

Citation: *R. v. McGundy*, 2009 YKTC 71

Date: 20090618
Docket: 09-00110
09-00110A
09-00123
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Honour Chief Judge Ruddy

REGINA

v.

PATRICIA HELEN MCGUNDY

Appearances:
David McWhinnie
Emily Hill

Counsel for Crown
Counsel for Defence

REASONS FOR JUDGMENT

[1] RUDDY C.J.T.C. (Oral): Patricia McGundy is before me in relation to three charges. There is a mischief, a breach and an abduction charge, all of which arise during a period of time where it is agreed by both counsel that Ms. McGundy was suffering from a mental disorder.

[2] Counsel are jointly before me today recommending that I make the finding that she was not criminally responsible by reason of mental disorder. In considering that request, I have reviewed the psychiatric assessment prepared by Aileen Brunet with

respect to Ms. McGundy, and I would make reference to a couple of comments made in that report, both located on page 14 of 16. The first is the doctor's opinion that:

...Ms. McGundy's mental state at the time of all the alleged offending would meet s. 16(1) [CCC] criteria for a finding of not criminally responsible due to mental disorder.

[3] She goes on in the report to indicate that, based on the examination, she is not, at this point in time, able to conclusively diagnose the particular disorder. There has been some suggestion that either schizophrenia or bipolar disorder may be operating, but further work is required to clarify the exact nature of the mental disorder. However, the doctor says:

Regardless, she clearly was psychotic throughout the period before, during and after the alleged offending and remained so at the time of this assessment.

[4] Based on the report and the information therein, I am satisfied that she meets the criteria to be found not criminally responsible by reason of mental disorder and I will make that finding at this point in time.

[5] I have been provided with a draft order which meets the terms as discussed and I am prepared to sign that at this point in time. I would decline to make a disposition and would remit the matter to the Review Board for disposition within the next 30 days.

[6] MR. MCWHINNIE: I understand for the purpose of formalities, Your Honour, that the defendant has implicitly, and I think my friend will confirm, does admit the basic allegations set out in the Informations that such that you can find that she not only is --

[7] THE COURT: Committed the acts.

[8] MR. MCWHINNIE: -- in the state she is, that she committed the acts in question.

[9] THE COURT: Thank you. That should --

[10] MS. HILL: There is no issue. I take no issue with the facts.

[11] THE COURT: That should be added to the decision as well, that I am satisfied, based on the agreement of counsel, that she committed the acts complained of but that at the time she was suffering from a mental disorder such that she was not criminally responsible.

[12] I have signed the draft order. Now, there is no issue with respect to her custodial status at this point? The intention is that she remains with the same custodial status until such time as there is a disposition by the Review Board? That is what I understood.

[13] MR. MCWHINNIE: Yes.

[14] THE COURT: Okay.

[15] MR. MCWHINNIE: However, for the record, the Court does retain jurisdiction should something go amiss with this plan to have the matter brought back before you to for -- to have her bail status addressed up until the point that the Board makes an order.

[16] THE COURT: But I just wanted to clarify there is no intention at this point to revisit the bail status?

[17] MS. HILL: And that decision was made when I understood that we could have a Review Board hearing next week. I'm going to find out how quickly after that can be and if it's not within -- within a couple of weeks I may bring the issue back.

[18] THE COURT: Okay. You may have a concern, as I will not be here.

[19] MR. MCWHINNIE: With respect to the bail issue, I'm not sure that it needs to be Your Honour specifically.

[20] THE COURT: Good. Then if counsel are satisfied --

[21] MR. MCWHINNIE: I don't think you're seized of that issue.

[22] THE COURT: -- it can proceed in front of someone else, then I am fine with that. Good. Thank you.

RUDDY C.J.T.C.