

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

RAMONA COTCHILLY AND MEGAN GLOW BOYD

Transcript of the Reasons for Sentence delivered by The Honourable Justice B. Browne, sitting in Hay River, in the Northwest Territories, on the 19th day of September, 2018.

APPEARANCES:

Mr. W. Silliker:	Counsel for the Crown
Mr. J. Bran:	Counsel for the Accused Megan Boyd
Mr. T. Pham:	Counsel for the Accused Ramona Cotchilly

(Charges under s. 5(1) of the *Controlled Drugs and Substances Act*)

1 THE COURT: Please be seated.

2 We are dealing today with sentencing
3 regarding two individuals who have pled guilty to
4 charges of trafficking in cocaine. Both
5 individuals have pled guilty and have pled guilty
6 not knowing what the sentence would be.

7 Cocaine trafficking in northern communities,
8 in any community, is a serious charge. We all,
9 including Ms. Boyd and Ms. Cotchilly, have seen
10 families torn apart because of drugs, families
11 who do not have enough money to feed the kids
12 because of drugs, all kinds of damage done to
13 families and to our community as a result of
14 drugs, particularly cocaine. People lose
15 everything if they become addicted to those
16 drugs. And so the Courts take the charges
17 seriously of trafficking to ensure that others do
18 not do the same thing and become involved in
19 trafficking. The idea is that if significant
20 sentences are imposed on people who are charged
21 with trafficking, others will learn from those
22 sentences and not be involved in similar
23 activities. The NWT Court of Appeal, which is
24 the Alberta Court of Appeal, has said in the case
25 of *Joe* (that the lawyers have talked to me about)
26 that the minimum sentence in that case was a
27 sentence of one year in jail.

1 Another principle that we toss into the mix
2 when we are trying to balance the personal
3 circumstances of the accused people and the
4 nature of the crime is proportionality. We can
5 only sentence people on the crime that they
6 committed, and we have to keep in mind their
7 personal circumstances and figure out after that
8 balance what the proper sentence is.

9 So interesting, referring back to the case
10 of *Joe*, that was quite a serious case when we
11 compare it to the circumstances of the cases that
12 I have in front of me today. In that case where
13 the sentence was one year in jail, there was a
14 significant amount of marijuana, 236 grams; 8
15 grams of cocaine; and 4 to \$5,000. In
16 Ms. Cotchilly's case, we are talking about \$20
17 and one transaction. That is the charge that is
18 before me today. With regard to Ms. Boyd, we
19 have three transactions and 200-plus dollars
20 involved in the transactions of small amounts of
21 cocaine. So it is important to throw that into
22 the balance that I have to look at when I am
23 arriving at a proper sentence.

24 And then, of course, we have the *Gladue* and
25 *Ipeelee* factors, and that goes to moral
26 blameworthiness or culpability. Those are big
27 words. I do not know how to explain them more

1 simply. But as I was thinking about it, maybe it
2 means what do we expect of people who have had
3 tragedies throughout their life, who have been in
4 foster homes again and again, who have not had
5 the stability and the privileges that I have had.
6 How do we figure out what is normal for people
7 who have not had a strong family base to grow up
8 with, and how do we judge them in terms of the
9 sentencing and the criminal law? And that is
10 what *Gladue*, *Ipeelee* -- the later cases are
11 *Swampy* -- that is what those cases are saying to
12 us. How do we recognize the challenges that some
13 people have had in their lives in trying to
14 figure out that proportional sentence?

15 And both Ms. Boyd and Ms. Cotchilly have had
16 significant challenges in their lives in terms of
17 becoming productive members of society, going to
18 school, raising kids, foster homes, all of those
19 things that we recognize now are significant
20 challenges for people in their lives. So that is
21 one of the things that we have to think about in
22 the general context of sentencing.

23 So in terms of the facts of the crimes that
24 Ms. Cotchilly and Ms. Boyd have pled guilty to,
25 the facts of what I am dealing with today are
26 significantly less than the facts that the Court
27 of Appeal dealt with in the *Joe* case that I have

1 referred to already. And I just want to say a
2 little bit about both Ms. Boyd and Ms. Cotchilly
3 in terms of their personal circumstances and how
4 I arrive at my final decision. It is worth
5 talking about when we are talking about
6 sentencing, aggravating factors that suggest a
7 serious sentence and mitigating factors, things
8 that can be said in favour of an accused person.
9 A basic aggravating factor here is that we are
10 dealing with cocaine, and the Courts deal with
11 cocaine seriously.

