

Citation: *R. v. Washpan*, 2010 YKTC 140

Date: 20101201  
Docket: 10-00488A  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before: His Worship Justice of the Peace Cameron

REGINA

v.

CLARENCE WILSON WASHPAN

Appearances:  
Jennifer Grandy  
Kimberley Hawkins

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCING**

[1] CAMERON J.P.T.C. (Oral): Mr. Washpan has pled guilty to one count under s. 254(5) and s. 259(4)(a). The facts before the Court are: on August 16th, in the early morning hours, there was a complaint of erratic driving taking place on Long Lake Road. This complaint was registered by an individual who had ultimately been run off the road by the alleged driving.

[2] The police did attend and observed the vehicle in question. It was being driven by Mr. Washpan. The police themselves observed him driving at high speed and fish-tailing his vehicle. They did stop the vehicle, and Mr. Washpan could not provide the particulars they wanted. He did admit that he had had three shots and two beers. The

police then, through CPIC, found out that Mr. Washpan was a prohibited driver at the time. He had been prohibited in February of this year for a two-year period.

[3] He was arrested, then given a breathalyzer demand and his rights. He refused to provide samples of his breath. The Crown has tendered notice and Mr. Washpan's record. With that notice brings into play two prior driving while impaired and one prior driving while disqualified convictions.

[4] The Crown and defence are not in dispute with regards to the sentence. The sentencing they are suggesting is a jail sentence. The minimum sentence for the refusal would be 120 days followed by a 60-day sentence for the driving while disqualified charge.

[5] The aggravating factors are the erratic driving pattern, that Mr. Washpan was a prohibited driver at the time, and further, that he was impaired while driving. In mitigation, however, he has entered a relatively early guilty plea and certainly takes responsibility for his actions.

[6] The Court is in agreement with the suggested range of sentence. For the refusal to provide a breath sample, Mr. Washpan, there will be 120 days of jail. In regards to the driving while disqualified charge, there will be a further 60 days of jail that is to be served consecutively. Pursuant to the s. 259 offence, there will be a further prohibition pursuant to s. 259. This prohibition prohibits you from operating any motor vehicle on any highway, public property or public roadway. It will be for a period of five years. That is under Yukon legislation and the *Criminal Code of Canada*. That means it is Canada-wide. So if you go outside of Yukon, you still cannot drive. It includes cars and

trucks, but is not limited to them. It also includes ski-doods, ATVs, motorcycles, heavy equipment, and any other motorized vehicles in the circumstances whereupon you would be driving on any highway, public property or public roadway.

[7] The victim fine surcharge will be waived given the limited means Mr. Washpan will find himself in for the next several months.

[8] The remaining charges?

[9] MS. GRANDY: If those could be marked as withdrawn, please.

[10] THE COURT: The prohibition will be attached to the driving while disqualified charge, Madam Clerk.

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CAMERON J.P.T.C.