

Citation: *R. v. Leclerc*, 2010 YKTC 116

Date: 20101006
Docket No. 10-10327
Registry: Watson Lake

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

NORMAN VICTOR LECLERC

Appearances:
Andrew Brown
Norman Leclerc

Student at law for Territorial Crown
Appearing on his own behalf

REASONS FOR SENTENCING

[1] FAULKNER T.C.J. (Oral): In this case, Mr. Leclerc was convicted of an offence contrary to s. 34(1) of the Highways Regulations.

[2] The *Highways Act*, RSY 2002, c.108, provides in s. 42(4) that any person convicted of an offence under the provisions of the *Act* or the Regulations, for which a penalty is not otherwise provided, is liable to a fine of \$500, to a period of imprisonment for a term not exceeding six months, or to both.

[3] The Crown argues that since other sections of the *Act* which impose penalties, provide for fines of “up to” certain amounts, s. 42(4) imposes a *minimum* penalty of \$500. This is a penal, although not criminal, statute, but nevertheless it should be construed strictly and, in my view, the enactment is vague on this point. Generally,

when a minimum penalty is imposed, it is made quite clear by stating, for example, “A fine of not less than.” I think the ambiguity in the *Act* must be resolved in favour of the accused. I think it is simply a case of bad draftsmanship more likely than anything else, and it should be interpreted as allowing the Court to impose a fine of not more than \$500.

[4] That being the case, and considering that there are no allegations of previous non-compliance by Mr. Leclerc prior to the date in question, and no evidence of actual endangerment to the public by his actions, I am going to impose a fine of \$100.

[5] There will be a surcharge of \$15. Do you need time to pay that, sir?

[6] THE ACCUSED: Fourteen days, sir?

[7] THE COURT: Fourteen days time to pay.

FAULKNER T.C.J.