

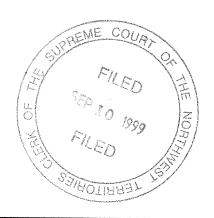
CR 03785

## IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES IN THE MATTER OF:

## HER MAJESTY THE QUEEN

- vs -

## STEVE TYRONE FABIEN



Transcript of the Oral Reasons for Sentence delivered by The Honourable Justice V.A. Schuler, in Yellowknife, in the Northwest Territories, on the 27th day of August, A.D. 1999.

## APPEARANCES:

MS. B. SCHMALTZ:

On behalf of the Crown

MR. R. GORIN:

On behalf of the Accused

Charge under s. 5(1) CDS

THE COURT: I am not going to go over the facts again. Suffice it to say that Mr. Fabien has now been convicted of one count of trafficking in cocaine; that one count does, however, encompass three separate incidents all involving, as I understand it, the same undercover agent who in each case was given a gram of cocaine by the accused, and in each case the accused was given \$100 in exchange for the cocaine.

Ms. Schmaltz is quite right about the principles of sentencing. All of the appellate courts have said that denunciation and deterrence are the main principles, or are principles that must be given a great deal of emphasis in cases of this nature because of the havoc that drugs, such as cocaine, wreak in society and to individuals in society.

I take into account that Mr. Fabien has pleaded guilty and that he waived his preliminary hearing. I also take into account that he is only 20 years old. It take into account that he has expressed remorse for what he did and, in my view, the fact that he has pleaded guilty and waived the preliminary hearing does mean that he is taking responsibility for what he did. He is owning up to it and, essentially, saying he will take the punishment.

There is a related conviction so I have to take that into account as well, and also the fact that he has been in custody now for approximately three months

and that is usually given credit for more than just the face amount of the three months.

One of the differences between this case and the case of <u>Hein</u> and <u>Bryan</u> is that there is no submission made to me in this case that Mr. Fabien is a user of cocaine and is an addict who was doing this simply to feed his own habit. The submission is made, in effect, that he was just trying to be nice to the agent.

It is interesting that Mr. Gorin made the submission that one of the things now that Mr. Fabien has lost out on because of this is being able to travel with his family to the Dominican Republic. Mr. Fabien, you should keep in mind that with the record that you will now have for trafficking in cocaine, that in itself may very well prevent you from travelling anywhere. It is not just a question of being in custody; it is the fact that now you have accumulated a record and that could have quite a devastating effect on your ability to travel anywhere. In particular, if you are hoping to pursue a career at all as an athlete, being able to travel for that purpose could very much be affected.

In my view, there are a number of similarities with the <u>Hein</u> and <u>Bryan</u> cases although, as I have noted, there is the difference in terms of their being addicted. In this case I do not have that submission before me. I think that there are enough similarities

	1		that the sentence	should be somewhat in the same range
	2		as the sentences	that were given to those two other
	3		individuals.	
	4		Stand up, pl	ease, Mr. Fabien.
	5		The sentence	I impose on you is one of 12 months
	6		in jail.	
	7		Mr. Fabien,	I hope that you will learn from this.
	8		I have to say tha	t every time I see cases like this, it
	9		just strikes me t	hat you should realize that there is
	10		always someone ou	t there who is either an agent of the
	11		police, or is wil	ling to rat on you, so to speak, and
	12		if you pursue this	s kind of activity you will not get
	13		away with it. Ob	viously you are young, you have some
	14		potential. Do not	t throw it all away for something like
	15		this. I hope you	will think about that.
	16		Is there any	thing further, counsel?
	17	MS.	SCHMALTZ:	Surcharge waived, My Lady?
	18	THE	COURT:	Yes, the victim of crime surcharge
	19		will be waived.	
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	22			Certified pursuant to Practice Direction #20 dated December 18,
	23			1987.
:	24			
:	25			Annette Wright
:	26			Court Reporter
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