

SC CR 94 013 A

CR 02732

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

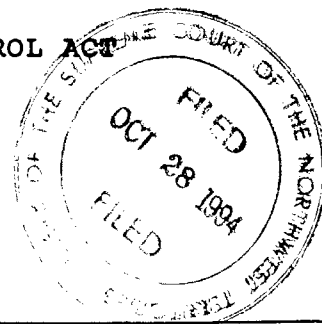
RICHARD LEONARD EDWARDS

Transcript of the Oral Reasons for Sentence delivered by The Honourable Mr. Justice J. Z. Vertes, at Yellowknife in the Northwest Territories, on Wednesday, October 26th A.D., 1994.

APPEARANCES:

MR. A. REGEL: Counsel for the Crown
MR. V. FOLDATS: Counsel for the Accused

CHARGED UNDER s. 4(1) NARCOTIC CONTROL ACT



1 THE COURT: Richard Leonard Edwards has entered a
2 plea of guilty to a charge of trafficking in a
3 narcotic. The facts are not particularly unusual.

4 The offence consists of a sale of a quarter ounce
5 of marijuana for \$70 and couple of T-shirts by Mr.
6 Edwards to some undercover officers. The sale
7 occurred on September 5th of this year here in
8 Yellowknife in one of the local bars. Apparently the
9 undercover officers had targeted Mr. Edwards as part
10 of a larger operation to try and crackdown on
11 street-level sales of narcotics.

12 Mr. Foldats has argued that in sentencing Mr.
13 Edwards, I should keep in mind the circumstances of
14 the offence and not go beyond what can be considered
15 as the ceiling or the uppermost appropriate sentence
16 for this particular type of crime (not the general
17 crime of trafficking in a narcotic but the particular
18 crime of trafficking in a small amount of a soft drug
19 in circumstances more akin to social trafficking,
20 that is to say, trafficking among like-minded or
21 apparently like-minded individuals as opposed to
22 street sales to "innocent civilians", if I can use
23 that term).

24 There is something to be said for that submission.
25 If I were to look simply at the particular
26 circumstances of the offence, it is obvious to me that
27 while it would warrant a jail term, it would certainly

1 not warrant a significantly lengthy jail term.

2 I would agree with the comments of the Alberta
3 Court of Appeal in the MacGregor case where they say
4 that the normal sentence for a first offence of a
5 street sale of a small quantity of cannabis is
6 probably between one and three months imprisonment.
7 And I do regard this transaction here in Yellowknife
8 no differently than I would regard a similar
9 transaction in Edmonton or anywhere else in southern
10 Canada. So, I don't think that we need to treat it
11 any differently because this is Yellowknife as opposed
12 to Edmonton or Montreal or anywhere else.

13 But I can not overlook the particular
14 circumstances of the offender.

15 In MacGregor, the Court says that when an accused
16 reoffends, the jump rule should apply. The jumps must
17 stop however when a sentence greater than that fit for
18 the crime would be imposed. So, what is a sentence
19 fit for a particular crime?

20 The circumstances of the particular offence
21 certainly play a big part of it but the circumstances
22 of the offender play equally a big part of it because
23 any crime must be considered in the overall context
24 and any penalty imposed for a crime must be specific
25 to the individual involved. Some Courts have used the
26 term "moral blameworthiness" for a crime.

27 It seems to me, and I have said this before, that

1 the level of moral blameworthiness for anybody
2 committing a crime is far greater when that person has
3 been previously convicted for similar crimes, has been
4 previously punished for those crimes and has not,
5 certainly in the past, exhibited any attempt to change
6 his behaviour.

7 If I were to consider what a Court, say, in
8 Edmonton would impose for this crime under these
9 circumstances having regard to the age of the
10 offender, having regard to the background of the
11 offender, having regard specifically to the fact that
12 over the past 18 years he has, by my count, 16
13 criminal convictions, eight of which are trafficking
14 related, it would not surprise me at all if a
15 penitentiary term would be imposed even for this sale,
16 minimal as it may be.

17 The Crown has suggested a term of two years less a
18 day. I think that would be at the higher end in all
19 of the circumstances.

20 However I do take into account as a significant
21 mitigating factor the guilty plea that was entered at
22 a very early opportunity.

23 I take into account what was said about the, at
24 least professed, intentions of Mr. Edwards to start
25 all over again, perhaps in another environment. And I
26 do take into account the six weeks of remand time that
27 has already been served.

1 I would give significant mitigating effect to
2 especially the remand time and the guilty plea.

3 Would you please stand.

4 The sentence of this Court is that you serve a
5 term of imprisonment of 18 months.

6 Is there any point in a surcharge, Mr. Regel?

7 MR. REGEL: I don't believe there is, My Lord.

8 THE COURT: There will be no surcharge under the
9 circumstances. There will be no other disposition.

10 Is there anything else, counsel?

11 MR. FOLDATS: No, sir.

12 MR. REGEL: I believe that's it, My Lord.

13 THE COURT: Thank you, gentlemen.

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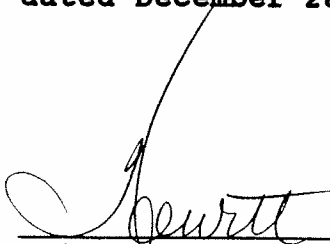
Certified Pursuant to Practice Direction #20
dated December 28, 1987.

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Lois Hewitt,
Court Reporter

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