

Citation: *R. v. Jackson*, 2011 YKTC 78

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11-00512
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Judge Ruddy

REGINA

v.

WAYNE WENDELL JACKSON
(a.k.a. PHILIP MCCORMACK)

Appearances:
Joanna Phillips
Malcolm Campbell

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCING

[1] RUDDY T.C.J. (Oral): Wayne Jackson is before me for sentencing on four counts of shoplifting over a period of two months between the end of July and the end of September. Mr. Jackson shoplifted on five occasions that I have been provided information in relation to; once from Superstore, where the goods recovered amounted to \$150. Although Mr. Jackson fled on foot at that point in time, he was recognized later at Extra Foods with four packages of steak. There was then a shoplifting from Walmart where he took 18 DVDs, which, again, were recovered. Two months later, he was

found with \$86 of merchandise from Walmart. In September, he ran out of the Canadian Tire store with a \$400 television, which was recovered. On September 20, he walked out of Coast Mountain Sports wearing an \$800 jacket. He was identified on the security footage. The jacket was not recovered.

[2] Mr. Jackson comes before the Court with 117 prior criminal convictions, 54 of those for theft under. He is now 45 years of age, a member of the Champagne-Aishihik First Nation, with a Grade 10 education, and medical issues which render him unemployable. He does have two children that he maintains contact with, but he is not the primary caregiver.

[3] Crown is suggesting that, in all of the circumstances, the dominant sentencing principle needs to be protection of the public and is suggesting a sentence of 15 to 18 months as a result. Defence is suggesting a sentence of 12 months.

[4] There are some positives. Mr. Jackson has been using his time appropriately while in custody. He has been taking the Substance Abuse Program with Bill Stewart. I understand that these offences were motivated by his need to support a significant cocaine addiction. He has also been upgrading through the Yukon College campus at Whitehorse Correctional Centre and has been working in the kitchen.

[5] On the other hand, it is quite obvious, I think, to everyone, that Mr. Jackson is a chronic offender. He is someone we would often term a “nuisance” offender. These are not high end, serious offences. Where he becomes a problem is in the fact that he simply continues to do the same thing over and over and over again.

[6] There have been a number of cases filed before me, one of which is Mr. Jackson's last sentencing which does provide a fair amount of information with respect to his background. So it is not my intention to go through it in more detail than is set out by Judge Cozens in his March decision of *R. v. Jackson*, 2011 YKTC 14. I do not imagine it is surprising that he has ended up where he is when one considers some of the background circumstances, but it leaves me in a situation where I need to decide what to do with him today.

[7] I am satisfied that protection of the public at this point in time is the dominant sentencing principle, so it is simply a question of how long I remove Mr. Jackson from society such that there is a defined period in which he will not be shoplifting. Perhaps -- there is always that remote hope that he will see the error of his ways over the next few months and change his behaviour, although one would have to say that that hope is remote at best.

[8] In all of the circumstances, with respect to the four counts, I am satisfied that a sentence of 15 months is appropriate. Mr. Jackson will be sentenced to 15 months on each count, concurrent to each other.

[9] I will waive the victim fine surcharge, given his custodial status and financial circumstances. That leaves us with the remaining counts.

[10] MS. PHILLIPS: Stay of proceedings.

[11] THE COURT: I should state, there was no suggestion of probation. There is a suggestion he may well be on probation out of British Columbia. In this

particular case, I am not certain that protection of the public would be served much by a probationary term, so it will simply be the jail term.

[12] MR. CAMPBELL: Would that sentence be reduced by the 66 days?

[13] THE COURT: I am sorry, yes, it should be. So all of them will be reduced by 66 days, thank you. So the full sentence would be 450 days on each, concurrent, to be reduced by the 66 days in custody; so 384 days to go, less whatever remission time there is.

[14] MS. PHILLIPS: Thank you.

[15] THE COURT: Thank you.

RUDDY T.C.J.