

Citation: *R. v. Kraeleman*, 2010 YKTC 10

Date: 20100129
Docket: 09-10090
09-10091
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: Her Honour Judge Ruddy

REGINA

v.

DARREN WADE KRAELEMAN

Appearances:
Ludovic Gouallier
Darren Kraeleman

Counsel for Crown
Appearing on his own behalf

REASONS FOR SENTENCING

[1] RUDDY C.J.T.C. (Oral): Darren Kraeleman is before me having entered pleas of guilty to four counts. They include one count of assaulting a police officer, one count of obstruction, one count of possession of stolen property over \$5,000, that being a vehicle, and one count of breaching the abstain condition on his release order. All of the circumstances arose on the 29th day of November 2009 in Watson Lake, Yukon.

[2] It appears from what Mr. Kraeleman tells me that he was on his way to the Yukon for work purposes. While in Watson Lake, the police received a complaint of an intoxicated male creating problems in a vehicle outside of the bar. They attended, located the vehicle and were able to determine that the vehicle was stolen. They then

located Mr. Kraeleman in the bar. He was under the influence of alcohol and has indicated to me that he was very intoxicated. He was arrested for possession of stolen property. He resisted arrest; there was a struggle with the officer, in which he was taken to the ground. He has indicated that during the course of that he received an elbow in the face. He was, through the course of this, arrested. He then spit towards the officer. There is some dispute as to whether or not it was in the face or just in his direction; in any event, some of it landed on the face, which is a concerning thing for a police officer, given the potential concerns in their job dealing with offenders, a lot of whom are carrying some fairly serious and contagious diseases. I do not have any indication of that in this case, but it is a particular assault offence that is fairly disturbing and concerning for police officers.

[3] Mr. Kraeleman appears to have refused to provide his name, then provided a false name, and it was not until the following day that he did provide his own name, which left the police making extensive checks trying to determine who he was. Also, as an aggravating feature to all of the circumstances before me, it appears that he uttered numerous graphic threats to kill the officers, over the course of the evening. He also, at the time, was subject to an undertaking with respect to some offences out of Alberta that included a condition requiring him to abstain.

[4] He comes before the court with a very extensive criminal record which is also related in many ways. There are a number of property offences, a number of offences of violence and a number of process offences. So he does have an extensive criminal history. Crown, in reviewing the matter, has taken the position that 12 months is

appropriate in all of the circumstances, less credit for remand. Mr. Kraeleman has spent some two months in custody.

[5] He has advised me, representing himself today, that he was extremely intoxicated on the night in question and that the threats in particular are things that he would not have done had he been sober, and he has advised that the spit was in response to his having received an elbow in the face when taken to the ground. I am also advised that the vehicle is not one that he appears to have stolen but one that he received from a drug dealer in Alberta, and his intention and hope in coming to the Yukon was to find work.

[6] He has a very difficult personal history, having grown up with a father who is, I take it, actively involved in a biker gang, and it was a childhood characterized by violence and substance abuse. It has been a struggle for him, as is clearly reflected in his criminal record, to try and move past his history and his own substance abuse issues to lead a productive life. Unfortunately, he is once again before the Court.

[7] Mr. Kraeleman, in reviewing all of the circumstances, I am satisfied, primarily based on your record, that the position of the Crown is appropriate. It is long but, quite frankly, the sentence being sought is as long as you received for the same offence five or six years ago. So, in terms of your record, it is well within the range and I think it is an appropriate sentence. Also, it reflects what I think are the dominant sentencing principles in this case, which are denunciation and deterrence.

[8] I am glad to hear that you have some plans, that you really want to change your life. You really do not, as yet, have any demonstrated history of being able to do so.

[9] THE ACCUSED: I think I have a good opportunity in this institution because I know a lot of staff there; a lot of staff have known me since I was a young boy. Like Mr. Ritchies (phonetic) I've known since I was 12, Glen Doll (phonetic) I've known since I was 13.

[10] THE COURT: We do have a few out of the B.C. system up here now.

[11] THE ACCUSED: Yeah, so, and they're all in support of like having me in a small place like that where I can focus more on what I need to do, so.

[12] THE COURT: I am hopeful that this stint is one that gives you a good start.

[13] THE ACCUSED: Yeah, thank you.

[14] THE COURT: But I do think the sentence as proposed is appropriate.

[15] THE ACCUSED: Okay.

[16] THE COURT: I am going to order your sentence as follows. It will be less credit for remand, and for the two months spent you are entitled to three months credit, so there will be a remaining nine months to serve. Both the obstruction and the abstain breach will have a sentence of one day deemed served by your attendance in Court today. I am going to credit the remand time as against those two offences. So they are each going to be credited at 45 days. The remaining two offences, which I

consider the most serious, will both be a sentence of nine months but concurrent. So that is the assault on the police officer and the possession of stolen property will each be nine month sentences but served concurrently to each other.

[17] I will waive the victim fine surcharges because I take it you do not have any means to pay those at this particular time.

[18] THE ACCUSED: Or I would have took the bus here.

[19] THE COURT: It is my hope you use the time productively and get a good start on the issues you need to deal with.

[20] THE ACCUSED: Thank you.

RUDDY C.J.T.C.