

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

CHANDRA MUDALIAR

Transcript of the Reasons for Sentence delivered by The Honourable Justice J.E. Richard, sitting in Yellowknife, in the Northwest Territories, on the 12th day of June, A.D. 2007.

APPEARANCES:

Ms. S. Tkatch: Counsel for the Crown

Ms. M. Nightingale: Counsel for the Accused

(Charge under s. 465 of the Criminal Code of Canada)

1 MS. TKATCH: Good afternoon, sir.
2 MS. NIGHTINGALE: Good afternoon.
3 THE COURT: The offender before the Court
4 is Chandra Mudaliar. He is to be sentenced today
5 for the crime of conspiracy to traffic in
6 cocaine.

7 This case is one of a series of cases
8 arising from a major investigation conducted by
9 the RCMP in Yellowknife a few years ago. This
10 major investigation included the gathering of
11 information by surveillance, by undercover
12 operations and, also, judicially authorized
13 interception of private communications.

14 One of the primary targets of this major
15 investigation was a Mr. Wong. It was Mr. Wong
16 that Mr. Mudaliar conspired with to traffic in
17 cocaine, and their dealings were at the
18 one-kilogram level of trafficking. This was at
19 the wholesale level, not the street level or
20 one-gram level that we frequently see in cases
21 coming before the Court.

22 Mr. Mudaliar has pleaded guilty to the
23 charge in the Indictment; that is that he,
24 together with Mr. Wong, did, on or between the
25 19th day of September, 2005 and the 13th day of
26 October, 2005, in the City of Yellowknife,
27 conspire together to commit the indictable

1 offence of trafficking in cocaine contrary to
2 Section 465 of the Criminal Code. Specifically,
3 he admits that between September 20th and
4 October 5th, 2005, he actively facilitated a
5 transaction between Mr. Wong and Mr. Wong's
6 Vancouver supplier for one kilogram of cocaine
7 for \$30,000. After several discussions and
8 agreements regarding the transaction,
9 Mr. Mudaliar, in fact, travelled to Vancouver to
10 consummate the transaction and was to come back
11 to Yellowknife with the one kilogram of cocaine
12 for Mr. Wong. Mr. Mudaliar met in Vancouver with
13 Mr. Wong's supplier. As it turned out, Mr. Wong
14 was unable to come up with the money at the time,
15 and Mr. Mudaliar returned to Yellowknife without
16 the cocaine.

17 At the conclusion of the RCMP's major
18 investigation in October 2005, many people were
19 arrested for their involvement in the illegal
20 cocaine trade in Yellowknife, including this
21 offender, Chandra Mudaliar.

22 Mr. Mudaliar was initially released on an
23 undertaking given to an officer in charge. He
24 was then arrested on another drug charge on
25 November 25th, 2005. He remained in custody
26 until April 21, 2006, when that other drug charge
27 was stayed. He was then released on a

1 recognizance with respect to the present charge.
2 In July, 2006, there was information that
3 Mr. Mudaliar breached his recognizance by
4 travelling to Kugluktuk, Nunavut, without giving
5 notice to the RCMP and a warrant was issued for
6 his arrest. He was arrested in Yellowknife on
7 September 8th, 2006, and has been in custody
8 since that date. Crown counsel acknowledges that
9 Mr. Mudaliar has been in remand on this matter
10 for approximately 14 months.

11 The cocaine that Mr. Mudaliar was planning
12 on bringing into Yellowknife was destined to be
13 sold eventually on the streets of Yellowknife at
14 the one-gram or two-gram level.

15 As has been said by the Court on many
16 occasions, the illegal cocaine trade in
17 Yellowknife has been like a scourge or a plague
18 that has infested the very fabric of our
19 community in recent years. Those who are engaged
20 in this illegal commercial enterprise are preying
21 upon the vulnerable members of the community who
22 are addicted to cocaine.

23 Mr. Mudaliar's crime is not a victimless
24 crime. As stated by the Court recently in the
25 Desjarlais case, we regularly see evidence before
26 the Court of the devastation that is caused to
27 people's lives and the serious harm done to the

1 community.

