

Citation: *R. v. Thompson*, 2010 YKTC 86

Date: 20100813
Docket: 09-00933C
10-00038
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Lilles

REGINA

v.

GLEN WADE THOMPSON

Appearances:
Bonnie Macdonald
Melissa Atkinson

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] LILLES T.C.J. (Oral): Mr. Thompson is a 39-year-old male who has pled guilty to three fraud charges, contrary to s. 380(1) of the *Criminal Code*. They involve three different victims. All three fraud charges occurred in the course of eight days during March of 2010. The victims were Jackson Lyttle, Dana Klock and Reta Albers.

[2] The *modus operandi* of the three frauds were similar. Mr. Thompson engaged the victims in a conversation at his or her place of work. He held himself out as an employee of a ticketing promotion company, Bytown, and offered the victims an opportunity to purchase a ticket to a concert in Vancouver at GM Place, involving well-known performing artists, specifically Michael Bublé, Lady Gaga and The Eagles.

[3] In two instances he offered another free ticket or complimentary travel as a sweetener, as part of a larger package. He also offered to sell accommodation at the Georgian Court Hotel. He provided elaborate and detailed documentation containing terms and conditions of the sale relating to the tickets, that were professional in appearance. Mr. Thompson had previously worked in this business understood it well. That is why the documentation appeared authentic and fooled the individuals that he was dealing with. He made specific promises regarding ticket delivery.

[4] While all three of the performing acts were scheduled to perform at GM Place in Vancouver, the dates he gave for Michael Bublé and Lady Gaga were incorrect. The police investigation revealed that no tickets were purchased on Mr. Thompson's credit card, as he had held out to the victims. In fact, there was no record of Bytown or the accused purchasing any tickets for the three concerts previously mentioned.

[5] Although the total amount of the three frauds was small, some \$830, in my opinion, the scheme itself was quite professional and deliberate. I mentioned this in my discussions with counsel during their submissions. For example, he exchanged numerous emails with the Georgian Court Hotel, creating the impression that he was potentially a customer who could purchase many room nights. To add authenticity to these claims, he persuaded Ms. Klock, one of the victims, to pre-pay a suite at the Georgian Court Hotel for \$260 in return for two free tickets to The Eagles concert. It leads one to speculate, and it is only speculation, whether he was planning to spring some fraud on the hotel itself, in addition to using the hotel as an unwitting accomplice in the three frauds before the Court.

[6] Now, although the general *modus operandi* was similar and it involved tickets to these events at the GM Place, the details of the fraud were slightly different in each case. I need not go into detail; details, in fact, are unnecessary for this sentencing. But I do note in the case of Jackson Lyttle, Thompson told him that he had paid for the tickets himself with his credit card and then got Lyttle to reimburse him with the cash. A different format was used with other victims.

[7] The scheme began to unravel when Thompson started making excuses for delayed delivery for Mr. Lyttle's tickets. Mr. Lyttle got suspicious and used the Internet to discover a website entitled, "Who Is Wade Thompson Scamming Now?" He confronted Mr. Thompson, who promised to give him a refund on March 15th. I understood that was also the day that Mr. Lyttle contacted the police.

[8] There are some mitigating and aggravating factors. I understood from defence counsel that in her dealings with Mr. Thompson he undertook early acceptance of responsibility. There are delays associated with contacting other jurisdictions with a view to waiving other charges into this jurisdiction. He has indicated a willingness to make reparations to victims in the community. The Court received a number of positive reports from the Whitehorse Correctional Centre. The reports were exceptional and dealt with how he had helped reorganize the library, among other things. But I want to make it very clear that I do not view those reports as evidence that Mr. Thompson has reformed. I cannot say, "It is all over with, it will never happen again." What it does speak to is that this is a man with many abilities, who has abilities and skills, and he made a very exceptional impression on the people at Whitehorse Correctional Centre with his work in the library, working with the inmates and reorganizing the information

kiosks there. I note, merely as an aside, that Mr. Thompson is a salesman and salesmen can be very convincing, and sometimes they can also be sincere.

[9] He has provided three letters of apology to his victims and, as I directed earlier, the normal procedure should apply, that the victim worker should contact each of the victims and ask them if they want to receive a copy of it. If they do, the Court will make a copy available. He has apparently befriended a Marj McLeod (phonetic), and when released from custody, he has a place to stay.

