

Citation: *R. v. Nieman*, 2005 YKTC 61

Date: 20050908  
Docket: T.C. 05-00220  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before: His Honour Chief Judge Faulkner

REGINA

v.

RICHARD PHILLIP PAUL NIEMAN

Appearances:  
Tony Brown  
Gordon Coffin

Counsel for Crown  
Counsel for Defence

**REASONS FOR SENTENCING**

[1] FAULKNER C.J.T.C. (Oral): Richard Nieman is before the court to be sentenced for two charges, a charge of auto theft and a charge of driving while disqualified. It appears that Mr. Nieman stole a vehicle belonging to a Whitehorse resident. The vehicle owner's son actually saw Mr. Nieman driving the vehicle and attempted to stop him. The result of that was that Mr. Nieman drove off dragging the owner's son along. Luckily he was not injured. It was actually through the son's efforts that some days later, Mr. Nieman and the vehicle were eventually located.

[2] The difficulty facing the court is that Mr. Nieman is simply unmanageable in the community. He has a horrendous record for someone his age and what happens is that virtually the instant that he is dealt with on one charge and is either released on

community supervision terms or completes the term of imprisonment, he is involved in another car theft or something of that order. In this case he had been out of jail a week, having been dealt with for similar offences in, I think it was January of this year. So, given that attempts at crafting a community based sentence have been, so I think I said the last time, spectacularly unsuccessful, the options that the court have resolve themselves down to one, and that is to give the public a period of respite from Mr. Nieman's activities and hope that during that period of time something can be put into place that will allow him to be controlled outside of jail.

[3] With respect to the charge of theft of the Toyota Tercel, Mr. Nieman, you are sentenced to a period of imprisonment of six months. On the charge of driving while disqualified, I take into account that you have been in custody now for a period of approaching two months and on that count you are sentenced to one day in addition to time served, which I calculate at three months. The surcharges are waived.

[4] MR. BROWN: I would like to mention s. 259 --

[5] THE COURT: I'm sorry?

[6] MR. BROWN: A driving prohibition.

[7] THE COURT: Any submissions on that?

[8] MR. COFFIN: No, I have nothing to say about that.

[9] THE COURT: When is he prohibited until?

[10] MR. BROWN: Sorry?

[11] THE COURT: When is he prohibited until, at this point?

[12] MR. BROWN: He was prohibited in January for two years.

[13] MR. COFFIN: Which would have -- I believe the prohibition starts upon the expiry of his period of custody. I'm not sure if the order says that, but that would have been in July. Well, it is either January or July.

[14] THE COURT: All right. In either event, I think that should be extended. He is prohibited from operating a motor vehicle for a period of three years, following his release from imprisonment.

---

FAULKNER C.J.T.C.