



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

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

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

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

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

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

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

23 In my view, there are a number of similarities  
24 with the Hein and Bryan cases although, as I have  
25 noted, there is the difference in terms of their being  
26 addicted. In this case I do not have that submission  
27 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, please, 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 that every time I see cases like this, it  
9 just strikes me that you should realize that there is  
10 always someone out there who is either an agent of the  
11 police, or is willing to rat on you, so to speak, and  
12 if you pursue this kind of activity you will not get  
13 away with it. Obviously you are young, you have some  
14 potential. Do not throw it all away for something like  
15 this. I hope you will think about that.

16 Is there anything 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  
23 Direction #20 dated December 18,  
1987.

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*Annette Wright*  
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Annette Wright  
Court Reporter

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