

CR 03770 and CR 03774

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTERS OF:

CR 03770

HER MAJESTY THE QUEEN

- and -

DAYL ELDON HEIN

- and -

CR 03774

HER MAJESTY THE QUEEN

- and -

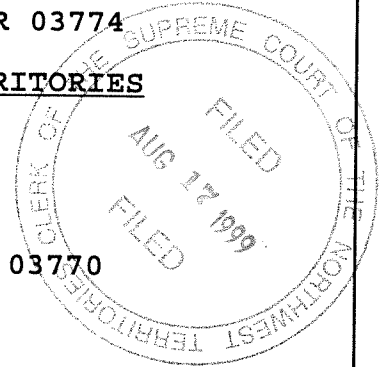
SERENUS CHARLENE BRYAN

Transcript of Reasons for Sentence delivered by The Honourable Justice J.Z. Vertes, sitting at Yellowknife, in the Northwest Territories, on August 5, A.D. 1999.

APPEARANCES:

Ms. B. Schmaltz:	On behalf of the Crown
Mr. A. Mahar:	On behalf of the Defence

(Charges under s. 5(1) of the Controlled Drugs and Substances Act)



1 THE COURT: Serenus Charlene Bryan and Dayl
2 Eldon Hein have each pleaded guilty to charges of
3 trafficking in cocaine. I will deal with them together
4 since their circumstances are similar.

5 Ms. Bryan has pleaded guilty to two trafficking
6 charges. The charges encompass three separate sales of
7 cocaine of one gram on each occasion. The total value
8 is approximately \$380. The admitted facts also
9 revealed incidental, small sales of marijuana and
10 certain pharmaceuticals.

11 Mr. Hein has pleaded guilty to one charge
12 encompassing two separate sales of one gram each. The
13 Total value was \$220.

14 All of the sales were made to undercover agents of
15 the police. They were made over a period of four
16 months.

17 There is, sadly, nothing unusual about the
18 circumstances of these offences or of these offenders.

19 Both offenders are dealers of street-level
20 quantities of illicit drugs. They are supplied by
21 others higher up in the chain. They dealt drugs as an
22 ongoing activity so as to support themselves and their
23 own drug habits. The commercial nature of these
24 activities requires a deterrent sentence.

25 Both offenders are mature adults. Ms. Bryan is 32
26 years old. She has three children who are now cared
27 for by her mother. She had a difficult marital

1 relationship and has been addicted to drugs for several
2 years. This has caused significant financial
3 difficulties.

4 Mr. Hein is 32 years old. He is a qualified
5 plumber and led a productive life for many years.
6 Apparently, things deteriorated four years ago when his
7 wife left him. He became depressed, unemployed, and
8 soon found himself in the drug life. Drug dealing
9 provided him with the necessary access to money and to
10 drugs for his own use.

11 Both offenders express remorse for their crimes.
12 Both understand that they must take responsibility for
13 their actions. As an initial step, both pleaded guilty
14 at an early opportunity. All of this is highly
15 mitigating. In cases such as these, the motivations of
16 the individual offender to rehabilitate herself or
17 himself are especially critical. Given the invidious
18 evil of drugs, rehabilitation is not easy. However, if
19 the individual offender succeeds in the goal of
20 rehabilitation on a long-term basis, then society will
21 be the beneficiary of a recovered and productive member
22 and an example for others. I have no reason, based on
23 what I have heard, to think that either one of these
24 offenders could not, with effort, achieve that goal.

25 Is there anything to differentiate between the two
26 offenders? Only one thing.

27 Mr. Hein has a prior, related record. He has been

1 convicted twice of possession of a narcotic. The
2 second time was in 1997 and the narcotic was cocaine.
3 He served 45 days in jail. Obviously, if someone
4 commits a crime and is punished for it, then commits a
5 further similar crime, that person's punishment should
6 reflect a greater degree of blameworthiness as opposed
7 to someone who comes before the Court as, essentially,
8 a first offender.

9 I take into account the fact that both offenders
10 have spent approximately six weeks in pre-trial
11 custody. I take into account the relatively small
12 amounts of drugs involved in these transactions. I take
13 into account the relatively low-level position in the
14 drug-dealing hierarchy that these two offenders
15 occupied. I take into account, however, that the
16 nature of the drug, the nature of the activity,
17 requires, as I said before, a deterrent sentence. Both
18 counsel have recognized it, and I think both counsel
19 recognized the fact that, in this case, there is no
20 alternative but to an actual sentence in jail.

21 Stand up, Ms. Bryan. I sentence you to serve a
22 term of imprisonment of 12 months.

23 Stand up, Mr. Hein. I sentence you to serve a
24 term of imprisonment of 15 months.

25 With respect to both offenders, I direct that the
26 warrant of committal be endorsed with a recommendation
27 that they be assessed and considered for appropriate

1 drug addiction counselling programs. Under the
2 circumstances, there will be no victim of crime fine
3 surcharge.

4 Ms. Bryan, Mr. Hein, you are both, as I said,
5 mature adults. I take your comments at face value,
6 that they were meant sincerely and not just because you
7 got caught in these activities. I am sure you know
8 firsthand the dangers of drugs legally, financially,
9 physically, and psychologically, and now it is simply
10 up to each of you to see what you can do in terms of
11 turning your lives around. I wish you both luck. You
12 may sit down.

13 Miss Schmaltz?

14 MS. SCHMALTZ: Yes, My Lord, on Miss Bryan, 12
15 months on each count?

16 THE COURT: I should have said, yes, 12 months
17 on each count, concurrent, for a total of 12 months.

18 MS. SCHMALTZ: Thank you, Sir.

19

20 Certified Pursuant to Rule 723
21 of the Rules of Court

22 
23 _____
24 Jane Romanowich
25 Court Reporter
26
27

