

R. V. Nguyen, 2001 NWTSC 79

S-1-CR-2001/071  
S-1-CR-2001/072

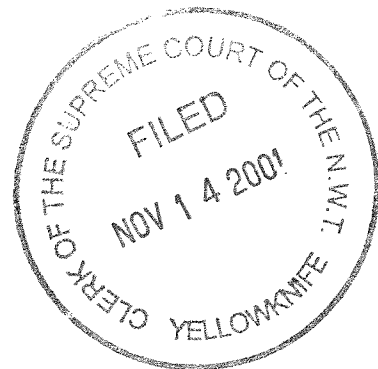
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

HOANG DUNG NGUYEN



---

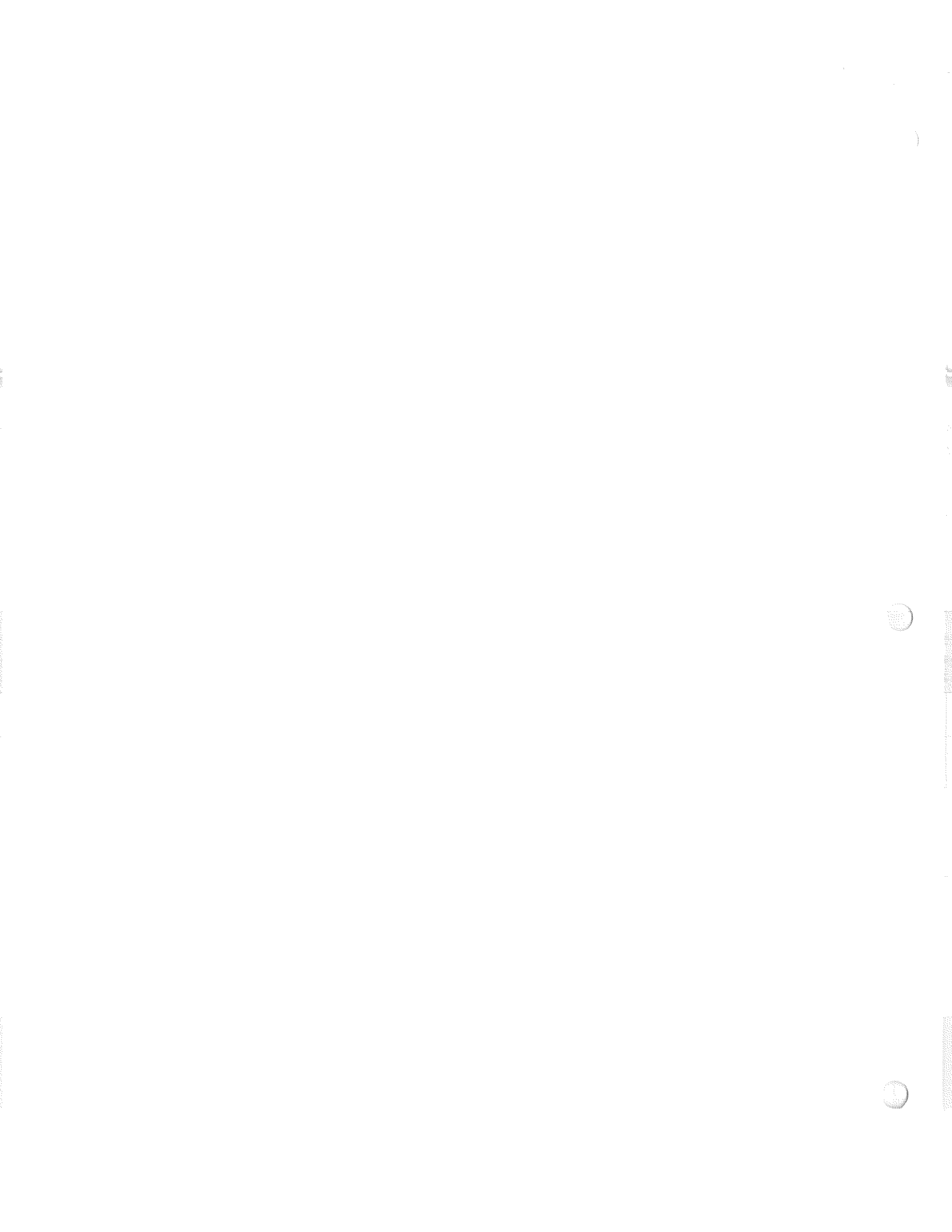
Transcript of the Oral Reasons for Sentence by The Honourable Justice V.A. Schuler, at Yellowknife in the Northwest Territories, on October 25th A.D., 2001.

