

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

STEVEN MARK ORMROD

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Transcript of the Reasons for Sentence delivered by The Honourable Justice L. A. Charbonneau, sitting in Yellowknife, in the Northwest Territories, on the 14th day of February, 2017.

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APPEARANCES:

Ms. A. Piché: Counsel for the Crown

Mr. C. Davison, agent for

Mr. D. Bullerwell: Counsel for the Accused

(Charges under s. 5(2) x2 Controlled Drugs and Substances Act)

1 THE COURT: Yesterday, Mr. Ormrod pleaded  
2 guilty to a count of possession of marijuana for  
3 the purpose of trafficking and a count of  
4 possession of cocaine for the purpose of  
5 trafficking. I must now impose a sentence on him  
6 for those offences.

7 These offences date back over three years  
8 now. The circumstances that led to these charges  
9 are fairly straightforward. Police executed a  
10 search warrant at a residence in Yellowknife in  
11 October 2013. Mr. Ormrod was the leaseholder of  
12 that residence. When police arrived to execute  
13 the warrant, he fled the house and he tried to  
14 hide, but he was quickly found and arrested.

15 Police found just over 652 grams of  
16 marijuana in the residence and 344 grams of  
17 cocaine. Those are substantial quantities of  
18 drugs in terms of what we ordinarily see in cases  
19 of this sort in this jurisdiction. Several other  
20 items were seized at the residence. Mr. Ormrod,  
21 and this was made clear yesterday, does not admit  
22 that all of these items belong to him, but they  
23 were found in the residence, and the fact that  
24 they were found in the residence, I think, is an  
25 indication of the level of illegal activity that  
26 was going on or that the residence was associated  
27 with.

1           The full list of items that the Crown is  
2 going to be seeking various orders for was filed  
3 as Exhibit S2. There are some 118 items on that  
4 list and I do not intend to read it into the  
5 record. Suffice it to say it includes drugs,  
6 drug trafficking paraphernalia, a number of  
7 firearms, and money. The various amounts of cash  
8 that was seized adds up to something a little in  
9 excess of \$10,000.

10           There were changes in counsel earlier on in  
11 the proceedings and there were certain things  
12 outside of Mr. Ormrod's control that resulted in  
13 some delay, but he is responsible for large  
14 portions of the delay in this matter getting  
15 dealt with. I do not think it is necessary to go  
16 over the whole procedural history of this matter,  
17 but part of the delay arose because Mr. Ormrod  
18 failed to appear at certain points. Another part  
19 of the delay occurred while a warrant was  
20 outstanding for his arrest after his sureties  
21 asked to be released as sureties because they  
22 were concerned about his behaviour.

23           All this to say, although Mr. Ormrod is  
24 entitled to some credit for his guilty pleas,  
25 those could not by any stretch of the mind be  
26 considered guilty pleas offered at an early  
27 opportunity. But he is still entitled to credit

1 for that plea. It has saved court time, court  
2 resources, the expenses of witnesses potentially  
3 having to travel to Yellowknife to testify on  
4 this. For a matter that is three years old,  
5 chances are at least some of the witnesses may  
6 not have still been here. So he is entitled to  
7 some credit for his guilty plea.

8 He had no criminal record at the time of  
9 these offences. He has since been convicted of a  
10 breach of process, but this is not a case where  
11 the criminal record has any significance for the  
12 purposes of this decision I have to make today.

13 Mr. Ormrod is originally from British  
14 Columbia. I heard that before moving to  
15 Yellowknife he had employment in British  
16 Columbia, that his employer had an accident, was  
17 seriously injured, and this compromised  
18 Mr. Ormrod's employment.

19 He moved north and became involved in the  
20 drug trade. He had no ties here and no reasons  
21 to come here, really. He is not the first young  
22 man from southern Canada to do this and he is  
23 probably not the last.

24 This Court has never been particularly  
25 lenient on drug trafficking offences. The ranges  
26 of sentence that are imposed here are different  
27 from what they are in certain other jurisdictions

1 and, as far as I am aware, certainly different  
2 from the sentencing regime in British Columbia.  
3 This sometimes comes as a surprise to those who  
4 come here to traffic drugs. The word does not  
5 seem to get around as much as one might hope,  
6 but, hopefully, it eventually will.

