*R v Bohnet*, 2018 NWTSC 26 **S-1-CR-2017-000065**

# IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

**IN THE MATTER OF:**

**HER MAJESTY THE QUEEN**

**- v -**

**BONITA BOHNET**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** Transcript of the Reasons for Judgment delivered by The Honourable Justice K.M. Shaner, sitting in Yellowknife, in the Northwest Territories, on the 6th day of April, 2018.

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**APPEARANCES:**

Mr. D. Praught: Counsel for the Crown

Mr. P. Harte: Counsel for the Accused

(Charges under s. 465(1)(c) of the *Criminal Code* and

S. 5(2) of the *Controlled Drugs and Substances Act*)

1. THE COURT: Last week Ms. Bohnet pled
2. guilty to two offences; namely, conspiracy to
3. traffic and possess for the purpose of
4. trafficking in cocaine, and the possession of
5. fentanyl for the purpose of trafficking.
6. The circumstance of both of these offences
7. were set out in an agreed statement of facts,
8. which was entered as Exhibit S-1. I am not going
9. to repeat those verbatim as they are on the
10. record and they are available as part of the
11. court record if anyone needs to consult them.
12. The evidence also included intercepted audio and
13. text communications, which were played during the
14. sentencing hearing and which were contained
15. collectively in Exhibit S-2.
16. Basically, Ms. Bohnet was involved in a drug
17. trafficking organization. And from the audio and
18. text interceptions, it is clear that she was not
19. a street-level dealer who lived hand to mouth and
20. sold drugs primarily to support an addiction.
21. She was a middle to higher-tier actor in the
22. organization and she was one of the primary
23. operators of several dial-a-dope phones here in
24. Yellowknife.
25. She herself controlled a number of phones
26. which were used to arrange the sale of
27. significant amounts of cocaine, eight to nine
28. ounces a day. The dial-a-dope operation ran
29. 24 hours a day, every day and Ms. Bohnet supplied
30. drugs to street-level dealers for sale.
31. Sometimes she operated the phone herself.
32. When Ms. Bohnet was arrested, she was
33. sitting in a truck with another individual
34. outside the home of Norman Hache. Mr. Hache was
35. the head of the organization. The search of the
36. truck in which Ms. Bohnet was seated, among other
37. things, yielded approximately 24 grams of hard
38. and soft cocaine, divided up into 36 baggies. A
39. subsequent search of Ms. Bohnet's own residence
40. yielded 12.9 grams of cocaine, 27.7 grams of
41. psilocybin, 36 fentanyl pills, .3 grams of
42. marijuana, cash and four cellphones.
43. Information about Ms. Bohnet's background
44. was provided through her counsel and a
45. presentence report, as well as in a statement
46. that she gave herself.
47. Ms. Bohnet is 39 years old. She is Métis.
48. When interviewed for the presentence report, she
49. recounted a sad upbringing in which she felt
50. unloved and unsupported by her parents. She said
51. her parents always treated her brothers
52. differently and better than they treated her.
53. She attributes this, at least in part, to
54. her father being in residential school. She
55. believes that he may have been hurt by the nuns
56. at the school and so harbours resentment towards
57. females. I am not sure what to make of that, but
58. it is clear that the relationship Ms. Bohnet has
59. with her father is a distant and strained one and
60. that is something that has been confirmed by
61. others who were interviewed for the presentence
62. report.
63. Ms. Bohnet also told the author of the
64. presentence report that she first tried alcohol
65. when she was 8. She used cannabis for the first
66. time when she was 15 and by the time she was 18,
67. she had experienced an array of drugs including
68. cocaine and fentanyl. Prior to her arrest, she
69. was highly addicted to cocaine and she used
70. fentanyl on a daily basis.
71. To her credit, Ms. Bohnet has used the time
72. since her arrest very wisely. This was
73. detailed in the statement that she made on her
74. own behalf during the sentencing hearing. She
75. sought help through a physician and she has been
76. diagnosed with ADHD, cocaine use disorder and
77. anxiety disorder.
78. She was referred to and attended a
79. residential treatment program in Alberta. Among
80. other things, this has helped her to gain insight
81. into the root causes of her addiction, which
82. include ADHD and her anxiety. She appears to
83. have gained some coping skills to help her manage
84. these things without using illegal drugs. And
85. since finishing the treatment program, Ms. Bohnet
86. has continued to practice yoga as a coping
87. mechanism and she has continued with counselling
88. through The Tree of Peace Friendship Centre here
89. in Yellowknife. She also attends Alcoholics
90. Anonymous meetings.
91. Although she is not close to her parents,
92. Ms. Bohnet has established a network of support
93. and friendship, which includes one of her
94. brothers, several friends, her physician and her
95. yoga instructor. They provided letters to the
96. Court which detailed, among other things, the
97. progress they have seen Ms. Bohnet make since her
98. arrest.
99. Ms. Bohnet was working two jobs at the time
100. of her arrest. She was dismissed from one of
