

Citation: *R. v. Voyer*, 2007 YKTC 68

Date: 20070918
Docket: T.C. 07-04925
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Judge Ruddy

REGINA

v.

YOANN VOYER

Appearances:
Eric Marcoux

Counsel for Crown

REASONS FOR JUDGMENT

[1] RUDDY T.C.J. (Oral): The matter before me is that of Yoann Voyer, who is facing the charge of fishing, essentially, without a barb-less hook, as required by the regulations. When the matter first appeared before me, Mr. Voyer failed to appear and the Crown sought to proceed with the matter on an *ex parte* basis pursuant to the *Territorial Summary Convictions Act*. At that particular point in time, I raised a question about my jurisdiction to do so. The matter was adjourned over to address the question of jurisdiction. The Crown who has been dealing with this matter, Mr. Marcoux, has clearly spent a considerable period of time considering the issue and doing work to satisfy me of the appropriate process, and has filed a book of authorities in this regard.

I am satisfied, based on his argument, that the summary conviction provisions of the *Criminal Code* apply with respect to proceedings under the *Fisheries Act*, save and except where the *Act* itself otherwise provides for different processes or outcomes.

[2] The argument flows essentially from the definition of proceedings under the summary conviction provisions of the *Criminal Code*, which is as follows:

"proceedings" means

- (a) proceedings in respect of offences that are declared by an Act of Parliament or an enactment made thereunder to be punishable on summary conviction;...

Later, in s. 786(1), it is noted that:

Except for otherwise provided by law, this Part applies to proceedings as defined in this Part.

[3] If one looks then to the *Fisheries Act*, it is clearly an *Act* of Parliament and thereby falls under the definition of proceedings.

[4] In addition, offences as against the *Fisheries Act* are defined as punishable on summary conviction in s. 78. One would also note that there are other references to the *Criminal Code* provisions within the *Fisheries Act*, including s. 79.7(1), which refers to "procedures in addition to procedures set out in the *Criminal Code*".

[5] In all of the circumstances, therefore, I am satisfied that offences under the *Fisheries Act* meet the definition of proceedings as under the summary conviction provisions of the *Criminal Code*. I must also note that I have been referred to the decision of my brother judge, His Honour Judge Lilles, in the *R. v. B.Y.G. Natural Resources* case, [1999] Y.J. No. 34. In paragraph 11 of that case, His Honour Judge

Lilles adopts the summary conviction part of the *Criminal Code* as the appropriate procedure with respect to offences contrary to the then *Federal Waters Act*.

[6] Therefore, in all of the circumstances, I am satisfied that I do have jurisdiction to proceed with these matters *ex parte* pursuant to the provisions for an *ex parte* trial under the summary conviction provisions of the *Criminal Code*.

[7] With that in mind, the Crown has called Conservation Officer Frankish in relation to the circumstances of the offence before me, which essentially involved his doing a routine check of anglers fishing off of the Tagish River Bridge into the Six Mile River or the Tagish River, depending on who you ask. The accused was one of those individuals. He was asked to produce his fishing licence. He was able to produce a valid fishing licence which included his name, Johan Voyer. He was then asked to remove his line from the water, and when he reeled it in, it was noted that he was using a treble-barbed hook to fish from the bridge, which is in contravention of the provisions of the regulations.

[8] I am satisfied, therefore, that the offence has been made out on the evidence of Conservation Officer Frankish and I will, as a result, enter a conviction with respect to the charge contrary to s. 7(14)(a).

[9] With respect to disposition, Mr. Marcoux, are you looking for anything beyond the voluntary fine?

[10] MR. MARCOUX: No.

[11] THE COURT: Even having had to do all of this work that I put you through? Okay, there will be a fine of \$100, one month time to pay.

[12] So again, Mr. Marcoux, thank you very much for all of your hard work. I appreciate your satisfying me on this point. It will make it much easier, I think, for the future.

[13] Conservation Officer Frankish, I appreciate you taking the time to be here today as well. Thank you.

RUDDY T.C.J.