

COURT OF APPEAL FOR THE YUKON TERRITORY

ORAL REASONS FOR JUDGMENT:

CORAM: The Honourable Mr. Justice Donald
The Honourable Mr. Justice Hudson
The Honourable Mr. Justice Low

BETWEEN:

HER MAJESTY THE QUEEN

Respondent

AND:

JAMES WILLIAM HOWDEN

Appellant

MICHAEL COZENS

Appearing for the Appellant

KEVIN DROLET

Appearing for the Respondent

REASONS FOR JUDGMENT

[1] DONALD J.A. (Oral): This is a reference pursuant to Rule 13(3) on a matter of conviction for driving over .08. The Crown proceeded by way of indictment and so the appeal is directly to this Court.

[2] The conviction was recorded on 14 February 2001. The Notice of Appeal was filed by counsel, on behalf of the appellant, within time on a Legal Aid Certificate issued for the limited purpose of filing the notice of appeal. That limited mandate has run out. No steps have been taken to perfect the appeal.

[3] The matter was last before this Court in chambers on 7 May 2002. The appellant was present and advised at that time that he was to appear on today's date to respond to the registrar's reference under Rule 13(3). Although counsel appeared with him, counsel had been discharged by the appellant and counsel appeared as a matter of courtesy to the Court. It was apparent then to the appellant on May 7, 2002 that he was not represented and that he would be required to appear either with other counsel or himself, today, to explain why he has not progressed with the preparation of this appeal.

[4] The appellant has not appeared, although Mr. Cozens appears as counsel for the former counsel of the appellant out of a sense of duty to the Court to explain the position of the appellant. The appellant's name has been paged. Efforts have been made to contact him by telephone. He has not appeared today and has not responded to those telephone calls. No step has been taken to advance the appeal. In all the circumstances, I would dismiss the appeal for want of prosecution.

[5] HUDSON J.A.: I agree.

[6] LOW J.A.: I agree.

[7] DONALD J.A.:

So ordered.

DONALD J.A.