

Citation: *R. v. Sevigny*, 2009 YKTC 121

Date: 20091021  
Docket: 08-11438  
08-11443  
Registry: Dawson City

**IN THE TERRITORIAL COURT OF YUKON**

Before: Her Honour Chief Judge Ruddy

REGINA

v.

DENIS SEVIGNY

Appearances:  
Lee Kirkpatrick  
Denis Sevigny

Appearing for Crown  
Appearing on his own behalf

**REASONS FOR SENTENCING**

[1] RUDDY C.J.T.C. (Oral): Denis Sevigny is before me in relation to two counts under the *Wildlife Act*, R.S.Y. 2002, c. 229; one for hunting a moose after he had already killed the maximum amount permitted and one for discharging his firearm without due care and attention.

[2] Circumstances arise in September of last year. They were fairly lengthy. It is not my intention to include all of them in here. Suffice it to say that the conservation officer, through Mr. Sevigny and through others, learned that Mr. Sevigny had apparently shot a moose after dark in an area where there were residences within one kilometre. It appears the moose was wounded and Mr. Sevigny and others went looking for it the

next day and did not find it.

[3] The police received information from a number of sources, in terms of the circumstances, including that it had been dark at the time and also the fact that there had been a prior moose killed by Mr. Sevigny. Of concern, Mr. Sevigny initially lied to the conservation officer about having killed the prior moose, saying that it was his spouse, Lee-Anne Dickson, that had killed the moose. In addition, statements were taken from Ms. Dickson and from another individual, who both indicated that it was Ms. Dickson that had killed the moose. The third person then recanted and essentially indicated that he had been asked to lie with respect to that issue. Mr. Sevigny did eventually admit to having killed a moose earlier.

[4] There is a recommendation before me that there be a custodial term of 45 days with respect to these counts, and that seems to be universally agreed upon. The maximum sentences for offences of this nature are either a \$50,000 fine or one year in jail.

[5] Where there becomes an issue in this case relates to the Crown's request for a firearms prohibition, pursuant to s. 173 of the *Wildlife Act*. Crown is seeking a four-year prohibition. Mr. Sevigny, I take it, is arguing that there ought not to be a prohibition, on the basis that he and his family live on moose, caribou and fish and that he supplies the majority of the meat. His wife, who is First Nations and able to subsistence hunt, has some medical issues that will require --

[6] MR. CLARKE: Sorry to interrupt, but I believe Mr. Sevigny is aware that there likely has to be a prohibition of some length. So he's not contending for none.

So I mean I think he's more in the one to two year range sort of --

[7] THE COURT: Okay.

[8] MR. CLARKE: -- yeah.

[9] THE COURT: Okay.

[10] MR. CLARKE: He's not that unrealistic about what has to occur.

[11] THE COURT: Okay.

[12] MR. CLARKE: And it is a hunting prohibition.

[13] THE COURT: Yes. Sorry, did I say firearms?

[14] MR. CLARKE: Yes, you did.

[15] THE COURT: My apology. I did that earlier, as well. I, too, deal more frequently with firearms prohibitions than hunting ones, so my apologies. I am speaking about a hunting prohibition. So you are suggesting a range of one to two years, based on --

[16] THE ACCUSED: I am will --

[17] THE COURT: -- okay. The Crown's position for the four-year prohibition is based on the circumstances of the offence, and what they refer to as the multiplicity of the offences. There are other offences that fall in the fact pattern, although there are pleas to only two of them. Also, the Crown has provided information with respect to a number of other cases in the Yukon in which there have been

prohibitions granted in the three to five year range. As I said, Mr. Sevigny's position is that he requires hunting for subsistence purposes, for he and his family.

[18] I am of the view there needs to be a prohibition. I am of the view that it ought not to be a short prohibition either, because of the facts of this case. I am particularly concerned about the fact that the circumstances were dangerous, and I am also particularly concerned about the fact that you attempted to lie to the conservation officer about what had happened. I appreciate you have now come clean, but that is really problematic. The rules are there for a reason, and they are to ensure that we keep both people and animals safe. So I am satisfied that there has to be a prohibition, but what I am going to do is -- I accept Mr. Clarke's point that there is going to be a jail term attached to this. So for that reason, I am prepared to order a three-year prohibition instead of a four-year one.

[19] So there will be a three-year hunting prohibition, and there will be a sentence of 30 days on the s. 15(2) offence and a sentence of 15 days on the s. 10(1) *Wildlife Act* offence. Both of those will be consecutive to each other and consecutive to any other sentence that will be served.

[20] Is there anything further on these? The remaining counts we need to speak to.

[21] MS. KIRKPATRICK: A couple of things. One is whether the Court is prepared to make the order that --

[22] THE COURT: Oh, I am sorry, yes. You did not take issue with the course?

[23] THE ACCUSED: None at all. We were going to do it anyways.

[24] THE COURT: Okay, good. And I think it is a good idea --

[25] THE ACCUSED: No, no, I have no problems with that.

[26] THE COURT: -- all around. So there will also be the order, pursuant to s. 169(i), that you will not be able to obtain a hunting licence, once the hunting prohibition is finished, until you have completed the Hunter Education and Ethics Development course, which you can do before the prohibition is completed.

[27] MS. KIRKPATRICK: The other thing I would ask you to do is order that the licence currently held by Mr. Sevigny, which will expire the end of the month in any event, be cancelled at this time.

[28] THE COURT: Okay. I think that is appropriate.

[29] THE ACCUSED: My moose tag is already cancelled. I've gotten my moose already.

[30] THE COURT: Okay. Well, out of an abundance of caution, I am going to make the order that any current hunting licences that you hold will be cancelled, okay?

[31] THE ACCUSED: Okay.

[32] THE COURT: Anything further?

[33] MS. KIRKPATRICK: Stay of proceedings with respect to the remaining

counts.

[34] THE COURT: Good. Okay. Thank you.

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RUDDY C.J.T.C.