12 In Ms. Cotchilly's case -- since we dealt
13 with her first -- a guilty plea, maybe not an
14 early guilty plea but a guilty plea nonetheless,
15 so we have not had to have a trial. That takes
16 time, and there is some indication of remorse.
17 She has an old record subject to a 2017
18 conviction to which she received one day in jail.
19 She indicates to the Court that she has not been
20 involved with drugs since January, and I note in
21 the presentence report that various reporters say
22 that Ms. Cotchilly has been still interacting
23 with people who are involved in the drug world,
24 although she says she is clean. Ms. Cotchilly is
25 pregnant and has four other children in care.

26 The presentence report talks about *Gladue*
27 factors throughout. She is now homeless living

1 in a tent. There was alcoholism; trauma in her
2 growing-up years; poverty, poverty that some of
3 us cannot even imagine; and yet there is a little
4 bit of a spark when I was reading the report. As
5 a child, she talks positively about hunting and
6 fishing I think with her grandparents.

7 Common-law for a long period of time and from
8 time to time in that relationship some abuse.

9 So lots of *Gladue* factors, if we call them
10 that, lots of challenges in growing up, and lots
11 of challenges in finding a way to be a productive
12 member of the community, and the question I
13 always ask as a judge is how do we overcome that?
14 How does Ms. Cotchilly move to education, to
15 jobs, to being a good mom and having her kids
16 with her? How do we do that challenge?

17 Ms. Boyd, 36 years old; also indigenous from
18 Mikisew Cree Nation; involved in three
19 transactions rather than one and cocaine -- those
20 are the serious matters -- in and out of foster
21 homes over the years; very early guilty plea; no
22 previous record; has been trying since the
23 charges arose going to AA and trying to put life
24 together again in the absence of drugs.

25 So balancing all of those things, it is
26 important that the sentences that I impose on
27 Ms. Boyd and Ms. Cotchilly make sense to each

1 other, make sense to the other cases that I have
2 read about, and make sense to Ms. Boyd and
3 Ms. Cotchilly individually.

4 It is significant to note that, particularly
5 Ms. Cotchilly, we are talking about a \$20
6 transaction. There was a little bit of activity
7 in getting to that \$20, but that is what we are
8 talking about. Ms. Boyd, a little more serious.
9 Ms. Boyd's personal circumstances can balance
10 that to some extent.

11 So I think about personal circumstances of
12 both of the accused, facts of the crime, and I
13 balance that in trying to come up with an
14 appropriate sentence having received some
15 guidance from the Court of Appeal, which is a
16 higher court that I have to listen to.

17 So, Ms. Cotchilly, stand up, please. So
18 after all that, I have tried to explain in words
19 that everybody will understand how I came to the
20 decision that I did. I am satisfied that the
21 proper sentence for you and for the crime that is
22 before the Court with a guilty plea, the sentence
23 should be six months in jail. You will be on
24 probation after that for 12 months. Conditions
25 of the probation order will be keep the peace and
26 be of good behaviour, you will report within
27 seven days of your release to the probation

1 officer, you will attend counselling directed by
2 the probation officer. I am going to put a
3 recommendation in the order that you attend
4 education or get a job. I think those are some
5 of the ways that you can pay back and get back
6 into the swing of things. As well, there will be
7 the usual orders, a DNA order, forfeiture of all
8 the things that were seized, and a firearms order
9 for ten years.

10 Ms. Cotchilly, a final word. When I read
11 the presentence report, you sparkled when you
12 talked about hunting and fishing, so maybe try to
13 find out -- go visit some elders and talk to them
14 and find out how you can explore that traditional
15 life that you have some positive memories about.
16 I hope that you can find some way of working to
17 become a productive member of the community.
18 That is up to you. Thank you.

19 THE ACCUSED: Thank you.

20 THE COURT: Ms. Boyd, I struggled a little
21 bit because Ms. Boyd has three transactions, no
22 record mind you, and I think that it is -- I
23 cannot give the same sentence. So, Ms. Boyd,
24 with regard to the charge that you have pled
25 guilty to, the sentence is eight months in jail.
26 There will be the usual orders, forfeiture of the
27 drugs, a DNA order, ten-year firearms order.

1 I will make a recommendation on both that
2 both candidates may be appropriate for prerelease
3 from the jail having regard to the *Gladue*
4 factors, and I am particularly concerned about
5 the *R. v. Ewert* decision which seems to have
6 instructed us that some people do not get out of
7 jail when others might.

8 Ms. Boyd, I hope that you can do your time,
9 get back to your family as soon as you can,
10 continue to do the things that you have been
11 doing to improve your life. I hope things go
12 well for you.

13 THE ACCUSED: Thank you.

14 THE COURT: Thank you.

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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 4th day of October, 2018.

Certified Pursuant to Rule 723
of the Rules of Court



K. Cloutier
Court Reporter