute discharge I need to be satisfied of two things. Firstly, that it would be in Ms. Tarr's best interest that there be an absolute discharge. I do not have a great deal of difficulty reaching that point. Ms. Tarr is now 45 years of age and comes before the Court with no prior criminal record. I am also aware of the fact that she has indicated that there are a number of medical difficulties she is experiencing, which will include some upcoming surgeries. In such circumstances, it is not a huge leap for me to get to the point that a discharge would be in Ms. Tarr's best interests.

[4] Generally, the more complex part of the question is whether or not a discharge would be in the public interest or, rather, would not be contrary to the public interest, and we look at a number of different factors for that. In this particular case, as I said, this being an incident that occurred within the family, I think there are different dynamics than we see in other types of assault cases. That is a factor, I think, that is appropriate to consider in terms of where this family goes from here.

[5] I am recognizing, in considering the public interest, that Ms. Tarr has been subject to conditions for an extended period of time, and has been compliant with those conditions. I am also considering the fact that there has effectively been a response to the behaviour in the form of significant expenses that have been incurred by Ms. Tarr in terms of responding to this. So there have been consequences that have occurred in

different ways because of the conditions she was subject to, and because of the costs that have been incurred.

[6] With the particular dynamics of this case, I am satisfied that it would not be contrary to the public interest to grant Ms. Tarr an absolute discharge. So in all of the circumstances, I am prepared to accede to the joint submission. There will be an absolute discharge, Ms. Tarr, as it relates to the single count of assault. Given your financial circumstances, I will waive the victim fine surcharge, normally something I am required to order in every case unless there would be a negative financial impact or an inability to pay. In your case I am satisfied, with what I have heard through the course of this, that that would be problematic, so I will waive that. The Crown is not seeking any further orders. So as of now we are finished and you are free to go.

[7] THE ACCUSED: Thank you.

RUDDY T.C.J