

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

WAYNE JOHN ADAM DENNIS

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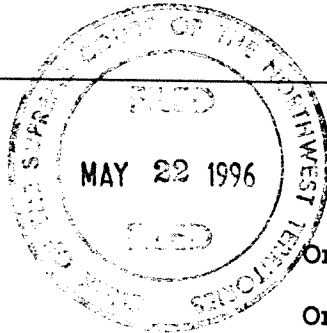
Transcript of Reasons for Sentence delivered by The Honourable Mr. Justice J.Z. Vertes, sitting at Yellowknife, in the Northwest Territories, on Wednesday, May 15, A.D. 1996.

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APPEARANCES:

Mr. L. Rose:

Mr. Posynick:



On behalf of the Crown

On behalf of the Defence

(Charges under s. 4(2) and 19.1(2)(a) of the Narcotic Control Act)



1 THE COURT: The accused, Wayne John Adam  
2 Dennis, has been convicted of two counts: count 1  
3 being a charge of possession of a narcotic,  
4 specifically marijuana, for the purpose of trafficking;  
5 and count 2 being the possession of property, being  
6 specifically cash, which was derived directly or  
7 indirectly as a result of an offence under the Narcotic  
8 Control Act.

9 The accused is 30 years old. He has a lengthy  
10 history in the Northwest Territories. I am told by his  
11 counsel that he has had a difficult upbringing and that  
12 he is alienated in many ways from his family; he has  
13 health problems that have made it difficult for him to  
14 secure and hold down steady employment; he has been  
15 involved in a common-law relationship for many years  
16 and apparently has a son by that relationship. But I  
17 am told that he has very little, if any, contact with  
18 his son now because of the fact that the son is being  
19 cared for by Social Services due to the son's medical  
20 problems.

21 The accused, unfortunately, also has a record  
22 which is relevant and aggravating in the  
23 circumstances. He has been convicted of seven criminal  
24 offences between 1982 and 1994. Six of those are drug  
25 related. Four of them are convictions of simple  
26 possession of narcotics, the most recent being in  
27 November of 1994 when he was sentenced to three months

1           imprisonment. Two of them, however, are convictions  
2           for possession of narcotics for the purpose of  
3           trafficking; once in 1988 when he was sentenced to  
4           eight months imprisonment, and once in 1990 when he was  
5           sentenced to ten months imprisonment.

6           Crown counsel has submitted that an appropriate  
7           sentence, before taking into account other factors  
8           peculiar to this case, would be in the high end of the  
9           territorial range of sentences; that is two years less  
10          a day or less. In my view, that is very generous on  
11          the part of Crown counsel.

12          The accused in this case was found to be in  
13          possession of approximately 12 ounces of marijuana,  
14          having a street value of \$5,000, and in possession of  
15          almost \$6,000 in cash.

16          It was admitted at his trial that the quantity of  
17          drugs, the manner of their packaging, and all of the  
18          other incidental facts to this case are inconsistent  
19          with the drugs not being for personal use. And it was  
20          submitted on sentence that the accused engaged in  
21          selling marijuana, admittedly only to people that he  
22          knew and to his friends, so he cannot be classified as  
23          some predatory street seller. But it was submitted  
24          that he sold to people he knew in order to raise money  
25          for himself and his common-law wife, to support  
26          themselves because of his difficulties in holding down  
27          steady employment.

1           Ordinarily, these circumstances would call for  
2           incarceration obviously, having regard to the general  
3           principles that deterrence, both specific and general,  
4           are to be the primary factors in sentencing on  
5           drug-trafficking-related charges. But I would think  
6           ordinarily the period of incarceration need not be so  
7           great as to put it out of the range suggested by Crown  
8           counsel.

9           In this case, however, if I look at the  
10          circumstances of the case itself, the quantity of  
11          drugs, the cash on hand, if I look at some of the facts  
12          that came out in sentencing such as the manner in which  
13          the drugs and cash were secreted in the accused's  
14          residence, this is more than just some casual  
15          trafficking-related activity. If I put that together  
16          with the accused's history, the conclusion I come to is  
17          that the accused has engaged almost for ten years now  
18          in a consistent pattern of drug use personally as  
19          evidenced by the drug possession charges and by  
20          involvement in the trafficking of drugs.

21          If I conclude, as I do in this case, that there is  
22          a consistent pattern of behaviour shown here, then I  
23          must also conclude that this accused is certainly in  
24          the category of those offenders for whom moderate  
25          periods of incarceration have obviously done nothing to  
26          either deter him or to effect any sort of  
27          rehabilitation or reformation and that perhaps more

1 severe sanctions are necessary. I must say, in all  
2 frankness, that were it not for the position taken by  
3 Crown counsel in this case, I would seriously consider  
4 sending this accused to the penitentiary even having  
5 regard to what was submitted on his behalf.

