

Citation: *R. v. Simpson*, 2009 YKTC 127

Date: 20091113
Docket: 07-00054
07-00054A
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: Her Honour Chief Judge Ruddy

REGINA

v.

GORDON PHILLIP SIMPSON

Appearances:
Ludovic Gouaillier
Karen Wenckebach

Counsel for Crown
Counsel for Defence

REASONS FOR SENTENCING

[1] RUDDY C.J.T.C. (Oral): Gordon Simpson is before me having entered pleas of guilty with respect to two counts; the first being a refusal to provide a breath sample pursuant to a lawful demand, the second being a fail to appear.

[2] The most serious of the offences arises on April 10, 2007. It appears that the RCMP were operating a radar trap on Range Road. They observed a vehicle that was parked facing the wrong way on the road. Mr. Simpson entered the vehicle and began driving, initially in the wrong lane, before switching over. The police initiated a stop, and then noted Mr. Simpson to display indicia of impairment, including slurred speech and problems with fine motor coordination. There was an admission to drinking which

resulted in an ASD demand. A sample was provided but resulted in a fail.

Subsequently a breath demand was made, but Mr. Simpson refused to provide a sample into the breathalyzer.

[3] He was required to appear in court on the 16th of May 2007, but failed to appear. As I understand it, he was out of the territory, working.

[4] I have a joint submission before me with respect to all matters for six months on the refusal, 30 days concurrent on the fail to appear and a four-year driving prohibition. The joint submission takes into account that Mr. Simpson has a prior related record which includes, by my count, some eight related offences between 1974 and 1994. Other than two unrelated counts in 1996 and 2001, Mr. Simpson appears to have been successful in staying out of conflict with the law.

[5] Unfortunately, he is back before me today on yet another impaired-related offence, and one which, I understand from his counsel, is going to have significant consequences for him, which include the loss of his business, the delay of his wedding, which was to have been in ten days, and also will affect his ability to financially support his four children who reside in Saskatchewan, and lastly it will affect his housing.

[6] The only other final point I want to make is that he is a member of the Kwanlin Dun First Nation.

[7] Considering all the factors that are before me, I am satisfied that the joint submission is within the range and I am prepared to adopt it. Accordingly, Mr. Simpson,

there will be a sentence of six months on the refusal, a sentence of 30 days concurrent on the fail to appear and I will prohibit you from driving for a period of four years.

[8] So it is a harsh lesson, but hopefully we will not see you back before the court again. You will need to go with the sheriff. She is going to take you into custody.

[9] I will waive the victim fine surcharges in light of his custodial status.

RUDDY C.J.T.C.