

R. v. Turner, 2006 NWTSC 64

S-1-CR2006000016

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

PETER TURNER

Transcript of the Reasons for Sentence by The Honourable
Justice J.E. Richard, at Yellowknife in the Northwest
Territories, on November 15th A.D., 2006.

APPEARANCES:

Mr. B. Hubley:

Counsel for the Crown

Mr. J. Mahon:

Counsel for the Accused

Charge under s. 5(1) Controlled Drugs and Substances Act

1 THE COURT: The offender before the Court,
2 Peter Turner, is a 22-year-old Metis man who grew
3 up here in Yellowknife. He is convicted of
4 trafficking in cocaine and possession of a
5 prohibited weapon and, today, he is to be
6 sentenced for these crimes.

7 The circumstances of this case indicate that
8 Mr. Turner was engaged as a drug dealer in
9 Yellowknife prior to December 1st, 2005, although
10 I emphasize that it is solely for the December
11 1st, 2005 transaction that he is being sentenced
12 today.

13 The police had information that Mr. Turner
14 was so engaged and that his modus operandi was to
15 receive a telephone call on his cellphone and
16 arrange a transaction. A police officer
17 accordingly placed a call to Mr. Turner at the
18 specific cellphone number which the police had
19 learned of during their investigation. In the
20 telephone conversation, Mr. Turner agreed to sell
21 the police officer one gram of crack cocaine for
22 \$130 and to meet him shortly thereafter at a
23 specific location in Yellowknife.

24 When the police officer met Mr. Turner at
25 the designated location, he arrested him and
26 charged him with trafficking in cocaine. A
27 search of Mr. Turner's person incidental to the

1 arrest uncovered a switchblade which is a
2 prohibited weapon under the Criminal Code and
3 Mr. Turner, as a result, also stands convicted of
4 illegal possession of a prohibited weapon
5 contrary to Section 91(2) of the Criminal Code.
6 At the commencement of his trial, he pleaded
7 guilty to the weapons offence.

8 The illegal trade in cocaine and crack
9 cocaine in Yellowknife has had a devastating
10 effect on the people and on the social life of
11 our community. We know this because of the many
12 cases that come before the Courts where we see
13 the snowball effect on the commission of crimes
14 in this community. We see thefts, B&Es,
15 assaults, domestic violence, and we have seen
16 homicides - all related to cocaine addiction. We
17 have seen broken families. We have seen
18 destroyed lives.

19 It has been said many times in this
20 courtroom that the illegal cocaine trade is like
21 a plague which has infested the social fabric of
22 our community. Those who are involved in the
23 supply and sale and trafficking of cocaine are
24 like vultures or predators who are preying upon
25 those weak members of the community who are
26 addicted to this drug. The traffickers are doing
27 this presumably for profit, or money. They,

1 apparently, have no scruples about preying upon
2 vulnerable people. For this reason alone, they
3 ought to be punished. They are doing so even
4 though there is a risk that they will end up in
5 jail for a substantial period of time.

6 I cannot believe that a young person like
7 Peter Turner, growing up here in his home
8 community of Yellowknife, would not know that
9 this Court is not lenient when it comes to
10 sentencing drug traffickers in Yellowknife. He
11 had to know that a meaningful jail term is the
12 price to pay when you get caught. I believe it
13 is a fair assumption, then, that he took the risk
14 anyway and now today he has to pay the price.
15 And although it is almost a year after the fact,
16 it seems from the words of defence counsel on
17 Mr. Turner's behalf this morning, and from
18 Mr. Turner's own words this morning, that Peter
19 Turner now realizes that he has to accept
20 responsibility for what he has done.

21 As this Court stated in a very similar case,
22 R. v. Chamberlin,

23 In accordance with Parliament's
24 direction that the Court, in its
25 sentencing decisions, strive for
26 respect for the law and for the
27 maintenance of a peaceful and safe

1 community, the Courts of this
2 jurisdiction have long taken the
3 position that absent special
4 circumstances, a conviction for
5 unlawful trafficking in cocaine will
6 result in a meaningful jail term.
7 This has been felt to be necessary
8 with a view to deterrence and also
9 to denounce the continuing harm that
10 is done to victims and to this
11 community."

