

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- v -

MOHAMUD MOHAMED JAMA

Transcript of the Oral Reasons for Sentence of The Honourable Justice J.Z. Vertes, sitting in Yellowknife, in the Northwest Territories, on the 28th day of February, A.D. 2000.

APPEARANCES:

Ms. S. Kendall:

Counsel for the Crown

J. Bayly, Q.C.:

Counsel for the Defence

THE COURT: Mohamud Mohamed Jama has been convicted of trafficking in cocaine. He was convicted as a party to that offence as aiding and abetting the trafficker. The evidence showed that the offender, a taxi driver, facilitated a sale of cocaine by putting two undercover officers in connection with the actual trafficker. The amount involved is relatively small, one sale of one gram of cocaine for \$110.

[2] The actual trafficker has been convicted. He was sentenced to one year in jail (although that was in conjunction with other offences).

[3] There was no conclusive evidence that Mr. Jama received any monetary reward for this transaction. Defence counsel informed me that the actual trafficker had told him that this offender was not involved in any ongoing commercial enterprise with him. The Crown was not prepared to challenge that, so I must treat the offender as a one-time facilitator for a sale for which he apparently received no compensation.

[4] The offender said at his trial, and the character witness Mr. Malin suggested at this hearing, that the offender was somehow only doing his job as a taxi driver. I say he was not. A taxi driver will not get into trouble for taking a passenger where the passenger wants to go. This taxi

driver got into trouble because he took his passenger to the person who he knew they could buy drugs from. He must have known that not only selling drugs is a crime, but that helping others to sell drugs is also a crime. That is what he did wrong.

[5] It is truly unfortunate that this offender is before the Court. He was described by Mr. Malin as a sincere, honest and decent man who goes out of his way to help others in his community. The offender has no record for criminal behavior. He came here from his strife-torn homeland of Somalia and is now a Canadian citizen. By all accounts he is a hard-working individual. But as counsel recognize, Canadian courts have consistently treated trafficking-related offences, no matter how small, no matter what type of drug, and no matter what type of offender, with the imposition of sentences of imprisonment as a way of emphasizing the need for general deterrence.

[6] Drugs are viewed as a pervasive problem in our society. The street level sale of narcotics - including cocaine - is a major problem in this city. Drugs corrupt minds, deplete pocketbooks, and those who purvey drugs take advantage of the weakness of others and their primary motivation is greed. So, because of that, it is necessary to send a message to others that if they become involved in this business,

then they can expect to go to jail.

[7] In this case, the very fact of conviction will have a significant impact on the offender. He will lose his cab license and he will have to find other employment. But as defence counsel acknowledged, there is no realistic alternative here to actual imprisonment. The question is how long? Crown counsel suggests a sentence in the high Territorial range, but I think that is unrealistic. There should be some consistency in sentencing from case to case.

[8] While every case must be treated individually, I think this case has strong similarities to the recent case of *Charanjit Basson* (2000 NWTSC 12). He too was convicted as a party to the offence of trafficking in cocaine. He drove his friend, the actual trafficker. He was convicted after trial.

[9] In that case, my colleague Justice Schuler, sentenced Basson to seven months imprisonment. In my opinion, and for the same reasons, a similar sentence is appropriate in this case.

[10] Stand up, Mr. Jama. Mr. Jama, I heard the good things said about you by your friend. I'm sure that you have done many things to help your fellow countrymen in adapting to this new country and I am truly saddened that you were involved in this criminal transaction, even if it was only peripherally. But I think you understand, and I

think everyone in this courtroom understands, that what you did was a crime and for that you must be punished.

[11] I sentence you to serve a term of imprisonment of seven months. You may sit down. Anything else?

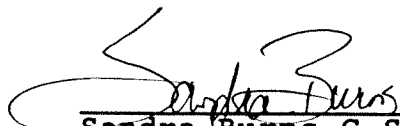
MS. KENDALL: Victim of crime surcharge.

THE COURT: I will waive the surcharge, counsel, under the circumstances. Mr. Bayly?

MR. BAYLY: I was going to say it would be an appropriate case to waive the surcharge.

THE COURT: Thank you, counsel, we'll close court.

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



Sandra Burns C.S.R. (A), R.P.R.
Court Reporter