

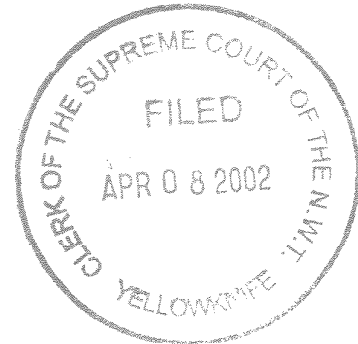
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

HENRY MICHAEL LARABIE



Transcript of the Oral Reasons for Sentence of The
Honourable Justice V.A. Schuler, sitting in Yellowknife, in
the Northwest Territories, on the 14th day of March, A.D.
2002.

APPEARANCES:

Mr. N. Sinclair:

Counsel for the Crown

Mr. S. Duke:

Counsel for the Defence

1 THE COURT: Mr. Henry Michael Larabie has pleaded
2 guilty today to the offence of possession for the
3 purposes of trafficking, specifically cocaine, and I
4 won't go into a lot of detail about the facts but,
5 briefly stated, the police received information that
6 Mr. Larabie was selling cocaine from his room at the
7 Gold Range. They went to the room on September 8th,
8 2001 with a search warrant, and found various
9 paraphernalia relating to cocaine including bags that
10 were cut in such a way as is used for selling cocaine
11 on the street at the gram level. They also found,
12 and seized, a total of 8 grams of cocaine wrapped in
13 individual grams in that type of plastic bag.

14 Also found was a portable police scanner and it
15 was inside that, as I understand it, that the cocaine
16 was found inside the battery compartment.

17 A quantity of money was found on Mr. Larabie and
18 two cell phones were found and seized from the
19 apartment. During the arrest and search the cell
20 phones were ringing frequently and individuals were
21 called asking for a "movie," which I understand from
22 counsel is the street term used for a gram of coke.
23 As well, people were coming to the door looking for
24 Mr. Larabie.

25 Mr. Larabie is 29 years old. His background,
26 which has been put before me, is unremarkable. He
27 has, in the past, done labour work on a fairly

1 sporadic basis. He does come with a criminal record
2 which is quite lengthy going back to 1991. It
3 involves a number of different offences including
4 several offences of assault which are not related
5 obviously to the offence I am sentencing him for, but
6 it's, I suppose, somewhat interesting to note that in
7 the early years he seems to have accumulated several
8 convictions for assault and then in 1999, although
9 there are still after that convictions for assault,
10 he commenced being convicted of offences which are
11 directly related to the offence before the Court
12 today.

13 In 1999, possession of a scheduled substance for
14 the purpose of trafficking, for which he received
15 three months incarceration.

16 In the year 2000, trafficking in a scheduled
17 substance for which he received one month consecutive
18 to two months imposed on other charges, and then
19 there was four months consecutive imposed for another
20 count of trafficking in a scheduled substance.

21 And then, as noted by counsel, in February 2002,
22 he received 12 months in jail for possession of a
23 controlled substance. And, as counsel pointed out,
24 prior to the February 2002 conviction, the other drug
25 offences related to marijuana. I suppose that the
26 conclusion I would have to draw from that is that Mr.
27 Larabie graduated, if that's the appropriate term,

1 from dealing in marijuana to dealing in cocaine so
2 that certainly, in terms of his drug record, there
3 has been an increase in the seriousness of the drugs
4 that he's dealing with.

5 The evidence indicates, and both counsel as I
6 understand it agree with characterizing it this way,
7 that Mr. Larabie was engaged as a street-level
8 dealer. There is some indication, obviously, that
9 this was a fairly well-organized business that he was
10 running. There is the police scanner, the cell
11 phones. I think that, and I believe it's mentioned
12 in one of the cases that Mr. Sinclair referred to
13 that I noted as I was looking through them, I'm not
14 sure that the relatively small quantity of drugs
15 found is really reflective of what was going on, and
16 actually it's the *Chung* case in which I note that
17 Chief Justice Fraser of the Alberta Court of Appeal,
18 who is also the Chief Justice of the Northwest
19 Territories Court of Appeal says that,

20 The system...

21 In that case,

22 ...minimizes the accused's risk by
23 permitting him to plead that he should be
24 sentenced on the small quantity of drugs
with which he is found.