12 Counsel have themselves referred to earlier
13 sentencing decisions of this Court, some of which
14 have a number of similarities with the present
15 case. In some of those cases, the offenders were
16 young; like Peter Turner. In some of those
17 cases, the offender had no criminal record; like
18 Peter Turner. In some of the cocaine trafficking
19 cases that have come before this Court, the
20 offender has pleaded guilty at an early
21 opportunity; unlike Peter Turner. In some of the
22 cases, there was more than one trafficking
23 transaction; unlike Peter Turner's case which
24 involves one trafficking incident only. All of
25 this is to say that each sentencing disposition
26 is different and is dependent on specific
27 circumstances of the offence and of the offender.

1 However the Court must, because of the prevalence
2 of this crime in this community, have specific
3 regard to the important sentencing principle of
4 parity so that, generally speaking, similar
5 sentences are imposed on similar offenders for
6 similar offences. It is for that reason, among
7 others, that a conditional sentence is not
8 available to Peter Turner in this case.

9 Without repeating what this Court said in
10 Greenland, in Basson, and in Chamberlin, I adopt
11 those reasons for deciding that a conditional
12 sentence is not available to Peter Turner in the
13 particular circumstances of this offence of
14 trafficking in cocaine in Yellowknife in
15 December 2005.

16 Dealing briefly with the other offence,
17 possession of a switchblade, I have very little
18 helpful evidence as to the full circumstances of
19 this crime.

20 During the trial, the police officer stated
21 that Peter Turner had this switchblade on his
22 person at the time of his arrest on the drug
23 offence. There is no evidence on which I can
24 infer that Peter Turner intended to use this
25 switchblade in the course of his drug trafficking
26 enterprise. Also, there is no evidence of any
27 other reason why he would be in possession of a

1 switchblade on his person, at midnight, on the
2 streets of Yellowknife in December 2005.
3 Accordingly, I will treat the weapon offence as a
4 stand-alone offence, unrelated to the drug
5 offence.

6 Please stand, Mr. Turner.

7 Peter Turner, for the crimes that you have
8 committed, on Count 1, trafficking in cocaine,
9 the sentence of this Court is that you be
10 imprisoned for a period of 11 months. On Count
11 2, unlawful possession of a prohibited weapon,
12 the sentence is one month consecutive.

13 In addition, there will be the mandatory
14 Section 109 firearms prohibition order for a
15 period of ten years. In the circumstances, there
16 will be no Victim Fine surcharge.

17 You may sit.

18 Anything further on this case, counsel?

19 MR. HUBLEY: Yes, if we may have an order
20 for the disposition of the exhibits that are
21 before the Court, that being the cellphone and
22 the weapon. I believe that the weapon will be
23 forfeited to Her Majesty pursuant to, I believe
24 it is 117.

25 THE COURT: Any submissions, Mr. Mahon?

26 MR. MAHON: If I may just have a moment,
27 Your Honour, to look at the section. It would

1 seem, given the findings of the Court, I believe
2 it was Section 16 of the CDSA, I would agree with
3 my friend that the prohibited weapon be forfeit
4 and the CDSA makes a similar reference with
5 respect to I think forfeiture of property under
6 Section 16 of the CDSA and I would expect the two
7 cellphones in question would be thus forfeited.
8 So I don't have any opposing comments.

9 THE COURT: The order will issue on the
10 exhibits as requested by the Crown. Mr. Hubley,
11 you will prepare the order.

12 MR. HUBLEY: Thank you.

13 THE COURT: Anything further?

14 MR. MAHON: I have nothing further before
15 the Court, thank you, Your Honour.

16 THE COURT: Thank you, we will close
17 Court.

18 -----

19

20

21 Certified to be a true and
22 accurate transcript pursuant
23 to Rules 723 and 724 of the
24 Supreme Court Rules,

25

26

27

28

Lois Hewitt, CSR(A), RPR, CRR
Court Reporter