7 As I mentioned in the case I dealt with  
8 earlier this afternoon, *R. v. Hein*, case law from  
9 the Alberta Court of Appeal provides guidance for  
10 starting points in sentencing in drug trafficking  
11 cases because there is a wide range of conduct  
12 that can underlie a charge of trafficking. These  
13 starting points have been followed by this court.

14 In submissions yesterday, counsel agreed  
15 that given the quantities involved in the case,  
16 this is a case of wholesale trafficking. For  
17 this type of offence, the starting point is four  
18 and a half years' imprisonment, as I found in *R.*  
19 *v. Castro*, 2013 NWTSC 8.

20 The starting point reflects the harm that  
21 drug trafficking causes in our communities. As  
22 has been said many times, this is not a  
23 victimless crime. People get addicted to hard  
24 drugs and the consequences that follow can be  
25 devastating to them and their families. That  
26 story has been repeated time and again in this  
27 community. Lives are ruined; children are

1 neglected; people have been robbed and attacked  
2 in broad daylight by desperate people trying to  
3 get money to buy more drugs. Businesses have  
4 been destroyed, sometimes long-standing  
5 businesses, because their owners fell into,  
6 unfortunately, the trap of getting addicted to  
7 these drugs.

8 Those who traffic drugs for profit are  
9 predators. They exploit weaknesses in others and  
10 provide a product that is expensive, addictive,  
11 dangerous, and that many times can destroy lives  
12 - the life of the consumer, but, also, the lives  
13 of many people around the consumer, and it leads  
14 to all sorts of other crimes committed by people  
15 who are desperate to get their hands on more  
16 drugs. In short, people make money over other  
17 people's misery. It is a serious problem and it  
18 is not a problem that this Court alone can solve  
19 through its sentences. All that this Court can  
20 do is repeat the same message again and again  
21 through its sentencing practices.

22 I have mentioned the guilty plea and it is  
23 the only mitigating factor here. It mitigates  
24 sentence somewhat, but obviously not as much as  
25 it would if it had been offered at a much earlier  
26 time in the process.

27 There are no aggravating factors in this

1 case. As the Crown fairly noted, the large  
2 quantity of drugs involved is already taken into  
3 account in the starting point for wholesale  
4 trafficking, so it is not a separate aggravating  
5 factors. The four and a half years starting  
6 point necessarily applies to situations that  
7 involve a large quantity of drugs.

8 Mr. Ormrod's counsel told me yesterday about  
9 his personal circumstances. I heard that when he  
10 is finished serving his sentence, he would like  
11 to pursue his education in the trades. He is  
12 still a young man and he will have choices to  
13 make when he is released. I am sure he does not  
14 need a lecture from me. It is will be up to him  
15 to make his decisions when he is released and  
16 choose his path. If he stays on the path he was  
17 on when these offences happened, he probably will  
18 get caught again and spend more time in jail. If  
19 he chooses another path, there is no reason why  
20 he could not do something much more productive  
21 with his life than to sell drugs. Time will  
22 tell.

23 Counsel have presented a joint submission  
24 and say the sentence imposed should be four years  
25 before credit is given for the remand time.  
26 Having regard to the applicable law in the  
27 circumstance of this offence and what I heard

1 about Mr. Ormrod's personal circumstances, I  
2 agree that that is a reasonable sentence to  
3 impose in all the circumstances.

4 I heard that Mr. Ormrod has been in remand  
5 for a total of 437 days and that if credited at a  
6 ratio of one-and-a-half-day credit for each day  
7 of remand, that works out to 655.5 days, which,  
8 in turn, is roughly 22 months. That is what I  
9 will credit Mr. Ormrod in sentencing him today.

10 The Crown has sought ancillary orders and  
11 those will issue. There will be a DNA order,  
12 this being a secondary designated offence. There  
13 will be a firearms prohibition order which will  
14 commence today and expire ten years from  
15 Mr. Ormrod's release. The order to surrender  
16 firearms will be forthwith.

17 Now, there will be a victim of crime  
18 surcharge. There are two counts, so there needs  
19 to be a surcharge on each of the counts. These  
20 going back to 2013, the same question arises that  
21 arose in the previous case. So I wonder, in the  
22 interim, have you found an answer, Mr. Davison?

23 MR. DAVISON: I did find an annotation in  
24 Martin's that does seem to suggest the higher  
25 surcharges came into force October 24th, 2013,  
26 and Ms. Piché just indicated Mr. Ormrod's matters  
27 were October the 2nd of 2013. So, at the very



1           least, the lower amounts, which I believe would  
2           be \$100 each, would apply. The question still to  
3           be answered, though, is about your discretion,  
4           whether those were the amendments that took away  
5           the Court's discretion.

