

SUPREME COURT OF YUKON

Citation: *R. v. Chauhan*, 2019 YKSC 57

Date: 20190401
S.C. No.: 18-01508
T.C. No.: 18-06459
Registry: Whitehorse

BETWEEN:

HER MAJESTY THE QUEEN

AND

BINERJEET CHAUHAN

Before Madam Justice E.M. Campbell

Appearances:
Noel Sinclair
Rishi Gill

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] CAMPBELL J. (Oral): The facts are agreed to by Crown and defence, and I do not think there is a need for me to go back to the facts, except to say that I agree with Mr. Sinclair that it is a case that falls right along the line between the regulatory scheme and the criminal scheme.

[2] The personal circumstances of Mr. Chauhan are that he is a young man. He is 25 years old. He has no criminal record. He is gainfully employed. I am told by his counsel that he did not even have a driving record until today.

[3] Considering his guilty plea, considering that he acknowledges his fault and accepts responsibility for what he did, obviously it is clear that Mr. Chauhan, who was

the driver that day, made the wrong decision in not simply departing the area and basically by driving on the wrong side of the road and causing the accident that led to Mr. Charlie ending up with a broken leg.

[4] I have also read the victim impact statement. Mr. Charlie has been in touch with the Crown. He is, as reported by the Crown, content with the agreement that the Crown and defence put forward before the Court today. He also indicated in his victim impact statement that he has worked on his own circumstances that were also at play regarding what happened that night, that he is doing better, that he has forgiven Mr. Chauhan, and that he wishes him well.

[5] Considering, as I said, the circumstances of this case, the personal circumstances of Mr. Chauhan, the victim impact statement that Mr. Charlie filed, I am of the view that the penalty that both Crown and defence have suggested to the Court is appropriate in the circumstances.

[6] With regard to Count #1, which is s. 94 of the *Motor Vehicle Act*, that Mr. Chauhan failed to remain at the scene of the accident, I am in agreement that the maximum fine of \$500 should be imposed.

[7] Mr. Gill indicated that Mr. Chauhan is gainfully employed and that he needs approximately three months to pay the fine. I allow three months' time to pay. Additionally, there will be a six-month probation order. The conditions, as indicated in the *Summary Convictions Act*, are that Mr. Chauhan:

- (a) not commit the same or any related or similar offence, or any offence under a statute of Canada or Yukon or any other province of Canada that is punishable by imprisonment;

- (b) appear before the court as and when required; and
- (c) notify the court of any change of address.

[8] I am also in agreement that considering the circumstances of this case, considering the bad choices that Mr. Chauhan made that evening, that pursuant to s. 26.02(3) of the *Summary Convictions Act* — it refers also to the *Criminal Code* — I can impose a condition that Mr. Chauhan report to a probation officer forthwith and as directed thereafter by his probation officer until the directed counselling is completed, if counselling is directed.

[9] Therefore, I will also make the order that Mr. Chauhan receive or take counselling as directed by his probation supervisor.

[10] The probation order will be for a period of six months.

[11] With regards to Count #2, which relates to careless driving, I am also of the view that the suggestion made by Crown and defence is appropriate, and that the maximum fine of \$1,000 with three months to pay should be imposed, with the addition of a six-month probation order with the same conditions that I just outlined.

[DISCUSSIONS]

[12] A conditional stay of proceedings is entered on the Indictment.

CAMPBELL J.