

Citation: *R. v. Mulholland*, 2006 YKTC 85

Date: 20060911
Docket: T.C. 05-00091B
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Foisy

REGINA

v.

KIM RHONDA MULHOLLAND

Publication of information that could disclose the identity of the complainant or witness has been prohibited by Court Order pursuant to s. 486(3) of the *Criminal Code*.

Appearances:
Noel Sinclair
Fia Jampolski

Counsel for the Crown
Counsel for the Defence

REASONS FOR SENTENCE

[1] FOISY T.C.J. (Oral): I take into account the comments made by Mr. Sinclair with respect to the aggravating matters involved here, the possession of property, which indicates something more than just a lark, but seems to indicate participation in some kind of a criminal organization.

[2] I also take into account the fact, as pointed out by defence counsel, that this property has been returned. While one does not counterbalance the other, it is a mitigating factor.

[3] Probably the most important mitigating factor is the fact that you pled guilty. I believe in giving a real discount for an early guilty plea, because if we do not give real discounts for guilty pleas, we do not get guilty pleas. People are going to run the gambit and hope that somehow they can get acquitted, but if they know that by pleading guilty they will get a substantial discount on what the sentence should be, then I think it will encourage, I hope it will encourage, people to do like you did and plead guilty at the first opportunity.

[4] I am also going to give you a two for one, two days for one while you were incarcerated, waiting sentencing. My reaction when I read the pre-sentence report was that being in the women's cells here in Whitehorse is almost akin to serving dead time. I think that has been reinforced by both counsel here today, by what they have told me.

[5] Accordingly, were it not for the guilty plea, I think a global sentence of two years less a day would be a reasonable sentence under the circumstances. However, taking into account the guilty plea, and the aggravating and mitigating matters that were discussed before me today, I sentence you to: on the trafficking charge, to a period of ten months; on the s. 354 charge, which is possession of stolen property, six months consecutive; on the possession of narcotics, s. 4, one and a half months consecutive; and on the breach, one month consecutive; for a total of 18 and one half months.

[6] From that, I will deduct the 12 and one half months which I deem to have been served, leaving a balance of six months to be served. I will not make a probation order, because you are still under the terms of a probation order for more than one year, until

October next year. Once you get out of jail, you are still bound by the terms of that order. So if you breach it, you will be back in court, back in jail.

[7] There will be a firearms prohibition, as provided for in s. 109 of the *Criminal Code*, for a period of three years. If you have any firearms or ammunition, those will have to be turned over to the police immediately. Is there anything else that I have not touched upon?

[8] MS. JAMPOLSKI: No, Your Honour. There was just one thing I was going to mention. Taking into consideration your comments with respect to my friend's application for the adjournment, I just wanted to indicate that we will be bringing an application before the courts and we are certainly not waiving it by doing the sentencing today.

[9] THE COURT: I have no jurisdiction one way or the other. For the record, it is on the record.

[10] MR. SINCLAIR: Crown would like a stay of proceedings on Count 3, Information 05-0716.

[11] THE COURT: Thank you, Mr. Sinclair. I will waive surcharges. There does not seem to be a lot of legal cash available, or any other cash, for that matter, right now. All right, is that all? All right, thank you.

[12] MS. JAMPOLSKI: Yes, thank you.

