

IN THE TERRITORIAL COURT OF YUKON
(Before His Worship the Justice of the Peace Cameron)

REGINA

v.

PETER THIESSEN

Emily Hill

Appearing for Crown

Peter Thiessen

On his own behalf

REASONS FOR SENTENCING

[1] CAMERON J.P.T.C. (Oral): Mr. Thiessen has plead not guilty under s. 23(2). The facts before the court are the sworn testimony of Bylaw Officer Howell. She has been a bylaw officer for 16 years in the Whitehorse area.

[2] She indicates that she was in a downtown patrol on October 10th, specifically looking for parking infractions in laneways, et cetera. She observed an older pickup in the laneway between Main Street and Elliot Street, behind Sears, at 8:27 in the evening. She then parked across the way behind the T & M, where she observed for 25 minutes that there was no activity around that pickup. She then issued a ticket at 8:56 p.m., placing it on the windshield of the vehicle.

[3] She left the scene. However, she continued her shift. On two other occasions

that night, she observed that the pickup was still there. At 9:40 p.m. and again at 10:55 p.m. She indicates that the pickup was parked in such a way as it would have in fact provided blockage for a vehicle as large as a fire truck trying to get through the laneway.

[4] Exhibit 1 was the certificate of registered ownership showing that Mr. Thiessen owned that vehicle.

[5] On cross-examination, Ms. Howell readily admitted that there is no signage indicating a five-minute limit in the laneway. That limitation is stated in the bylaws.

[6] Mr. Thiessen presented one witness, Mr. Paul Stevens, who worked with Mr. Thiessen at the Bonanza Inn. On October 10th he was working there.

[7] It was a Thursday, the normal routine would be load and unload through the back door their equipment. They each loaded and unloaded their own equipment.

[8] The times referred to by Mr. Stevens are generally on bar time, which is 10 to 15 minutes ahead of normal time.

[9] Mr. Stevens' recollection was that on a Thursday, between 8:30 p.m. and 9:00 p.m., Mr. Thiessen would normally be unloading his equipment. They do so through the back door to the Bonanza Inn.

[10] Mr. Thiessen has a variety of equipment, up to six guitars, a couple of amplifiers, and a suitcase of connectors. It takes him a little while to do so. They are generally then set up and ready to go at 9:30 p.m. Again, that is bar time. They play their first set through to roughly 10:30 p.m. They take a 30 minute break, and

then play their second set.

[11] Mr. Thiessen made a sworn statement. He cannot recall precisely what time on the 10th he arrived there. His routine is to arrive there so that he can unload his vehicle and be set up and ready to go at 9:30 p.m.

[12] Mr. Thiessen indicates that he suspects that they played a set before he may have remembered then to move his vehicle. There is no signage, again. He tendered photographs showing no signage in the alley. That is an admission that the vehicle likely did sit in the alley through the first set at least.

[13] Essentially, there is no evidence to the contrary that the vehicle was not there well in excess of five minutes. I guess what has been brought into question is whether or not the obligation is on the City to provide signage in the areas or is the obligation on individuals to be aware of those particular laws.

[14] It is clear from precedent that it is the obligation of citizenry to, in fact, make themselves aware of laws in various areas, that ignorance of the law is not a defence to having committed an offence.

[15] I think that what you should come away with from here, Mr. Thiessen, is an understanding that this does not mean that you cannot load or unload your equipment from the back alley. What it does mean is that you pull up your truck, you get out, you unload, and you move your truck. That unloading should be done as quickly as possible. So, basically if there is a back hallway or whatever, that you unload your equipment into and then move your truck; and then go and set up. Rather than taking a piece, getting it set up, have a chit-chat, come out and get another piece.

[16] That is what the officer was observing for, was some kind of activity coming back and forth to the truck. There is no reason to believe that what she says she saw, which was no activity for a 25-minute period, is not what in fact occurred. You may have gotten in there with some of the equipment and started setting it up. You may have gone in there with all of the equipment and started setting up before she actually even started to observe. While you were setting it up, as well, time was ticking away.

[17] It is clear that those limitations, the five-minute limitation, is a safety limitation. It is the same thing for the truck that brings the liquor or the truck that brings the pop or the food. They have those same limitations. They have to unload and then get out of the alley.

[18] So the alley is not a place for extended parking. It is a place where you can park only while actively involved in loading and unloading. A rest period in between is not considered to be actively involved.

[19] The offence is very clearly to have been made out.

[20] In regards to the signage: It is not the obligation of the City to in fact make signage with regards to these rules. These rules are available to the public. There is in fact an area that is identified as the downtown core, and this affects all the alleys in that particular area. It would probably be worth your while to in fact find out, because as a musician I suspect that you may find yourself working at other lounges in town and see if they are also covered by the same type of law, for your future reference.

[21] I am finding you guilty of the offence. Were you seeking anything other than the face of ticket?

[22] MS. HILL: No.

[23] THE COURT: Face of the ticket was a \$50 fine. How long would you need to pay a \$50 fine, Mr. Thiessen?

[24] MR. THIESSEN: It can be a week. I might have it on me today, but I am not sure.

[25] THE COURT: I will give you two weeks.

[26] MR. THIESSEN: Okay, at City Hall?

[27] THE COURT: You pay this down opposite Canadian Tire. Do you know the City --

[28] MR. THIESSEN: The big blue --

[29] THE COURT: Yes, that is the place. Fourteen days time to pay. You should also be aware, Mr. Thiessen, if you wish to appeal this decision you may do so; however, you must launch that appeal within 30 days of today's date.

CAMERON J.P.T.C.