

2018 BCPC 281  
British Columbia Provincial Court

R. v. Alatiit

2018 CarswellBC 2963, 2018 BCPC 281, 150 W.C.B. (2d) 694

**REGINA v. VALENTIN ALATIIT, ELMER SAN  
PEDRO BALDONAZA and SAMUEL GEORGE**

J.P. MacCarthy Prov. J.

Heard: September 24, 2018  
Judgment: September 24, 2018  
Docket: Duncan 39921-1

Counsel: J. Blackman, for Crown  
S. Knott, for Accused, Alatiit

Subject: Natural Resources; Public  
**Related Abridgment Classifications**

Natural resources

I Fish and wildlife

I.5 Offences

I.5.o Sentencing

I.5.o.i Fines

**Headnote**

Natural resources --- Fish and wildlife — Offences — Sentencing — Fines

Accused was convicted of two counts of **trafficking** in wildlife meat, contrary to [Wildlife Act \(B.C.\)](#) — Charges arose out of investigation by undercover conservation officers in which accused purchased meat from them on two occasions — Accused was 74 years old — Accused did not have criminal record and he did not have prior convictions under Act — There was joint submission for \$2,500 fine for first count and \$3,000 fine for second count — Crown also sought forfeiture of \$145 accused paid for meat — Accused fined \$5,500 and forfeiture order made.

**Table of Authorities**

**Cases considered by J.P. MacCarthy Prov. J.:**

*R. v. Anthony-Cook* (2016), 2016 SCC 43, 2016 CSC 43, 2016 CarswellBC 2929, 2016 CarswellBC 2930, 488 N.R. 289, 32 C.R. (7th) 1, 342 C.C.C. (3d) 1, 404 D.L.R. (4th) 238, [2016] 2 S.C.R. 204 (S.C.C.) — followed

*R. v. Baldonaza et al.* (2017), 2017 BCPC 403, 2017 CarswellBC 3656 (B.C. Prov. Ct.) — considered

**Statutes considered:**

*Wildlife Act*, R.S.B.C. 1996, c. 488

Generally — referred to

s. 22 — considered

s. 84(6.2) [en. 2003, c. 90, s. 29] — considered

SENTENCING of accused on convictions for two counts of **trafficking** in wildlife meat.

**J.P. MacCarthy Prov. J.:**

**INTRODUCTION**

1 Valentin Alatiit is before the court. Mr. Alatiit has entered guilty pleas on Counts 1 and 2 of Information 39921, sequence 1, which are allegations that he did traffic in wildlife meat, which is contrary to [s. 22 of the \*Wildlife Act\*](#).

2 The first offence to which he has entered his guilty plea occurred on or about the 13th of November, 2014. The second offence, occurred on the 4th day of December, 2014. Both offences occurred at or near Duncan, in the Province of British Columbia.

3 I note that on the same information, Elmer San Pedro Baldonaza is also named in Counts 3 and 4. Mr. Baldonaza was before this court on December 11th, 2017, at which point I imposed a sentence on Mr. Baldonaza for his offences, which were identical offences of **trafficking** in wildlife meat but on different dates than those for which Mr. Alatiit has entered his pleas of guilty.

4 The decision in Mr. Baldonaza's case is reported as *R. v. Baldonaza et al.*, [2017] B.C.J. No. 2677, 2017 BCPC 403 (B.C. Prov. Ct.).

5 The task of this court is to consider and impose a fit sentence upon Mr. Alatiit, whom I will refer to hereinafter as the "Offender".

## FACTS

### *Circumstances Surrounding the Offences:*

6 Having entered the guilty pleas with respect to the two offences, Crown has outlined the circumstances of the two offences. No issue is taken with respect to those circumstances. I accept them as the facts and those facts are sufficient to support the two guilty pleas offered by Mr. Alatiit.

7 I will provide a very brief summary of the circumstances in order to assist in understanding the sentencing issues before the court.

8 The charges arise out of an undercover investigation by conservation officers which commenced in the fall of 2014 when a retired RCMP officer of First Nations heritage was approached in a Walmart parking lot by an individual who, as it turned out, was the Offender before me, Valentin Alatiit. He expressed an interest in purchasing wild deer meat from the retired police officer. In the course of the approach, Mr. Alatiit provided a telephone number, which was traced to him after the matter had been reported and referred to the Conservation Officer Service.

9 During the course of the undercover operation undertaken by the Conservation Officer Services between November of 2014 and December 2014, the undercover operatives sold meat to the Offender on two separate occasions. During the course of the conversations, Mr. Alatiit provided the undercover operatives with the names and telephone number of a person who he identified as "Elmer". That turned out to be Mr. Baldonaza. It was indicated by Mr. Alatiit that Mr. Baldonaza was a person who was also interested in acquiring the deer meat.

10 The circumstances relating to Count 1 are very straightforward. Essentially after being contacted by undercover conservation officer and meeting with the undercover officers Mr. Alatiit indicated that he was prepared to purchase wildlife meat. Subsequent to various telephone discussions which occurred in late October, the Offender met with the undercover officers at which point he bargained with the undercover officers, indicating that he normally only paid \$75 for wild meat, when he was offered the meat for \$200. The arrangement was made in order to pay the \$75 to the undercover officers on the basis that next time he was prepared to pay more.

11 A meeting to exchange the wild meat was arranged and that occurred at which point the amount of \$75 was paid over. It was also confirmed with Mr. Alatiit that he understood that he was engaged in illegal activity of obtaining the wildlife meat from that individual who, as it turned out, was of course an undercover officer.

