

SUPREME COURT OF YUKON

Citation: *R. v. Johnson*, 2012 YKSC 33

Date: 20120328
Docket S.C. No.: 09-00599
09-00599A
10-01522A
Registry: Whitehorse

BETWEEN:

HER MAJESTY THE QUEEN

AND:

ANTHONY DAVID JOHNSON

Before: Madam Justice M.L. Benotto

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

Appearances:
Joanna Phillips
David Christie

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING DELIVERED FROM THE BENCH

[1] BENOTTO J. (Oral): The aggravating factors here are, of course, the violence involved and the confinement which are very serious matters, particularly combined with the sexual aspect. That said, Mr. Johnson, you are to be congratulated for getting help while in prison, even though you had to work for it, for taking responsibility, expressing your remorse, the fact that you consented to the committal and have entered a guilty plea saves a further traumatization of the complainant.

[2] I recognize that you do have a criminal record, but it is somewhat dated, so it does appear that you were doing better for a while. Again, I congratulate you for getting help both with respect to your anger management and the substance abuse, particularly when, being in a detention facility, it was not simply offered to you. I urge you to keep that up, to use the remaining time in custody to do that. I think that the involvement of your mom and her support by being here today is something that you should be grateful for and that you can use towards continuing your rehabilitation.

[3] So, with all of that said, I accept the joint submission. I have absolutely no problem with it. I think that it is within the range and recognizes the aggravating and the mitigating factors that have been articulated.

[4] So, with that, there will be a global sentence of four years. You will have credit for the 30 months previously served. After that you will be on a three-year probation. The conditions as outlined by Crown counsel are accepted, and they will be applicable for the first 18 months of your probation, and the second 18 months, you are to have absolutely no contact at all with the complainant; that is nothing, nothing direct or indirect. No phone calls, no text messages, nothing.

[5] There will also be a DNA order, a s. 109 order for ten years, and a 20 year sexual offender notification.

[6] Counsel, I did not articulate the probation conditions. Do you require me to do so or the fact that I have adopted your submissions is sufficient?

[7] MS. PHILLIPS: I think that's fine; it's just the standard conditions.

- [8] THE COURT: Mr. Registrar can complete the forms. Have I forgotten anything?
- [9] MS. PHILLIPS: No.
- [10] MR. CHRISTIE: I guess then the remaining counts, they were --
- [11] MS. PHILLIPS: They were withdrawn.
- [12] MR. CHRISTIE: I think my friend -- yes. Thank you.
- [13] THE COURT: Yes, we said the other remaining counts are withdrawn.
- [14] THE CLERK: Your Honour, on the firearms prohibition, which count is that attached to?
- [15] MS. PHILLIPS: It should be the sex assault.
- [16] THE CLERK: The sex assault.
- [17] MS. PHILLIPS: Should be. Count 2.
- [18] THE COURT: That is Count 2.
- [19] MR. CHRISTIE: Yes. There is also the victim fine surcharge, but I'd ask that that be waived, given my client's custodial status.
- [20] THE COURT: That is fine.

[21] THE CLERK: Your Honour, on the probation order, is that attached to all?

[22] THE COURT: Yes.

[23] THE CLERK: And also the -- I believe the *SOIRA* order is attached to the sexual assault?

[24] THE COURT: Correct.

[25] MS. PHILLIPS: Yes.

[26] THE COURT: Is there anything else that I have forgotten before I proceed?

[27] THE CLERK: I'm not sure if the custody amount needs to be broken down per charge. I'm not sure if that's a global sentence.

[28] THE COURT: It's a global sentence.

[29] MR. CHRISTIE: I'm fine with it being global, yes.

[30] THE CLERK: Thank you.

BENOTTO J.