

1 THE COURT:

2 The circumstances of this case have
3 been reviewed in my decision on conviction and I do
4 not intend to go through them again.

5 Just briefly, Mr. Basson has been convicted of
6 trafficking in cocaine. He has been convicted as a
7 party to the offence, specifically as the one who
8 drove Mr. Fabian to a location where Mr. Fabian then
9 conducted a drug transaction. The drug in question
10 was cocaine.

11 I have some difficulty in seeing Mr. Basson as
12 being naive in this case. I bear in mind that I am
13 only sentencing him for one transaction, that is all I
14 am sentencing him for, but his evidence certainly
15 convinced me that he knew very well what Mr. Fabian
16 was doing. I do not think he was naive in the sense
17 of not knowing what Mr. Fabian was doing or naive in
18 the sense of not realizing that he was assisting
19 Mr. Fabian. He may be naive in terms of whether the
20 driver can be convicted of the offence, but I do not
21 see him as a dupe. Certainly Mr. Fabian took
22 advantage of Mr. Basson's willingness to give him the
23 rides. But, as I say, I have a great deal of trouble
24 as seeing him somehow as a dupe or someone who had the
25 wool pulled over his eyes.

26 I bear in mind that he has no criminal record. I
27 bear in mind that there is certainly no evidence that
he was the mastermind of this. The evidence certainly

1 indicates that Mr. Fabian was the main actor and he
2 was the one who was essentially telling Mr. Basson
3 what to do.

4 I have heard about Mr. Basson's background. He
5 is young; he is only 23 years old. He appears to be a
6 hard worker. He certainly had employment quite
7 regularly over the last four years except for the time
8 when he was unemployed that he referred to.

9 I have considered the submissions that have been
10 made with respect to a conditional sentence and,
11 specifically, the Proulx decision which was just
12 released by the Supreme Court of Canada last week.
13 Certainly it is very clear that a conditional sentence
14 is open to the court on a conviction of this nature.
15 The question is, as always, whether that or something
16 else is the appropriate punishment for the offence
17 that has been committed.

18 The courts have said for many, many years that
19 the main principles in sentencing for trafficking, and
20 specifically trafficking in cocaine, are denunciation
21 and deterrence. That means that the sentence imposed
22 should indicate that the crime is not acceptable to
23 society, to the community; in other words, it should
24 denounce the conduct engaged in, and it should also
25 deter both the accused and others from engaging in
26 this kind of conduct.

27 The Supreme Court of Canada has said that a

1 conditional sentence is not something to be viewed
2 lightly. It is a sentence of imprisonment and it
3 should have conditions that reflect the fact that it
4 is meant to be an onerous sentence.

5 In my view, this is not a case that cries out for
6 a conditional sentence, acknowledging that there is
7 nothing to prevent it from being available. One of
8 the things that is very important here is that
9 Mr. Basson and, in particular, young men like
10 Mr. Basson - and by that I mean young men in the
11 Yellowknife community - are aware that trafficking in
12 cocaine, whether as the principal actor or as a party,
13 will entail severe consequences and that there will be
14 punishment for it.

15 Both counsel have very fairly acknowledged that
16 much of the sadness and the human devastation that we
17 see in court can be tied to both drug and alcohol
18 abuse. It is not a victimless crime. There is always
19 a victim when it comes to drug trafficking.

20 I note that one of the concluding comments made
21 in the Proulx case - the court upholding the jail
22 sentence that had been imposed for an offence
23 unrelated to this one - said: Trial judges are closer
24 to their community and know better what would be
25 acceptable to their community.

26 I have to consider in this case the problem,
27 because there is a problem with cocaine in this

1 community. As I have said, the sentence I impose has
2 to send a signal.

3 I do take into account that Mr. Basson is being
4 sentenced only for one transaction, one involvement.
5 He was the driver, not the principal actor, and that
6 he has no record.

7 I take into account the sentence that was imposed
8 on Mr. Fabian; in particular, he was sentenced not
9 just for this particular transaction, the May 6th
10 transaction, but for two others, and that he had a
11 related, although less serious, record.

12 Stand up, please, Mr. Basson.

13 In the circumstances and because of the factors I
14 have mentioned, a conditional sentence is not
15 appropriate. However, I think that a sentence quite a
16 bit less than was suggested will be sufficient in the
17 circumstances.

18 Mr. Basson, I sentence you to a term of
19 imprisonment of seven months.

20 Now, are there any other orders that I need to
21 make?

22 MR. SMITH: None that I'm aware of, My Lady.

23 MS. SCHMALTZ: No, I don't believe so, My Lady.

24 There is the exhibits but they will be dealt with in
25 the normal event.

26 THE COURT: All right. All right, thank you.

27 MS. SCHMALTZ: Victim of crime surcharge, My Lady.


1 THE COURT: Yes, that will be waived considering
2 that there's a term of incarceration.

3 Mr. Basson, I sincerely hope that you will have
4 learned your lesson from this. You are not going to
5 do yourself any good by getting involved in this kind
6 of activity. All you will do is ruin your life. That
7 is really a given and we see it every day. Don't
8 think that somehow you will be different, because you
9 won't. I am sure you will spend some time thinking
10 about that. Obviously you are a hard worker and that
11 is what you should be concentrating on instead of this
12 kind of thing.

13 Thank you very much, counsel, for your
14 presentation of the case.

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17 Certified pursuant to Practice
18 Direction #20 dated December 18,
19 1987.

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21 _____
22 Annette Wright, RPR, CSR(A)
23 Court Reporter
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