12 The circumstances giving rise to Count 2 are similar in nature. Further contacts were made by the undercover officers with Mr. Alatiit. A meeting was arranged on the 4th of December, 2014, at which time the Offender paid \$70 to the undercover officers for a smaller portion of meat. In the course of the lead up to that event, he also indicated that he had consumed the product which he had initially acquired, as I understand, to share with Mr. Baldonaza, his friend in Victoria.

13 Accordingly, on December 4th, 2014, an additional \$70 was paid by Mr. Alatiit in exchange for the meat that was obtained by Mr. Alatiit at that time.

14 The decision of *R. v. Baldonaza et al.* sets out the legislative framework which governs these matters. That is found at paragraphs 13 through 16. I adopt those provisions by reference in these reasons for judgment.

***Circumstances of the Offender:***

15 Based on the defence submissions, I understand that the accused, Mr. Valentin Alatiit, is aged 74. He is of Filipino heritage, having come to Canada in the 1970s. The Offender has lived in the Cowichan Valley, as I understand it, for approximately 30 years. He was a welder by vocation and occupation. He now runs a small family farm in the Paldi area. As I understand it, that farm raises goats, chickens, other vegetable and fruit products, as well as producing cheeses made from some of the goat milk.

16 By way of explanation, but not by way of excuse, I understand that Mr. Alatiit has had significant involvement with members of other ethnic communities, including First Nations, the East Indian community, as well as with the Filipino community. He barter and trades various products which have in the past included the acquisition of commercial venison.

17 Initially he was reluctant to admit that he had breached the law but having had the circumstances of the offence explained to him, he now takes full responsibility and admits his offences before this court.

18 The Offender has been an individual who has been actively involved within his community, both within his church and with fraternal organizations and service organizations associated with his church. He survives on a relatively modest income, based on pension receipts; I understand it grosses him about \$1500 per month plus any amounts that he may earn off of his farming operation.

19 It is fair to say that his farming operation is more a sustenance and subsistence type of farming, where expenses may, in fact, exceed the incomes that are generated from that farming activity.

**JOINT SUBMISSION WITH RESPECT TO SENTENCING:**

20 Crown and defence agree that this is an offence where general and specific deterrence should be applicable, and those are the sentencing provisions that apply to this type of case.

21 Crown and defence both rely upon my decision in *R. v. Baldonaza et al.* with respect to the sentencing principles that should apply and I take it by inference that the various case authorities referred to in that case are agreed to be applicable to the circumstances in this matter before me.

22 Based on the *Baldonaza* case, as well as on the similar circumstances that bring this matter before the court, a fine like that imposed upon Mr. Baldonaza on his two counts, plus the other additional orders, are similarly sought in this case. Accordingly, with respect to Count 1, it is suggested that the minimum fine of \$2,500 be imposed. With respect to the second offence, a fine of \$3,000 should be imposed.

23 Crown seeks a forfeiture order pursuant to s. 84(6.2) of the *Wildlife Act* with respect to the cash amount of \$145 that was paid for the wildlife meat on the two occasions.

24 Also, there will be a mandatory victim surcharge of 15 percent with respect to the fines being imposed.

25 I have essentially before me a joint submission from Crown and defence. It is accepted that the aggravating and mitigating factors are as follows.

26 With respect to the aggravating factors I note as follows: it is the illegal acquisition and knowingly **trafficking** in wildlife meat, which is a serious offence and in this case there seemed to be little in the way of compunction about dealing in the illegal **trafficking** of that wildlife meat.

27 The mitigating factors are as follows. First, is the acceptance of Mr. Alatiit of his illegal behaviour. Second, is that he has no criminal record or prior offences under the *Wildlife Act* or any subsequent offences, nor any other regulatory offences. Third is he is a contributing member of society and he has had past gainful employment, and is now relying on his pension and his farming activities to support himself, and I take it his family, and fourth he has a positive record of voluntary service within the community.

28 I do accept as a further mitigating factor his genuine expression of remorse for the offending behaviour, and I understand that there is a willingness on his part to pay a fine, but he will need time to do so. Therefore, I accept these as being relevant mitigating factors. They all support the position being advanced jointly by Crown and defence.

29 I find that the joint submission before me meets the test as laid out by the Supreme Court of Canada in *R. v. Anthony-Cook* (2016), 342 C.C.C. (3d) 1 (S.C.C.) and accordingly, I accept the joint submission.

30 The fines will be as outlined: \$2,500 on Count 1; and \$3,000 on Count 2.

31 The forfeiture order with respect to the cash amount of \$145, is made as requested.

32 The victim fine surcharge of 15 percent on the fine amounts will apply.

33 Given Mr. Alatiit's financial circumstances, I will give him two years in order to pay the fines.

34 Is Crown seeking a minimum payment on a monthly basis or simply giving him the opportunity . . .

35 MR. BLACKMAN: No, Your Honour, I'll just -- I'm content to just leave it and . . .

36 THE COURT: All right. So all of the amounts due under this sentence will be payable within the two-year period.

37 MR. KNOTT: Yes, Your Honour.

38 THE COURT: Okay.

39 MR. KNOTT: And Mr. Alatiit has budgeted for that accordingly.

40 THE COURT: All right. Does that . . .

41 MR. BLACKMAN: And Crown will do up the forfeiture order, Your Honour, and submit it to the Registry.

42 THE COURT: All right. Thank you. Anything further?

43 MR. KNOTT: I don't believe so, Your Honour.

44 THE COURT: All right.

45 MR. BLACKMAN: Nothing, Your Honour.

46 THE COURT: Thank you.

*Accused fined \$5,500 and forfeiture order made.*

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