101. those jobs as a result of these charges, but she
102. obtained other employment, which she has held
103. since the arrest. Two of her employers wrote
104. letters to the Court in which they indicated that
105. Ms. Bohnet is a reliable worker and a very hard
106. worker.
107. Ms. Bohnet has a criminal record, which
108. dates back to 1996 when she sustained convictions
109. as a youth for uttering a forged document, theft
110. over $5,000 and taking a motor vehicle without
111. consent. In 1998 she was convicted of possession
112. of property obtained by crime. There is then a
113. significant gap in the record until 2007, which
114. is when she was convicted of possession of a
115. Schedule 1 substance under Section 5 of the *CDSA*.
116. She received a $600 fine for that offence.
117. Subsequently in 2010, Ms. Bohnet was
118. convicted of trafficking a Schedule 1 substance
119. and she received a 9-month conditional sentence
120. followed by 12 months of probation. Finally in
121. 2012, Ms. Bohnet was convicted of possession of a
122. Schedule 1 substance. She received a $1,500 fine
123. and 19 days in jail. She was also convicted of
124. failing to comply with the probation order.
125. In her own submissions, Ms. Bohnet
126. apologized for her conduct. She stated she was
127. deep in addiction, and she had an inability to
128. recognize the consequences of what she had done.
129. It was troubling at first to read in the
130. presentence report that she told the author she
131. only got involved to help a friend and that she
132. was not as bad as the police made her out to be.
133. That suggested that she either did not understand
134. the gravity of her actions or that she did not
135. take responsibility for them or both.
     1. But, when she appeared in Court here last
     2. week for this hearing, she stated, among other
     3. things, that she knows she has to make amends for
     4. the harm she has caused through her conduct and
     5. she also knows she is facing a significant
     6. penalty. I conclude from that that she has
     7. gained further insight into her actions since she
     8. was interviewed for the presentence report and I
     9. am also satisfied that she has taken
     10. responsibility for her actions.
     11. The primary sentencing objectives for
     12. trafficking in cocaine and fentanyl, as well as
     13. conspiracy to traffic, are deterrence and
     14. denunciation. The deterrence is both specific
     15. and general; that is, the sentence must be
     16. designed to deter the offender from repeating the
     17. behavior and it must deter others who might be
     18. tempted to traffic in drugs. This does not, of
     19. course, mean that other objectives, such as
     20. rehabilitation, are unimportant. They are simply
     21. not at the forefront.
     22. Much has been said by this Court about the
     23. scourge of drugs in our community and frankly,
     24. there is very little more that I can add to it.
     25. Drugs like cocaine and fentanyl ruin lives. They
     26. affect not only those who are addicted to them
     27. and use them, but also their children, their
136. siblings, their parents, their partners and their
137. friends, all of whom are left to pick up the
138. pieces. Fentanyl frequently kills people.
139. Those who profit for selling these
140. substances simply must be called out for what
141. they are. They are opportunistic predators who
142. feed off the desperation and misery of others
143. without any regard for the destruction they leave
144. in their wake. They are there to make money off
145. of people's vulnerability and they bear a very
146. high degree of moral responsibility.
147. The gravity of these offences and the
148. seriousness with which the Court treats them are
149. reflected in the starting points that have been
150. articulated by the Alberta Court of Appeal, and
151. which have been accepted by this Court for
152. trafficking in cocaine and fentanyl. The
153. starting point for trafficking fentanyl is
154. five years. For conspiracy, the starting point
155. is three years. Those starting points are, of
156. course, not minimum sentences. They are starting
157. points, which can be adjusted up or down in
158. accordance with the aggravating and mitigating
159. circumstances of the offence and circumstances of
160. the offender.
161. In this case, the Crown and Defence came to
162. the Court not too far apart in their opinions on
163. what an appropriate sentence would be for each of
164. these offences. The Crown proposed that it is
165. appropriate for Ms. Bohnet to be sentenced to the
166. starting points on each; that is, three years for
167. the conspiracy and five years for the fentanyl
168. trafficking, to be served concurrently. Defence
169. counsel proposed that Ms. Bohnet be sentenced to
170. four years for each, served concurrently.
171. There are both mitigating and aggravating
172. circumstances in this case. It is aggravating
173. that Ms. Bohnet was trafficking highly addictive
174. drugs. That she was doing so as part of a
175. criminal organization is, under the *Criminal*
176. *Code*, aggravating. She has a criminal record,
177. which contains relatively recent convictions for
178. drug offences, and that is aggravating.
179. At the same time, there are mitigating
180. circumstances. It is significant that Ms. Bohnet