[10] The single most aggravating feature of this case, and the reason that we have been here at all today discussing the sentence to be imposed, at length, is his long criminal record. If these had been his first offences involving fraud he would have probably received a discharge of some kind, provided the Court was satisfied that he was going to make restitution. That is not the case.

[11] The long record includes numerous convictions for fraudulent offences and concludes in 2007 with a number of convictions for which he received a lengthy prison term in the range of 18 months in total, including the pre-sentence custody. The recent lengthy period of incarceration did not deter Mr. Thompson from committing the offences for which he is being sentenced today. So that is really why we are here, for what, on the face of it, seems to be a relatively minor fraud conducted by Mr. Thompson on three local citizens.

[12] Ms. Atkinson is correct in concluding and advising her client that a jail term would be called for. In my view, the recommendation by Madam Crown is excessive in the

circumstances, that is to say, when taking into account the numerous mitigating factors and the amount of the fraud.

[13] In my view, with respect to these matters, there should be a sentence of nine months custody with respect to each charge, concurrent. However, he should get credit for five months pre-trial custody. So the sentence on each would be an additional four months concurrent. That would be followed by 16 months probation.

[14] Now, Ms. Atkinson, I liked what you suggested about the probation terms. I was not able to write them all down, so I want you to turn back to your page and let us work through this again together.

[15] MS. ATKINSON: Okay, sure.

[16] THE COURT: Statutory terms will apply.

1. Keep the peace and be of good behaviour;
2. Appear before the Court when required to do so by the Court;

I am directing that you appear before the Court within the first eight weeks of your release from Whitehorse Correctional Centre for a review of your performance and plans under this probation order.

3. You are to report to a Probation Officer within two clear days of your release from Whitehorse Correctional Centre;
4. You are to advise the Probation Officer of any change in name or address and promptly notify the Probation Officer of any change of employment or occupation.

5. You are to remain within the Yukon Territory unless you obtain written permission from your Probation Officer;
6. You are to reside at such place as is approved by your Probation Officer and not change that residence without the prior written permission of your Probation Officer;
7. For the first three months, you are to abide by a curfew by remaining within your place of residence between the hours of 9:00 p.m. and 6:00 a.m. daily, except with the prior written permission of your Probation Officer. You must present yourself at the door or answer the telephone during reasonable hours for curfew checks, failure to do so will be a presumptive breach of this condition;
8. You are to take such psychological assessment, counselling and programming as directed by your Probation Officer;

I am recommending that a complete psychological assessment be conducted, preferably while Mr. Thompson is in custody, and that report be filed forthwith with the Court.

9. You are to take such other assessment, counselling and programming as may be directed by your Probation Officer;
10. You are to have no contact directly or indirectly or communicate in any way with Jackson Lyttle, Dana Klock and Reta Albers, except in relation to the letters of apology, which have been filed with the Court and may be forwarded to the victims, with their consent, by the victim worker;

11. You are to perform 50 hours of community service as and when directed by your Probation Officer or such other person as your Probation Officer may designate; the community service is to be completed by the first four months of your probation order;
12. You are to make restitution by paying into Court the following amounts: In relation to the victim Lyttle, \$420; in relation to the victim Klock, \$260; in relation to the victim Albers, \$200. This restitution is to be completed during the first six months of the probation order at a rate commensurate with your ability to pay;
13. You are to make reasonable efforts to find and maintain suitable employment and provide your Probation Officer with all necessary details concerning your efforts, as well as with respect to your income;
14. You are to provide your Probation Officer with consents to release information with regard to your participation in any programming, counselling, employment or educational activities that you have been directed to do pursuant to this probation order.

[17] Now, what did I miss, Ms. Atkinson or Crown counsel? Did I miss anything that you want me to have in there?

[18] MS. MACDONALD: Your Honour, there's two conditions I would suggest. I don't think there's any reason for the accused to go to the workplaces of the accused [sic]; that's where they met. So I would suggest Action RE/MAX -- not to attend at Action RE/MAX, Coles Bookstore or the TD Bank in Whitehorse. There is no reason for

him to go there. He indicated he banked at Bank of Montreal when he was initially speaking with Ms. Albers.

[19] THE COURT: Okay. So the TD Bank?