25 So I think the way to look at this case is that yes
26 there was a small quantity of drugs found, but
27 obviously the operation that he was running was

1 something quite beyond that.

2 I do take into account the guilty plea that Mr.
3 Larabie has entered today. It did not come at the
4 earliest opportunity, but he still will be given
5 credit for it. Notwithstanding that there was a
6 preliminary inquiry, I still give considerable weight
7 to the guilty plea and I say that because this -- in
8 this type of case, I would assume that the witnesses
9 were basically or were probably solely police
10 officers, and it's not like, for example, a sexual
11 assault case where the main witness who testifies
12 often is considerably upset and suffers trauma just
13 by having to come to court and testify, so I do take
14 that into account that it's not the same type of
15 case.

16 With respect to the sentencing in February, as I
17 understand it the facts of that offence also occurred
18 in February of 2002, so several months after the
19 offence for which I am now sentencing Mr. Larabie,
20 several months after he had been arrested, and I bear
21 in mind that because the February 2002 offence
22 happened afterwards, it is not something that should
23 be taken into account in terms of aggravating the
24 offence that's before me now. And I say that, as
25 well, because as I understand it from counsel's
26 submissions, it was at that time taken into account
27 that Mr. Larabie was on release for this offence.

1 But what it does indicate to me obviously is
2 that having been arrested for the offences before the
3 Court now, Mr. Larabie obviously didn't get the
4 message when he committed the further offence in
5 February of 2002.

6 His counsel says that he now realizes that he's
7 looking at a lengthy period of incarceration. He
8 says that he -- this is something he has to think
9 about, and I hope he does because obviously what he's
10 looking at otherwise is spending the rest of his life
11 in jail, and I say that because if he doesn't stop
12 committing offences, eventually that's where he's
13 going to be spending all his time. But I guess I see
14 this as a situation where obviously Mr. Larabie
15 hasn't gotten the message now. He didn't get it on
16 arrest. I don't know whether he's perhaps starting
17 to realize that he should be getting a message here,
18 but I think that's all I can say about that.

19 In these cases it's common on sentencing to
20 repeat essentially the same things, that the main
21 principles in a case like this are the principles of
22 denunciation and deterrence; in other words, somehow
23 the message has to get through to other people that
24 this type of offence will be seriously dealt with and
25 also the sentence that's imposed has to show that
26 society, the community, rejects this type of
27 behavior. It does absolutely nothing but cause pain

1 in the community and in what he said, Mr. Larabie
2 said that he was doing this essentially to support
3 his own habit, I don't know whether that's true or
4 not, there wasn't anything said about it prior to his
5 speaking, but even if it is true, then he certainly
6 knows the pain that cocaine causes. So he knows that
7 first-hand and he knows what devastation he's
8 contributing to in this community by dealing this to
9 other people.

10 Stand up please, Mr. Larabie. Having considered
11 all the circumstances, what I'm going to do is impose
12 a sentence of two years incarceration. It will be
13 consecutive to the 12 months that you're presently
14 serving. There will also be a firearm prohibition
15 order pursuant to Section 109 of the Criminal Code in
16 the usual terms. It will commence today and it will
17 expire ten years from your release from imprisonment,
18 and there will be an order forfeiting the -- was it
19 just the drugs seized that you were asking for the
20 order?

21 MR. SINCLAIR: There was also the cash which was
22 seized in the amounts of \$685.

23 THE COURT: All right. Then there will be an
24 order for forfeiture of the drugs and the cash
25 seized. You may sit down Mr. Larabie.

26 The victim of crime surcharge will be waived in
27 the circumstances. Is there anything further that I

1 need to deal with, counsel?

2 MR. DUKE: No, Your Honour.

3 MR. SINCLAIR: No, Your Honour.

4 THE COURT: All right, thank you.

5 MR. SINCLAIR: Thank you.

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

9 

10 **Sandra Burns R.P.R, C.R.R.**
11 **Court Reporter**

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