

Citation: *R. v. White*, 2008 YKTC 73

Date: 20080930
Docket: 08-04373
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: Her Worship Justice of the Peace Morrison-Harvey

REGINA

v.

JESSE RAY THOMAS WHITE

Appearances:
Brynn Enros
Jesse White

Counsel for Crown
Self Represented

REASONS FOR JUDGMENT

[1] MORRISON-HARVEY J.P.T.C. (Oral): Mr. White is before the Court on a trial for an offence contrary to s. 188 of the *Motor Vehicle Act*, R.S.Y. 2002, c. 153, which is stunting:

No person, whether as a pedestrian or driver or whether or not with the use of aid or any animal, vehicle, or other thing, shall perform or engage in any stunt or other activity on a highway that is likely to distract, startle, or interfere with other users of the highway.

[2] The evidence that is not in dispute, again, Mr. White was driving his vehicle on the 15th day of May. Constable Tannahill was engaged in pulling over another vehicle at that time, gathering information from them. He was out of his cruiser at the time. Mr. White came around the corner. Constable Tannahill's evidence is that all he heard was an acceleration and gunning of engine when someone steps on the gas. He was drawn

to that noise and distracted from what he was doing. There is an indication that he observed him at a high rate of speed. In my view, the high rate of speed does not constitute a speeding ticket. There was no indication that he was going over the speed limit. A small chirp of the tires, and quite frankly, counsel, I have no idea what a small chirp of the tires means. The road conditions and weather conditions were clear and dry, with moderate traffic.

[3] Mr. White's evidence is that he was turning a corner; there was a vehicle that was travelling rather slowly. He signalled left onto Ogilvie, there was a black Dodge Neon travelling slowly; he signalled right around and then signalled left around him again. He accelerated a little bit. There is evidence that Mr. White's vehicle has after-market headers and exhaust system on them, which make his vehicle louder than normal vehicles.

[4] So the question in my mind, counsel, is the excessive. Is the noise constituted as stunting activity. In my view, it does not. I can think of numerous things that are on the highway: someone blowing their horn, loud music coming down the road, the bass stuff, that might be distracting, but is it an activity that constitutes a stunting activity on the highway? In my view, Mr. White was driving around the corner, accelerating, not in a careless manner where his tires were squealing and creating an activity that was stunting. I find him not guilty of the charge.