[20] MS. MACDONALD: Yes.

[21] THE COURT: Coles Bookstore?

[22] MS. MACDONALD: Yes.

[23] THE COURT: And?

[24] MS. MACDONALD: Action RE/MAX, which is where Dana Klock works.

[25] THE COURT: Action RE/MAX?

[26] MS. MACDONALD: Yes.

[27] THE COURT: Any issue with that?

[28] MS. ATKINSON: No issue.

[29] THE COURT:

15. You are not to attend at the following premises: TD Bank, Coles Bookstore, Action RE/MAX, unless you have the prior written permission of your Probation Officer.

[30] MS. MACDONALD: And Your Honour, I would -- it's an unusual suggestion to make, but appropriate in the circumstances, in the Crown's submission.

As far as the "remain in the Yukon unless you have the prior written permission of your Bail Supervisor," I would suggest adding to that condition something to the effect that, "When you are outside of the Yukon, if you are to remain in the community for longer than 24 hours, you must advise your Probation Officer." It gives the Probation Officer the opportunity to alert the RCMP that he is present. With his history of essentially grifting across the country, it can give everyone the opportunity to prevent any further offending.

[31] THE COURT: Well, let us put it this way:

16. Remain within the Yukon Territory unless you obtain written permission from your Probation Officer or the Court. You are to advise the Probation Officer of your departure date, intended destination and intended return date.

[32] MS. MACDONALD: Thank you, Your Honour.

[33] MS. ATKINSON: Everything is fine. One of the things that my client's asked me to indicate regarding the community work service, if that can be a word in there, attend or participate in 50 hours of community work service, which may be included, community work service at the correctional centre, once he's released.

[34] THE COURT: Well, that would constitute community work service if you were assisting there. I cannot make them do it, but if you have a good relationship with them, they would probably welcome you to do it.

[35] THE ACCUSED: They had already indicated that.

[36] THE COURT: There is nothing in this order that would preclude it. I cannot order them to do it, so it is something you will have to work with. You understand that this order, the community service, does not start until you are released from custody?

[37] THE ACCUSED: Understood. Of course.

[38] THE COURT: I understood that too and I understood that you, because of the relationships you made there --

[39] THE ACCUSED: What I'm doing in there --

[40] THE COURT: -- you want to go back and see if you could continue to be of assistance.

[41] THE ACCUSED: That's right. That's what I would like.

[42] THE COURT: That is what I understood.

[43] THE ACCUSED: May I ask for one additional condition be added?

[44] THE COURT: What is that?

[45] THE ACCUSED: I am not to be in possession of or to engage in the buying and selling of event tickets, of any sort whatsoever.

[46] THE COURT: I would be very pleased to make that order.

[47] THE ACCUSED: Please.

[48] THE COURT: That order will go. Madam Clerk, do you need to repeat it?

[49] THE CLERK: No, that's fine, thank you.

[50] THE ACCUSED: Thank you, Your Honour.

[51] THE COURT: Well, do not thank me because I really have not done anything. If you have anybody to thank, in the short term, it is yourself because you have taken, apparently, one big step forward in Whitehorse Correctional Centre. I have to tell you, sir, nobody can predict the future. The future is not predictable, but I have to tell you that, in my experience, the best indicator of future behaviour, unfortunately, is past behaviour. That does not bode well for you unless you take some concerted steps to change what you have been doing. You are intellectually and otherwise totally capable of doing well.

[52] So let us conclude this by my wishing you all the best of luck. I sincerely do so, and if you decide to continue your life in the Yukon it is a great place to do so. But as Madam Crown pointed out, it is not a great place to go afoul of the law, because these small communities are actually quite closely supervised. So if you want to do that, you are probably better off going back to Vancouver. I do not recommend that, but that is the reality. Good luck to you, sir.

[53] THE ACCUSED: Thank you.

[54] MS. MACDONALD: Your Honour, because the accused has been in custody for five months and shall be for another four months, Crown suggests the victim fine surcharges be waived.

[55] THE COURT: Yes, I am sorry, I meant to do that. Waived. Thank you.

[56] MS. MACDONALD: I'm sorry, Your Honour, and to any count that guilty pleas were not entered, the Crown enters a stay of proceedings.

[57] THE COURT: Thank you.

LILLES T.C.J.