6       THE COURT:                   Right. So the surcharge will  
7           be -- if there is one, would be at \$100.  
8           Ordinarily, back when the Court did have  
9           discretion to waive the surcharge, unless  
10          circumstances were very exceptional, when  
11          imposing a lengthy jail term, my usual practice  
12          was to waive it. So perhaps we should stand down  
13          and determine whether I have that discretion or  
14          not before we complete these matters.

15                 But dealing with the sentence itself, then,  
16                 which I am prepared to deal with now. I will ask  
17                 you to stand, please, sir. But for the time you  
18                 spent on remand, sir, I would have imposed a  
19                 sentence of four years on you for the count of  
20                 possession for the purpose of trafficking of  
21                 cocaine. For the time you have spent on remand,  
22                 I am going to give you credit for 22 months, and  
23                 there will be, therefore, a further jail term on  
24                 that count of 26 months.

25                 Ms. Piché, I seem to have not noted what you  
26                 had suggested for Count 2.

27       MS. PICHÉ:                   I suggested 18 months,

1 concurrent.

2 THE COURT: Eighteen months, concurrent?

3 MS. PICHÉ: Yes.

4 THE COURT: All right. The sentence on  
5 Count 2 will be 18 months, concurrent. It is  
6 what the Crown and defence suggested. I am going  
7 along with what they have suggested. I think it  
8 is fair, under all the circumstances.

9 Count 3 was being stayed. Were you planning  
10 on filing a written stay, Ms. Piché?

11 MS. PICHÉ: Yes, Your Honour.

12 THE COURT: Thank you.

13 So the only detail we have to sort out is  
14 whether I have discretion to waive the victim of  
15 crime surcharge. I want to give counsel an  
16 opportunity to look into the issue of whether I  
17 have discretion to waive it, given the date of  
18 the offence. I will likely waive it. So we are  
19 not quite done, but you will be brought up again  
20 in just a few moments once we have sorted that  
21 out.

22 THE ACCUSED: Okay.

23 THE COURT: Now, you were going to submit  
24 another draft order?

25 MS. PICHÉ: Yes, Your Honour. And I was  
26 expecting that Mr. Davison would have  
27 instructions to sign a Consent Order, which I

1 understand he does not have instructions to do  
2 so. So I would suggest that we -- I tried to  
3 contact Mr. Bullerwell before court when I was  
4 advised that Mr. Davison didn't have instructions  
5 and I was unsuccessful. I would suggest that I  
6 file an order at a later date that would be  
7 signed by Mr. Bullerwell.

8 THE COURT: I think that is fine. The  
9 order can be submitted to the registry, be  
10 brought to my attention. Once you have gained  
11 someone's consent confirming that, it can issue.

12 MS. PICHÉ: Thank you.

13 THE COURT: So we will stand down briefly.  
14 I will wait down here and maybe counsel --  
15 actually, no. I will go back to my office in  
16 case I can find this answer too. But we will  
17 reconvene, hopefully, not too long to just wrap  
18 up, and when we reconvene, perhaps both Mr. Hein  
19 and Mr. Ormrod can be brought up at the same  
20 time. Thank you.

21 (ADJOURNMENT)

22 THE COURT: October 24th, 2013. Is that  
23 your answer?

24 MR. DAVISON: Yes.

25 THE COURT: That is what I found too. So  
26 at the time of the offences Mr. Ormrod committed,  
27 the waiver -- the power to waive the surcharge

1           existed. Do you want to make any submissions on  
2           that point?

3       MS. PICHE:                    No, Your Honour.

4       THE COURT:                   Well, I am going to waive it.  
5           I am sentencing Mr. Ormrod to a lengthy jail term  
6           and, under the circumstances, I will do with this  
7           case what I would have done if it has been dealt  
8           with at the time.

9           So there will be no victim of crime  
10          surcharge order on your case, Mr. Ormrod, because  
11          I do have the power to waive it.

12          I want to extend my thanks to counsel, and  
13          please pass this on to Mr. Bullerwell  
14          also, for resolving these matters. Obviously it  
15          is a lot less resource intensive than if they had  
16          gone to trial.

17          Court is closed for the day.

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Certified Pursuant to Rule 723  
of the Rules of Court

Jane Romanowich, CSR(A)  
Court Reporter