---

APPEARANCES:

Ms. S. Kendall: Counsel for the Crown  
Ms. K. Payne: Counsel for the Accused

-----  
Charge under s. 5(1) x2 Criminal Code of Canada



1 THE COURT: Mr. Nguyen has pleaded guilty to  
2 two counts of trafficking in cocaine and the facts  
3 have been reviewed quite extensively. Just very  
4 briefly, in the first instance on July 22, 2000, he  
5 sold two 1-ounce bags of cocaine to an agent for the  
6 sum of \$4,000. And then on the second occasion,  
7 September 1st, 2000, dealing with the same agent he  
8 sold a total of five ounces and received -- I'm  
9 sorry, sold a total of four ounces and received  
10 \$8,000 for that sale.

11 In terms of Mr. Nguyen's involvement, based on  
12 the facts that are before me and having heard what  
13 was said and considering also what is in the  
14 pre-sentence report, I don't have any trouble  
15 concluding that this was obviously a commercial  
16 transaction. I don't have any trouble concluding  
17 that Mr. Nguyen was involved as more than just a  
18 minimal participant. It may be that he and some  
19 other people decided that they would make some money  
20 by selling cocaine but obviously he, or someone else  
21 in the group, knew where to get the cocaine and they  
22 knew where to get quite a bit of cocaine. It  
23 doesn't strike me as unsophisticated or chance type  
24 of transactions so I do see this as indicating that  
25 his involvement certainly is more than just on a  
26 minimal scale. He may not have been the kingpin but  
27 he is up there somewhere and, in my view, just as

1 responsible as anyone else along the ladder who gets  
2 involved in this.

3 I find it interesting that Mr. Nguyen in the  
4 pre-sentence report says that he was aware of the  
5 dangers of cocaine use and its ability to become  
6 addictive and as with other people who engage at  
7 that level in trafficking, obviously he should have  
8 known that some of this cocaine could end up in the  
9 hands of teenagers; it could end up in the hands of  
10 all kinds of people and wreak all kinds of havoc and  
11 cause all kinds of problems. This is one of the  
12 very serious aspects of an offence like this. Many,  
13 many, many of the people who come to Court for all  
14 kinds of reasons are in the horrible circumstances  
15 they are in because of alcohol or drug abuse and  
16 people who get involved in drug trafficking are just  
17 encouraging and helping the awful circumstances and  
18 the awful things that happen to people and to  
19 families because of drug addiction.

20 I take into account a number of things in this  
21 case. I take into account that Mr. Nguyen has no  
22 criminal record. I take into account that he waived  
23 the preliminary hearing on these charges and that he  
24 has pleaded guilty to these charges.

25 In terms of the submission that he was fully  
26 cooperative with the authorities once he was  
27 stopped, I take that into account.

1 I am not going to draw any conclusions really  
2 from what is set out in paragraph 22 of the Agreed  
3 Statement of Facts. Although it seems to me that  
4 when he is driving with over \$35,000 of drug money  
5 in his vehicle and someone starts chasing him, he  
6 could reasonably conclude that it was the police  
7 after him. But in any event, I am not going to  
8 place any great emphasis on that.

9 I don't think that I can draw a lot of  
10 conclusions from the manner in which the arrest was  
11 effected in November because I don't know what was  
12 behind it or what information the police had. I can  
13 appreciate that it would have been a traumatic  
14 situation for Mr. Nguyen and his family but I don't  
15 think that it is something that I should draw any  
16 conclusions from in a way that would affect any  
17 sentence that I impose.

18 The pre-sentence report that has been prepared  
19 contains a lot of information about Mr. Nguyen and  
20 it talks about the fact that he does have a  
21 supportive family.

