

Citation: *R. v. Bernier*, 2013 YKTC 64

Date: 20130523
Docket: 12-08069
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Chief Judge Cozens

REGINA

v.

EDWARD BERNIER

Appearances:
Lee Kirkpatrick
Nicholas Weigelt

Counsel for the Territorial Crown
Counsel for the Defence
(via teleconference)

REASONS FOR SENTENCING

[1] COZENS C.J.T.C (Oral): Edward Bernier has entered a guilty plea to one count under s. 32(1) of the *Wildlife Act* for allowing meat from moose to be wasted, and one count under s. 17(1) of the *Wildlife Regulations* for failing to affix a seal to the moose.

[2] The circumstances are that on September 22, 2012, Mr. Bernier, with another companion, shot and killed a bull moose in behind the Faro mine. The moose was not retrieved and was located the next day by witnesses to the initial shooting who, when after going back and confirming the moose was where they thought it had been shot,

then contacted Conservation Officers who went out and found the moose partially buried by a grizzly bear. The grizzly bear came within about 11 yards of the Conservation Officers while they were there.

[3] As the Crown puts forth, the two witnesses had observed Mr. Bernier shoot the moose and their indication was that they had seen Mr. Bernier and his companion go up to the moose and approach it a couple of times. The witnesses were concerned that it didn't appear that any efforts were made to retrieve the moose at that time. The witnesses went back the next day, found the moose still there, and contacted Conservation Officers.

[4] Mr. Bernier is admitting that he did allow the moose meat to be wasted and that he didn't affix his seal to it. No explanation has been provided as to why he acted in the way that he did. He is an individual who is a lifetime Yukon resident, has hunted for 28 years with, as I understand from his counsel, only one minor violation ticket. Several years ago, he guided for an outfitter, and there is an indication here in a document that was filed from a website that says he has, "... countless successful hunts for monster bulls" and that he would be guiding "... boat moose hunters". I do not know whether in fact Mr. Bernier ever did do it; he indicates he did not. This is what is on the website, it is not Mr. Bernier's website, it is the outfitter's website. Frankly, it does not make any difference to me whether in fact the website is 100 percent accurate or not, the bottom line is Mr. Bernier is an experienced hunter, and a Yukon resident who certainly knew better than to act the way that he did with respect to this moose. The moose is a very large trophy bull moose, with a 65 inch set of horns.

[5] MS. KIRKPATRICK: Sorry, Your Honour.

[6] THE COURT: Yes?

[7] MS. KIRKPATRICK: I would just add that I don't think Mr. Bernier takes any issue with the fact that he actually did approach the moose and touch it on the horns after it had been knocked down.

[8] THE COURT: Right, but, as I understood from Mr. Weigelt, there is some issue that we do not need to resolve here about the difficulty locating the moose. It does not necessarily contradict the fact that, at least on one occasion, Mr. Bernier was up there. Certainly, the moose was easily located by the witnesses and by the Conservation Officers with the map provided by the witnesses.

[9] This is an early guilty plea. There has been a joint submission put forward for a total fine of \$7,500, a fine surcharge of \$1,125, a four year prohibition from hunting or until such time as the fine is paid, as well as forfeiture of the rifle, the scope, and the flannel gun case that were turned over by Mr. Bernier to the officers. Mr. Bernier was, as I understand it, fairly cooperative with the investigation.

[10] The fines with respect to the s. 32(1) charge will be \$6,500 with a 15 percent fine surcharge. With respect to Count 3, there will be a \$1,000 fine with a 15 percent fine surcharge. The total amount of the surcharges is \$1,125, and the total amount of the fine is \$7,500.

[11] Is there any issue with the one year time to pay that has been asked for?

[12] MS. KIRKPATRICK: No issue.

[13] THE COURT: One year time to pay. Mr. Bernier is prohibited from hunting for a minimum period of four years or until such time as the outstanding fines are paid if in excess of four years. There will be forfeiture of the rifle, the scope, and the gun case.

[14] Count 1?

[15] MS. KIRKPATRICK: Stay of proceedings.

[16] THE COURT: All right. Is there anything further or does that cover it?

[17] MS. KIRKPATRICK: That covers it.

[18] MR. WEIGELT: No, that's it from the defence. Thank you, Your Honour.

[19] THE COURT: All right. A stay of proceedings to Count 1.

COZENS C.J.T.C