

Citation: *R. v. Grunerud*, 2013 YKTC 99

Date: 20131211
Docket: 12-00897A
12-00897B
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Judge Chisholm

REGINA

v.

KEVIN ROY GRUNERUD

Appearances:
Terri Nguyen
Melissa Atkinson

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT

[1] The Crown applied pursuant to s. 752.1(1) of the *Criminal Code* for an order that an assessment of Mr. Kevin Roy Grunerud be conducted, the results of which could be used in an application to have him declared either a dangerous or long-term offender. I granted the Crown's application with written reasons to follow. These are my written reasons.

[2] In order to make a s. 752.1(1) assessment order, I must be satisfied that:

- i) Mr. Grunerud committed a serious personal injury offence as defined in s. 752 or an offence referred to in paragraph 753.1(2)(a); and
- ii) There are reasonable grounds to believe Mr. Grunerud might be found to be a dangerous offender under s. 753 or a long-term offender under s. 753.1

Whether either a Serious Personal Injury offence or a 753.1(2)(a) offence

[3] Mr. Grunerud has pleaded guilty and was convicted of two offences, namely: forcible confinement (s. 279(2)) and assault (s. 266)¹. The Crown proceeded by way of Indictment with respect to both matters. As neither of these offences is listed in paragraph 753.1(2)(a), I turn to whether either is a serious personal injury offence.

[4] Pursuant to s. 752, a serious personal injury offence includes an indictable offence involving ‘the use or attempted use of violence against another person’ and ‘for which the offender may be sentenced to imprisonment for 10 years or more’.

[5] The forcible confinement took place over a period of four days, during which the offender would not allow the victim to leave the camper in which they were residing. The period of forcible confinement followed a serious assault by Mr. Grunerud on the complainant. During this forcible confinement, the victim tried to leave the camper on more than one occasion. Mr. Grunerud used physical force to prevent her from doing so. The victim was terrified as a result of these incidents.

[6] The forcible confinement offence is clearly one ‘involving the use or attempted use of violence against another person’ and as the Crown has proceeded by way of indictment, the maximum sentence is 10 years imprisonment. Accordingly, I find that it is a serious personal injury offence.

¹ Mr. Grunerud has also been convicted of a s. 127 charge for breaching, while on remand, a court order to have no contact with the victim.

Whether there are reasonable grounds to believe the offender might be found to be a dangerous or long-term offender

[7] As stated in *R. v. Fulton*, 2006 SKCA 115:

...[S]ection 752.1 does not call upon the court to consider whether the offender will *probably* be found, or is *likely* to be found, a dangerous or long-term offender. It does no more than call upon the court to consider whether there exist reasonable grounds to believe the offender *might* be found to be a dangerous or long-term offender; and it does so for no other purpose than that of deciding whether to order an assessment. The word 'might' speaks to possibilities: Is the prospect of the offender being found to be a dangerous or long-term offender within the realm of possibility or beyond it?... (para 21)

[8] Defence counsel acknowledges the low threshold to be met under section 752.1.

Defence, however, cautions against acceding to such an application in a rote fashion.

She describes Mr. Grunerud's criminal record as being relatively modest. She points to an assault causing bodily harm conviction in 2009, for example, for which he 'only received five months'. However, his criminal history is of significant length and severity and includes convictions for assault with a weapon (x 4), assault (x 4), uttering threats (x 2), and break and enter with intent (x1). Mr. Grunerud also has a number of convictions for breaching court orders. His last conviction for assault with a weapon resulted in a term of imprisonment of two years less a day. Prior to that, he received a global sentence of 45 months imprisonment for a string of offences with respect to a former spouse, including serious violent offences against her.

[9] It is important to note that many of Mr. Grunerud's convictions have a common feature: assaultive behaviour towards women with whom he is in a relationship. This type of offence commenced in 2000 and his record includes four separate spouses or

intimate partners (including the victim in the matters before me) becoming victims of his violence.

[10] Despite participation in violence prevention programming during periods of incarceration, he has continued to commit violent offences.

Conclusion

[11] I have considered the dangerous offender criteria in s. 753(1)(a) as well as the less onerous long-term offender criteria in s. 753.1(1). Considering these various criteria in light of the circumstances of Mr. Grunerud's past convictions and in light of the offences before me, I find there are reasonable grounds to believe he might be found to be either a long-term or dangerous offender.

[12] In making this finding, I am cognizant that this is the first stage of a rigorous process, and one at which the burden to be satisfied is low.

CHISHOLM T.C.J.