22 One of the things of course that can be said  
23 about the report is that Mr. Nguyen, who describes  
24 his family life when he was growing up as being  
25 good, obviously isn't giving the same chance to his  
26 son and, Mr. Nguyen, I hope that is something that  
27 you will think about very carefully. You had a good

1           upbringing and you seem to be appreciative of what  
2           your parents have done for you and you should give  
3           your son the same kind of chance and by getting  
4           involved in drug trafficking, not only are you  
5           putting your son in a situation where you are not  
6           available to him but you are setting a very bad  
7           example for him. You are also putting him in a  
8           position where people are going to say, may say to  
9           him, your father is a drug dealer, he's a bad guy,  
10          and I am sure that you don't want that for your son.

11                 In the report, it quotes you as saying that you  
12          believe that you are looked down upon and you have  
13          been portrayed as some big-time drug dealer in  
14          Yellowknife.

15                 In the circumstances, it is not hard to see how  
16          people would draw that conclusion. Again, you are  
17          an adult, you can deal with it, but it is going to  
18          be very difficult for your son to deal with that  
19          kind of thing when he is older. You should be  
20          concentrating on what is the effect of this kind of  
21          activity going to be on him and on his life and what  
22          he is going to deal with when he is growing up. As  
23          I say, I hope that you will give some thought to  
24          that.

25                 I take into account that you have spent seven  
26          months on remand and as indicated by the Supreme  
27          Court of Canada in, I believe it is the Wust case,

1 certainly Courts have often given double credit for  
2 remand time and I don't see any reason why that  
3 should not be done in this case so in effect the  
4 credit to be given then will be approximately 14  
5 months for that.

6 Now, I have to consider what the sentence  
7 should be in this case and then deal with the credit  
8 for that remand time, and counsel have made a number  
9 of submissions about that.

10 I have looked at the Maskell and Getty cases  
11 that have been submitted by counsel and also I have  
12 been told what some of the other individuals who  
13 were arrested and later convicted and sentenced in  
14 this particular operation received.

15 These transactions were not minimal, as I have  
16 said. In my view, they were commercial transactions  
17 obviously. Mr. Nguyen's involvement is more than  
18 just minimal so I do have to take all of that into  
19 account.

20 Stand up please, Mr. Nguyen.

21 Taking into account all of the factors that  
22 have been referred to, it seems to me that a  
23 sentence in the area of three and a half years would  
24 be appropriate in this case. I am going to deduct  
25 from that the remand time and the sentence that I am  
26 going to impose is one of 30 months in jail. And  
27 because there are the two counts in the Indictment,

1 I will simply make that 30 months concurrent on each  
2 count.

3 You may sit down, Mr. Nguyen.

4 There will also be an order for forfeiture of  
5 the money that was seized from Mr. Nguyen, and there  
6 will be a firearm prohibition order in the usual  
7 terms which will commence today and expire ten years  
8 from your release from imprisonment. Is there  
9 anything further that I need to deal with?

10 MS. PAYNE: No, Your Honour.

11 MS. KENDALL: No, Your Honour.

12 THE COURT: All right, Mr. Nguyen, I hope we  
13 will not see you ever before the Court again, and I  
14 hope that you will give some serious thought to what  
15 you have caused, the problems that you have caused  
16 to your family because of this, and also to how you  
17 want to deal with your life from now on. That's all,  
18 thank you.

19 MS. PAYNE: Thank you.

20 MS. KENDALL: Those are all of my matters.

21 THE COURT: Thank you.

22 **(AT WHICH TIME THE ORAL REASONS FOR SENTENCE CONCLUDED)**

23

24

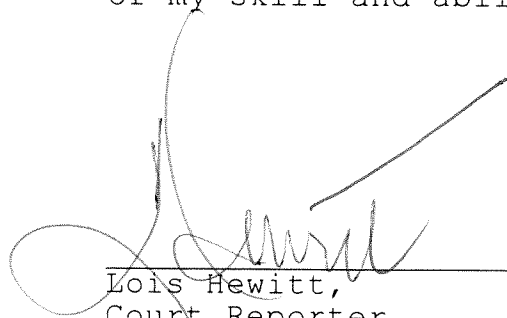
25

26

27



Certified correct to the best  
of my skill and ability,

  
\_\_\_\_\_  
Lois Hewitt,  
Court Reporter

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27