181. pled guilty. Like any other person in our
182. society, she had the right to a trial and she
183. gave that up. Doing that means that she did not
184. put the state to an expense of a lengthy trial.
185. She did not put people to the inconvenience of
186. travelling to Yellowknife to give evidence. Her
187. guilty plea also signifies that she has accepted
188. responsibility for her actions.
189. Both the Crown and Defence suggested that
     1. Ms. Bohnet's efforts at rehabilitation are
     2. mitigating and I wholeheartedly agree.
     3. Ms. Bohnet has taken concrete steps towards
     4. getting a handle on her addiction and
     5. understanding what fuels it. She has adopted
     6. some healthy lifestyle practices and in Defence
     7. counsel's words, "Ms. Bohnet now gets it." In my
     8. view, her actions demonstrate a commitment to
     9. change, and that is worth something.
     10. I have considered Ms. Bohnet's indigenous
     11. heritage and if anything, it is a neutral factor.
     12. Although her father attended residential school,
     13. I am unable to draw a link between Ms. Bohnet's
     14. involvement with the justice system and the
     15. legacy of residential schools and other
     16. colonialist constructs. She has, since her
     17. arrest, been diagnosed with ADHD and anxiety.
     18. She is recovering from addiction and has had a
     19. strained and unpleasant relationship with her
     20. father.
     21. That said, there is nothing that could
     22. reasonably support the conclusion that she was
     23. "driven" by desperation to become a drug dealer
     24. because of systemic factors in her background.
     25. She was not motivated by addiction necessarily.
     26. Indeed, she stated to the author of the
     27. presentence report that she got involved
190. initially to help out a friend and by the
191. evidence, it is clear that she continued to
192. traffic drugs for money.
193. In my view, Ms. Bohnet's indigenous
194. background was not a factor that made her more
195. prone to involvement in the justice system. It
196. was not something that interfered with her
197. ability to make better life choices.
198. Unfortunately she chose to traffic cocaine and
199. fentanyl and those are serious offences.
200. Taking both the mitigating and aggravating
201. factors into account, it is my conclusion that
202. the starting point for both offences need not be
203. adjusted up or down and accordingly, these are
204. what will be imposed.
205. Ms. Bohnet, can you please stand up.
206. Ms. Bohnet, for the crime of conspiracy to
207. traffic cocaine, I sentence you to three years
208. incarceration. For the crime of trafficking
209. fentanyl, I sentence you to five years
210. incarceration. These are to be served
211. concurrently. Do you understand?
212. THE ACCUSED: Yes.
213. THE COURT: Okay. You can sit down. From
214. the five years to which I have sentenced
215. Ms. Bohnet, she will be credited with 13 days
216. representing the time spent in remand prior to
217. sentence at the rate of 1.5 days credit for each
218. day spent in remand.
219. There will also be a number of ancillary
220. orders. There will be a Section 109 firearms
221. prohibition, which will be in effect for ten
222. years. Since this is a secondary designated
223. offence, there will be an order requiring
224. Ms. Bohnet to submit to having bodily fluids
225. taken for the purpose of DNA analysis.
226. And, finally, Ms. Bohnet, I have been
227. speaking about you in the third person. That is
228. something that we do when we are giving reasons.
229. It is just a practice, but I do not want to imply
230. that I was not thinking about you as a person
231. while I was coming to my decision. I recognize
232. that you have had a difficult life. You have had
233. cancer, you have been in an abusive relationship,
234. and your relationship with your parents has been
235. difficult. You have felt unloved and
236. unsupported. You also got mixed up in a serious
237. criminal organization.
238. Yet you have taken steps to change your life
239. and to change your habits. You have gained
240. insight, and you seem to be making peace with who
241. you are and with your past. You have accepted
242. responsibility for your actions. And although
243. you are not someone we would classify as a
244. youthful offender, you are still very young. So
245. I hope that you will be able to use what you have
246. learned and what you now know to look forward and
247. move ahead positively and to live a life that is
248. free of addiction and crime.
249. I admire the steps you have taken to date.
250. It is very brave, and it is very difficult. And
251. I do wish you the best on your journey.

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# 11 CERTIFICATE OF TRANSCRIPT

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1. I, the undersigned, hereby certify that the
2. foregoing pages are a complete and accurate
3. transcript of the proceedings taken down by me in
4. shorthand and transcribed from my shorthand notes
5. to the best of my skill and ability.
6. Dated at the City of Edmonton, Province of
7. Alberta, this 20th day of April, 2018. 20
8. *Certified Pursuant to Rule 723*
9. *of the Rules of Court*

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1. Kaylene Davidsen, CSR(A)
2. Court Reporter