

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

MATTHEW HICKS

Transcript of the Reasons for Sentence before The Honourable
Justice K. Shaner at Yellowknife in the Northwest
Territories, on 19th day of March, 2012.

APPEARANCES:

Ms. W. Miller: Counsel for the Crown

Mr. J. Stuffco: Counsel for the Accused

Charge under s. 345(1), Criminal Code of Canada, 5(3)(A)

CDSA

1 Proceedings taken in the Supreme Court of Yellowknife,
2 Northwest Territories

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4 THE COURT: Good afternoon.

5 MS. MILLER: Good afternoon, Your Honour.

6 THE COURT: Now, before we begin, there
7 were a couple of housekeeping items that were
8 brought to my attention. First of all, this
9 morning we did not mark the criminal record as an
10 exhibit. So I am going to ask the clerk to mark
11 that as an exhibit.

12 EXHIBIT 1 : CRIMINAL RECORD

13 THE COURT: Secondly, I just wanted to
14 confirm that the Crown will file a stay of
15 proceedings on count two of the Indictment.

16 MS. MILLER: Yes, that's correct, Your
17 Honour.

18 THE COURT: Thank you. And finally,
19 Mr. Hicks having pled guilty this morning, a
20 conviction will be entered on count one of the
21 Indictment.

22 So I've had an opportunity to consider
23 your submission -- your joint submission, Crown
24 and defence, and the circumstances of the offence
25 were read into the record this morning as an
26 Agreed Statement of Facts, and I'm not going to
27 repeat them verbatim, but just for the purposes of

1 the context of these reasons, I am going to
2 highlight some of them.

3 In executing a search warrant, the Royal
4 Canadian Mounted Police seized 7.302 kilograms of
5 marijuana and approximately \$20,000 in cash from
6 Mr. Hicks' residence in Inuvik on August 24th,
7 2011. They also seized packaging materials,
8 scales, a score sheet, and other drug
9 paraphernalia. Mr. Hicks was at that point away
10 getting medical treatment in Edmonton, and he was
11 arrested upon his return to Inuvik the next day.

12 At the time of his arrest, Mr. Hicks was
13 serving a 14 month conditional sentence imposed by
14 the Provincial Court of British Columbia in
15 November of 2010 for trafficking. He served out
16 what was remaining of that sentence in jail
17 following his arrest, and he's been in custody
18 either serving the remainder of that sentence or
19 on remand since August 25th, 2011.

20 Mr. Hicks is 33 years old. We heard
21 this morning that he has two very young children.
22 He dropped out of high school in grade 10,
23 although based on the submissions that were made
24 this morning, he is a bright, capable, and very
25 hard working individual. And prior to his arrest,
26 he had been gainfully employed as an electrician.
27 In *The Queen v Poitras*, which was filed by the

1 Crown, Mr. Justice Vertes very succinctly set out
2 the principles of sentencing at paragraph 2, and
3 it's worthwhile repeating them here.

4 "It is a well accepted principle that
5 the primary and fundamental purpose of sentencing
6 is to protect society, to preserve the well-being
7 and order of society, which involves in every case
8 a blending of the principals of deterrence,
9 rehabilitation, denunciation and retribution. The
10 paramount consideration depends on the individual
11 offence and the offender and how aggravating or
12 mitigating the various factors that are present in
13 each particular case prove to be."

14 In this case, Ms. Miller, for the Crown,
15 indicated that Mr. Hicks was cooperative with the
16 police throughout the course of the investigation.
17 He accepts responsibility for his actions, and
18 he's entered a guilty plea. Defence counsel noted
19 that since being arrested Mr. Hicks has used his
20 time at NSCC to improve his education, and he has
21 demonstrated a desire to be a productive
22 individual. It was also indicated that Mr. Hicks
23 is very remorseful about his actions.

24 As in all cases, however, there are also
25 a number of aggravating circumstances. In this
26 case, there are two that are very aggravating.
27 First, the quantity of drugs that was seized is

1 very large, over 7 kilograms, and it has a street
2 value of what's estimated to be \$292,000. And
3 it's no small venture, and it's no stretch of the
4 imagination to see what the impact this quantity
5 of drugs could have on the town of Inuvik and
6 other delta communities.

7 Moreover, Mr. Hicks was serving a
8 conditional sentence for trafficking when he was
9 arrested in August. The seriousness of that
10 offence was obviously not appreciated by him.

11 Crown and defence have offered a joint
12 submission on sentencing, specifically, that it is
13 appropriate in the circumstances for Mr. Hicks to
14 serve a sentence of 24 to 26 months imprisonment.
15 This is net of time spent in remand awaiting this
16 hearing. And having considered all of the
17 circumstances in this case, the principles of
18 sentencing and the cases submitted by counsel, I
19 agree that this is an appropriate range.

20 Mr. Hicks, I'd ask you to stand, please.
21 You're sentenced to a term of 26 months
22 imprisonment. This is net of the one to one
23 credit for time spent in remand until today.

24 There will be an order that following
25 the expiration of any appeal period, the \$9,345 in
26 Canadian currency that was seized on August 24th,
27 2011, from you will be returned to you. The

1 cannibis marijuana and drug paraphernalia that was
2 seized will be destroyed by the RCMP. Of course,
3 this is also going to follow in any appeal period.
4 And the \$20,000, and other items that were seized,
5 other than those will be destroyed, will be
6 forfeited to the Crown. Do you understand?

7 THE ACCUSED: Yes, Your Honour.

8 THE COURT: You may sit down. Is there
9 anything else?

10 MS. MILLER: Has Your Honour considered the
11 Crown request for the DNA and firearms
12 prohibition?

13 THE COURT: Yes, I have. And that was
14 agreed to. I'm sorry. That will be part of the
15 order as well.

16 MS. MILLER: Thank you. And nothing
17 further from the Crown, Your Honour.

18 MR. STUFFCO: Nothing further from defence.
19 Thank you. Thank you for your patience.

20 THE COURT: Thank you.

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22 PROCEEDINGS CONCLUDED
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CERTIFICATE OF TRANSCRIPT

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Edmonton, Province of Alberta, this 23rd day of March, 2012.

Celine Hook
Court Reporter