

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

REGINALD YOUNG

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Transcript of the Reasons for Sentence by The Honourable  
Justice D. M. Cooper, at Hay River in the Northwest  
Territories, on March 1st A.D., 2010.

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APPEARANCES:

Mr. M. Lecorre: Counsel for the Crown  
Mr. N. Homberg: Counsel for the Accused

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

1 THE COURT: The accused stands convicted,  
2 after a trial by Judge alone, of having  
3 trafficked in a controlled substance, namely  
4 cocaine, and for this the penalty can be up to  
5 life imprisonment. The Crown asks that the Court  
6 impose a denunciatory sentence of approximately  
7 13 months in that the circumstances of the case  
8 at bar, and of the accused, are similar to those  
9 in R. v. Simpson 2008 NWTSC 92, a previous  
10 decision of this Court; in fact, one which I have  
11 rendered. The defendant asks the Court to  
12 consider imposing a sentence that is less  
13 restrictive having reference to the provisions of  
14 Section 718.2 of the Criminal Code.

15 I have previously set out the facts in this  
16 case in some detail in the reasons for judgment  
17 that I delivered earlier today and so will not  
18 review those facts at any length. In short, I  
19 found the accused guilty of having sold  
20 approximately 1.2 grams of cocaine to another  
21 person for the sum of \$200.

22 In terms of personal circumstances, the  
23 accused is a 43-year-old Metis man who is  
24 currently unemployed but who, defence counsel  
25 advises, works as a fisherman during summer  
26 months. He is living in a common-law  
27 relationship and his partner is one month

1 pregnant. He has struggled with alcohol  
2 addiction but has been sober the past few years.  
3 He has a modest criminal record although, of  
4 note, with no related convictions. The last  
5 conviction occurred in 2007 where the accused was  
6 convicted of impaired driving and two offences  
7 for failing to attend court. The previous minor  
8 convictions are in excess of 20 years old.

9 In the Northwest Territories, Courts have  
10 consistently said that the offence of trafficking  
11 in "hard drugs", like cocaine, calls for a  
12 denunciatory and deterrent sentence and one that  
13 offers protection to the public such as in the  
14 case here.

15 The drug trade is a scourge which damages  
16 communities and destroys lives. Those who engage  
17 in this enterprise do so at their own risk.

18 While I note that the accused is of Metis  
19 heritage, I have not heard of any systemic  
20 factors which could or should lead me to consider  
21 a restorative type sentence.

22 Having reference to Section 718.2 and  
23 Section 10(2) of the Controlled Drugs and  
24 Substances Act, I find that none of the  
25 aggravating factors listed in those sections  
26 apply in this case. However, I can see no  
27 mitigating factors either.

1           There was, from the accused, no expression  
2 of remorse and he did not plead guilty. He was  
3 entitled to have his trial, and this is not  
4 aggravating in itself, but he does not get the  
5 benefit of mitigation of sentence for having  
6 pleaded guilty.

7           The circumstances were very similar to those  
8 in the Simpson case. Both accused were  
9 trafficking in a gram, or a little more than a  
10 gram, of cocaine; both were middle-aged; both had  
11 minor criminal and unrelated records; and both  
12 went to trial. One minor distinction is that in  
13 Simpson the accused was offering to traffic,  
14 offering to sell and was convicted of  
15 trafficking, whereas here an actual transaction  
16 occurred. It was suggested in the Simpson case  
17 that offering to sell is to be treated more  
18 leniently than actually selling of cocaine, or of  
19 drugs, but this is particularly the case where  
20 what is being offered for sale is not a real drug  
21 but rather an imitation. However, there is some  
22 authority to suggest that offering to sell is not  
23 as serious, to be treated as seriously as actual  
24 selling.

25           One of the principles of sentencing, which  
26 counsel have referred to, is that similar  
27 sentences are to be imposed upon similar

1 offenders in similar circumstances. Having  
2 reference to that principle and the facts in this  
3 case and the personal circumstances of the  
4 accused, I am going to sentence this accused to  
5 13 months imprisonment. I recommend that the  
6 authorities give consideration to the accused  
7 serving his sentence in the South Mackenzie  
8 Correctional Centre.

9 Given the circumstances of the accused, his  
10 age, I am not inclined to make a probation order  
11 in this case. It will be for the accused to  
12 decide if he is going to turn himself around and  
13 stay away from this kind of activity. And I am  
14 sure that should he wish to obtain counselling,  
15 he can do so without having to be ordered to do  
16 so by the Court.

17 There will be a Section 109 firearms  
18 prohibition order which will remain in force for  
19 ten years starting from the date that Mr. Young  
20 is released from custody.

21 With respect to the DNA order requested by  
22 the Crown, other than the accused having a minor  
23 and unrelated record and the fact that this is a  
24 serious offence, there appears to be, to me, no  
25 rationale for making this order. Such an order  
26 would out of necessity intrude upon the privacy  
27 of the individual. If due to the seriousness of

1 the offence I was required to make the order,  
2 then Parliament would have prescribed it to be  
3 mandatory. Given the nature of this offence and  
4 the record of the accused, I am not convinced  
5 that it is appropriate that I make this order in  
6 the circumstances and I exercise my discretion to  
7 decline to do so.

8 I wish to thank counsel for the  
9 representations with respect to the potential for  
10 avoiding forfeiture of the money held, being the  
11 proceeds of crime held by the RCMP, and taking at  
12 least some of that and applying it to the victims  
13 of crime surcharge. While I appreciate the  
14 ingenuity of counsel, I am not persuaded that it  
15 would be appropriate in the circumstances to take  
16 this route and therefore I will simply order that  
17 the exhibits, including the cash and the drugs --  
18 the drugs be destroyed and the cash be forfeit to  
19 the Queen upon the expiration of the appeal  
20 period.

21 Is there anything else, counsel?

22 MR. LECORRE: No, Your Honour.

23 MR. HOMBERG: No, Your Honour.

24 THE COURT: All right, I would like to  
25 thank you both for the very professional manner  
26 that you handled yourselves in this case. And as  
27 always, I would like to thank the court staff.

1           Madam Clerk.

2           THE COURT CLERK:           Order, all rise.

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6                                   Certified correct to the best  
7                                   of my skill and ability,

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

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