6 I can understand that when he was first convicted  
7 of a drug-related offence back in 1986 that one may  
8 have been able to say on his behalf that he was young,  
9 inexperienced, had never had serious problems with the  
10 law before. But he is a man of 30 years of age now; he  
11 is an adult. He has had experience in the drug  
12 culture, and he has had experience inside the  
13 correctional structure.

14 So what are the alternatives left to this court?  
15 Because if I look at all of these facts, I have no  
16 hesitation in saying that most courts in this country  
17 would probably say, without skipping a beat, there is  
18 no alternative but to send this accused away for a  
19 lengthy period of time.

20 Defence counsel mentioned to me the jump  
21 principle. And I recognize that there is more or less  
22 a rule of thumb that says that any jump in the case of  
23 a re-offence should not be so great as to make it  
24 disproportionate to the sentences that were previously  
25 imposed for that same offence. And I also recognize  
26 that there is a general rule of thumb, when talking  
27 about re-offending and the application of this jump

1 principle, that the jumps must stop when a sentence  
2 greater than that fit for the crime would be imposed.

3 Certainly, in my view, the submissions of both  
4 counsel that a territorial-range sentence would be  
5 appropriate for this offence is within the range that  
6 has been considered to be fit and appropriate for the  
7 circumstances of the offence. But, and I have said  
8 this before, a significant factor is the peculiar  
9 circumstance of the individual offender. And as I have  
10 also said before, if someone has committed the same  
11 crime previously, if someone has been caught for it, if  
12 someone has been punished for it and then goes out and  
13 does the same thing, then I think that individual can  
14 only expect that he is going to be treated much more  
15 seriously than he has been in the past, because all it  
16 shows is that he is unwilling to change his behaviour.

17 I recognize that there may be all sorts of reasons  
18 why he feels he must engage in this type of conduct.  
19 Some of them may be quite legitimate. He may indeed  
20 have problems securing permanent employment because of  
21 his health problems; he may indeed have difficulties in  
22 terms of his relationship with members of his family;  
23 he may have other problems, including what I heard  
24 about personal addiction to marijuana use. I take  
25 these things into account and I do not discount them.  
26 But this man is still 30 years old, and I expect that  
27 he is intelligent and mature enough that he realizes

1           that only he is the one to have control over what he  
2           does in his life; and if he, knowing that this type of  
3           conduct is criminal, continues in it, then the courts  
4           at some point will have no alternative but to put him  
5           away for a long period.

6           Now, I am not going to do that in this case for a  
7           number of factors which I will list in a moment. But I  
8           must, Mr. Dennis, and I am speaking to you directly --  
9           you are obviously an intelligent man. You know that  
10          what you did here was a crime. I think your lawyer, as  
11          I said before, put forward everything possible on your  
12          behalf in this case. Now, at some point you are the  
13          one that is going to have to take responsibility; and I  
14          am sure you appreciate that if you do not, if you do  
15          not change your way of living, then, you know as well  
16          as I do, at some point you are going to be sent away  
17          for a long period of time and there is nothing anybody  
18          can do about that because there is no alternative, and  
19          I am sure you understand that.

20          I have given serious consideration to the position  
21          adopted by Crown counsel. I think it is fair and  
22          generous. I think certainly the points put forward by  
23          Defence counsel on his client's behalf have been  
24          relevant and helpful in consideration of an appropriate  
25          sentence in this case. I take into account the fact  
26          that the accused has spent approximately eight months  
27          in pre-trial custody. I take into account the fact

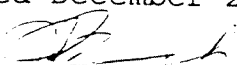


1 that we are dealing with what are termed "soft drugs,"  
2 and while it is not insignificant, it certainly, as I  
3 said before, does not evidence some sort of predatory  
4 street-type selling to -- How shall I put it? --  
5 innocent people. I also take into account as a  
6 mitigating factor the cooperation shown by the accused,  
7 through his counsel, in minimizing non-essential  
8 matters for this trial.

9 Will you stand up, Mr. Dennis.

10 With respect to count 1, that is the charge of  
11 possession for the purpose of trafficking, I sentence  
12 you to serve a term of imprisonment of 18 months. With  
13 respect to count 2, the charge of possession of  
14 proceeds obtained from a crime, I sentence you to serve  
15 a term of imprisonment of 12 months. I will make that  
16 concurrent, however, to the 18 months on count 1. So  
17 that is a total of 18 months, Mr. Dennis. I will  
18 further make an order forfeiting the sum of \$5,986,  
19 seized by the R.C.M.P., to the Crown. I will further  
20 make an order directing the R.C.M.P. to destroy the  
21 drugs that they seized in this matter at the end of the  
22 appeal period. Under the circumstances, there will be  
23 no victim of crime surcharge.

24  
25 Certified Pursuant to Practice Direction #20  
26 dated December 28, 1987.

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Jane Romanowich  
Court Reporter