2 Although Mr. Mudaliar's involvement in the
3 cocaine trade was more than being a mere courier,
4 even if he were a courier only, it cannot be said
5 that a courier is only on the periphery of the
6 illegal cocaine trade. A courier is an essential
7 and vital part of the illegal commercial
8 enterprise. If the couriers do not transport the
9 illegal product, then there would be no sales to
10 users on the streets of Yellowknife.

11 Mr. Mudaliar himself acknowledges that his
12 crime harmed the community. In a letter of
13 apology filed with this court on the sentencing
14 hearing, he commences with these words:

15 "I apologize for the role I
16 played in the cocaine drug trade
17 in the Yellowknife community. I
18 take full responsibility for my
19 actions that caused a great deal
20 of devastation to the Yellowknife
21 community."

22 I am advised by Mr. Mudaliar's counsel that
23 this offender is 48 years old and is an immigrant
24 from Fiji who has lived in Yellowknife these past
25 17 or 18 years. He has also lived in British
26 Columbia and in Ontario. He has had a variety of
27 employment positions while living in Yellowknife,

1 particularly in the retail photography business.
2 He has filed with the Court two letters from an
3 associate in the photography business who speaks
4 highly of Mr. Mudaliar's work ethic and who
5 confirms offers of training and prospective
6 employment for Mr. Mudaliar.

7 Mr. Mudaliar suffers from diabetes and some
8 other health problems, and he says his general
9 health has deteriorated since his incarceration
10 awaiting trial on this charge.

11 One of the mitigating factors in
12 Mr. Mudaliar's favour in the determination of
13 sentence is that he has pleaded guilty and that
14 he takes full responsibility for his involvement
15 in this cocaine conspiracy enterprise.

16 His guilty plea cannot be said to be an
17 early guilty plea. He was charged in October
18 2005 with other accused persons. Today is June
19 12th, 2007. The preliminary inquiry was
20 concluded in October 2006, at which time he and
21 others were committed to stand trial in this
22 court.

23 Mr. Mudaliar does not have any prior
24 criminal record to speak of; the only entry being
25 a drinking and driving conviction more than ten
26 years ago.

27 As stated, this offender has already been in

1 custody some 14 months prior to attending in
2 court and entering his guilty plea. The fact
3 that Mr. Mudaliar was in custody these past 14
4 months is not merely due to the fact that he was
5 awaiting trial on this serious charge. He was,
6 in fact, given his liberty, allowed to be at
7 large while awaiting trial on this serious
8 charge. He forfeited his liberty when he
9 disobeyed the conditions on which he agreed he
10 would have his liberty pending trial on this
11 serious charge.

12 The primary focus of sentencing in a case
13 like the present one is general deterrence.
14 General deterrence in a crime like this one,
15 involving a conspiracy to engage in the wholesale
16 trafficking of cocaine, means the imposition of a
17 significant period of incarceration in a federal
18 penitentiary. This has been the position taken
19 by the courts for many years; in particular, by
20 the Alberta Court of Appeal in cases like
21 Maskell, in the early 1980s, and like the case of
22 Honish in the late 1980s.

23 In all of the circumstances of this case,
24 including the fact that there was no actual
25 trafficking which flowed from this particular
26 conspiracy between Mr. Wong and Mr. Mudaliar, I
27 am satisfied that an appropriate sentence is

1 three years' imprisonment. I shall grant 18
2 months' credit on account of time already spent
3 in custody, with the resulting term of
4 imprisonment to be 18 months.

5 Please stand, Mr. Mudaliar. Chandra
6 Mudaliar, for the crime you have committed,
7 conspiracy, contrary to Section 465 of the
8 Criminal Code, it is the sentence of this court
9 that you be imprisoned for a period of 18 months.
10 In addition, there will be the firearms
11 prohibition order sought by the Crown, pursuant
12 to Section 109 of the Criminal Code, for a period
13 of ten years, and in the circumstances, there
14 will be no victim fine surcharge. You may be
15 seated.

16 Is there anything further on this case,
17 Counsel?

18 MS. TKATCH: No, Your Honour. Thank you.

19 MS. NIGHTINGALE: Nothing further. Thank you.

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Certified Pursuant to Rule 723
of the Rules of Court

Jane Romanowich, CSR(A), RPR
Court Reporter