

Citation: *R. v. J.G.*, 2008 YKYC 4

Date: 20080417
Docket: T.C. 06-03545G
Registry: Whitehorse

IN THE YOUTH JUSTICE COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

REGINA

v.

J.G.

Publication of identifying information is prohibited by s. 110(1) of the *Youth Criminal Justice Act*.

Appearances:
Samantha Oruski
Emily Hill

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] CAMERON J.P.T.C. (Oral): Ms. G. has pled guilty to one count under s. 137. The facts before the Court are that Ms. G. served a custody disposition to be followed with two years of probation. Essentially, she did okay for the first three weeks or so and then she ran into trouble with the curfew condition, specifically in that January 21st through to the 28th, Ms. G. failed, basically, to return to her group home or to even check in there.

[2] It is unknown what else was going on during that time. It is unknown whether there were other breaches. If so, it is not before the Court, but it is clearly a concern. It is one thing to miss your curfew, Ms. G., but when you are completely out of touch with

anybody, virtually none of your probationary conditions can be enforced. So it is basically you are just simply saying, "You can't do anything to me on probation."

[3] The suggestion from Crown is a custody term. Your counsel agrees that it can be considered; but would, of course, prefer that it not be considered. If it is considered, I would agree that it could be deferred. Ms. Hill explained to you what deferred custody would mean. It is a jail sentence, you are just not at YOF. The slightest violation of a deferred custody order, the slightest 10 minutes late for a curfew type thing results in you going to YOF.

[4] THE ACCUSED: Yeah.

[5] THE COURT: I find it interesting that you have made the connection between your alcohol consumption and trouble, but you do not seem to have made the connection between the fact that you do well when you are in custody, and you do not seem to do well when you are out making up your own mind as to what you are going to do. That is a bit scary because what that means is that for you to do well, you should be in jail. That is not really what the courts wish for you, or for any young person, but if that is the only way that we can get you to behave, then that is what we ultimately wind up doing.

[6] THE ACCUSED: Yeah.

[7] THE COURT: It would appear that the open custody time went reasonably well, as well; that kind of structure also worked for you. So I am content to give a deferred custody and opportunity to, in fact, contain you. Ms. G., I am going to

place you in custody for 30 days. I will defer that custody under the following conditions. For those 30 days, you must abide by these conditions and remember to absolutely abide by them. It is not like probation where your probation officer can say, "Okay, you didn't show up like you were supposed to, but you are here now so I'm not going to breach you." That is not the case.

[8] THE ACCUSED: Yeah.

[9] THE COURT: In this case, if you do not show up, you go to YOF.

[10] THE ACCUSED: So like, if I don't, like, follow the conditions that you give me, I just go straight up to YOF?

[11] THE COURT: If you do not follow these conditions that is where you go, YOF.

[12] THE ACCUSED: Yeah.

[13] THE COURT: Do you understand that?

[14] THE ACCUSED: Yeah.

[15] THE COURT: Until the finish of your 30 days.

[16] THE ACCUSED: Yeah.

[17] THE COURT: The conditions are going to be that you:

1. Keep the peace and be of good behaviour;
2. Must appear before the Youth Court as required by the Court;

3. Report to a youth worker immediately upon your release and thereafter, be under the supervision of the youth worker;
4. Inform the youth worker immediately upon being arrested or questioned by the police;
5. Report to the police or any named individual as instructed by your youth worker;
6. Advise your youth worker of your address, residence on release, and after release, report immediately to your youth worker any change in that address;
7. Report any change in your normal occupation if you are employed;
8. Report any change in your family situation, your financial situation or report any difficulty that you may have with an ability to comply with any of the conditions of this order;

[18] These are required conditions that are to be considered in a case with deferred custody, and I mean they just do not -- I am having a bit of trouble with them because I do not think they apply to Ms. G. You are required to:

9. Not own, possess or have in control any weapon, ammunition, prohibited ammunition, prohibited device or explosive substance;
10. Comply with any reasonable instructions that your youth worker considers necessary in respect of any conditions of your deferred custody order.

[19] In order to prevent a breach of that order, I am going to try as best I can, Ms. G., to simplify it for you into more simple language. It is rather bizarrely written. What you have got to do is you have got to behave.

[20] THE ACCUSED: Okay.

[21] THE COURT: Okay. You have got to come to court if you are told to come to court by the Court or by your youth worker.

[22] THE ACCUSED: Yeah.

[23] THE COURT: You have to report to your youth worker immediately, thereafter as often and in the manner directed by your youth worker; do you understand that? You must report any changes in your name or address or if you get a job or anything like that to your youth worker immediately.

[24] THE ACCUSED: Yeah. That's like my P.O.?

[25] THE COURT: Yes, it is like your P.O. It will probably be the same person, but you have got to understand that they are operating as a supervisor of this jail sentence now. They are not operating as a P.O., that is why they do not have the discretion that they have as a P.O.

[26] THE ACCUSED: Yeah.

[27] THE COURT: Okay. You are also going to be required to do the following:

11. Not to leave your group home except in the direct supervision of a group home staff member or as is allowed in writing by your youth worker.

[28] So if you have to go to some programming, you can contact your youth worker. They can give you permission in writing to go there. If you are applying for a job or

something like that, your youth worker can give you permission in writing. The only time you can be out of your group home during these 30 days is when you are either in the direct supervision of a staff member or with the written permission, which you have to carry on you, from your youth worker to be out. Do you understand that?

[29] THE ACCUSED: Mm-hmm.

[30] THE COURT: So there will be no going downtown to hang out, for example, okay?

[31] THE ACCUSED: Yeah.

[32] THE COURT: For that 30 days you must:

12. Abstain absolutely from the possession or consumption of alcohol and the non prescription use of drugs.

[33] Are there any of those conditions, then, that you do not understand, J.?

[34] THE ACCUSED: I understand all of them.

[35] THE COURT: You understand them all?

[36] THE ACCUSED: Yeah.

[37] THE COURT: You understand that after the 30 days are over that you will still be subject to all the conditions of your probation order?

[38] THE ACCUSED: Yeah.

[39] THE COURT: You also understand that you are subject to all the conditions of your probation order even while this order is in place?

[40] THE ACCUSED: Yeah.

[41] THE COURT: Okay. So your probation has not stopped. It is still in place. All those conditions apply and these conditions apply for 30 days; do you understand that

[42] THE ACCUSED: Yeah.

[43] THE CLERK: Your Worship, did you wish to make the offence history an exhibit?

[44] THE COURT: It should be Exhibit 1, yes.

[45] THE CLERK: Thank you, Exhibit 1.

EXHIBIT 1: Offence History

CAMERON J.P.T.C.