

Citation: *R. v. Howse*, 2010 YKTC 124

Date: 20101029
Docket: 10-00445
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Chief Judge Ruddy

REGINA

v.

MARLIN CHRISTOPHER HOWSE

Appearances:
Ludovic Gouaillier
Kimberly Hawkins

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] RUDDY C.J.T.C. (Oral): Mr. Howse is before me having entered a plea of guilty to a count of driving while the alcohol in his blood exceeded the legal limit. He was observed by a civilian witness driving erratically in the Shipyards Park area during the course of which he hit a cement beam. He had two passengers in the vehicle who appeared to be passing a bottle back and forth. He was then observed driving in the liquor store parking lot. The police were contacted. They noted the smell of alcohol and did ask him to provide a sample into an approved screening device, which registered as a fail. He ultimately provided two samples registering at 280 and 270 milligrams percent. I am also advised that he did give a false first name to the RCMP. That is something he appears to have done in the past, although as his counsel has pointed

out, it was fairly low end if he was really trying to send them in the wrong direction.

[2] He has a prior criminal record, which is a lengthy one. It has four prior related offences, the last of which was in '93. So there is a big gap in his record as it relates to impaired driving. There is not a gap in his record as it relates to numerous other offences.

[3] Counsel are jointly agreed that a sentence of six months is appropriate on the facts of this particular case, with a four-year driving prohibition. I will say that I am of the view that that falls well within the appropriate range. I understand from Mr. Howse, his biggest concern at this point in time is being able to return to Alberta to assist his elderly mother who relies on him for support. I am also advised that he has some six weeks in remand, which he is entitled to credit for. I am going to reduce the suggested six months by that six weeks. So there will be a remaining sentence of four and a half months to be served in custody. Is it easier if I do that with days? No. Okay. There will also be a driving prohibition of four years. So you are on your way. Thank you.

[4] THE ACCUSED: Okay. Thank you.

[5] THE COURT: I will waive the victim fine surcharge given his current custodial status.

RUDDY C.J.T.C.