# *R v Dunn*, 2018 NWTSC 29 S-1-CR-2017-000065

**AMENDED ORIGINAL**

**IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES**

**IN THE MATTER OF:**

**HER MAJESTY THE QUEEN**

**- v - MIKE DUNN**

**ORIGINAL amended as of June 6, 2018**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** Transcript of the Reasons for Sentence delivered by The Honourable Justice S. H. Smallwood, sitting in Yellowknife, in the Northwest Territories, on the 17th day of April, 2018.

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**APPEARANCES:**

Mr. D. Praught: Counsel for the Crown

Mr. P. Hoare: Counsel for the Accused

(Charges under s. 465(1)(c) of the *Criminal Code,* and 5(1) and 5(2) of the *Controlled Drugs and Substances Act*)

1. THE COURT: Good afternoon. So we will
2. start by having a conviction entered on count 1
3. on the Indictment. And I understand the Crown
4. intends to enter a stay, as against Mr. Dunn, on
5. counts 2 and 3?
6. MR. PRAUGHT: That's correct, Your Honour.
7. I have a written stay of proceedings to --
8. THE COURT: Okay. All right. Thank you.
9. Mike Dunn has pleaded guilty to having
10. conspired with a number of other people to
11. traffic in cocaine and to possess cocaine for the
12. purpose of trafficking, and it is now my task to
13. sentence Mr. Dunn for this offence.
14. This charge arises from a major
15. investigation conducted by the RCMP into drug
16. trafficking activities in Yellowknife and in the
17. Northwest Territories. The project was called
18. Green Manalishi, and its objective was to disrupt
19. and dismantle networks responsible for high-level
20. drug trafficking in the Northwest Territories.
21. As part of the investigation, the RCMP were
22. granted a judicial authorization to monitor the
23. private communications of multiple individuals.
24. A number of telephone calls and text messages
25. were intercepted suggesting that Mr. Dunn was
26. using his position at a local airline to
27. transport drugs and proceeds of crime in the
28. Northwest Territories and between Alberta and the
29. Northwest Territories.
30. Norman Hache was the head of the
31. drug-trafficking network that operated in
32. Yellowknife and throughout the Northwest
33. Territories. Mr. Dunn is his brother-in-law.
34. At the time of the offence, Mr. Dunn had
35. been employed by the airline for over 20 years.
36. His role, within Mr. Hache's organization, was to
37. arrange for the transport of drugs and cash,
38. throughout the Northwest Territories and to and
39. from Alberta, using his employment with the
40. airline.
41. On two occasions, the first on March 3rd,
42. 2016, 4 ounces of crack cocaine and 8 ounces of
43. powdered cocaine were shipped from Alberta to
44. Mr. Hache in Yellowknife through the accused and
45. his employment with the airline. The cocaine was
46. then shipped to another person in Fort Resolution
47. for distribution to other communities in the
48. Northwest Territories.
49. On March 15th, the second occasion,
50. 15 ounces of crack cocaine and 15 ounces of
51. powdered cocaine were sent to Mr. Hache from
52. Alberta, again, using Mr. Dunn and his employment
53. with a local airline.
54. I will not go into the details of the
    1. drug-trafficking network run by Mr. Hache, but
    2. the sentencing of Mr. Hache, by
    3. Justice Charbonneau, and the sentencing of
    4. Mr. Herback that I did earlier this year, those
    5. decisions outline the scope of the
    6. drug-trafficking activities that Mr. Hache's
    7. organization was involved with and the amounts of
    8. drugs and cash that were involved.
    9. Suffice it to say, Mr. Hache's organization
    10. was involved in the wholesale trafficking of
    11. cocaine, and Mr. Dunn played a significant role
    12. in the transportation of the drugs and cash for
    13. the organization.
    14. In terms of a sentence, the Crown is seeking
    15. a sentence of three years' imprisonment, and the
    16. defence is also asking for the same sentence.
    17. A primary objective in sentencing for
    18. trafficking in cocaine is deterrence and
    19. denunciation. Denunciation meaning to denounce
    20. unlawful conduct and the harm done to victims or
    21. to the community that is caused by the offender's
    22. conduct; and deterrence to deter the specific
    23. offender and other persons, generally, from
    24. committing similar offences. In trafficking
    25. cases, the focus is on imposing sentences that
    26. send a message and deter other persons who might
    27. be tempted to traffic in cocaine.
        1. This has been the message that the Courts,
        2. in this jurisdiction, have been sending for years
        3. now; and, with Project Green Manalishi, of which
        4. many of the cases have been resolved with guilty
        5. pleas, this Court has continued to emphasize
        6. those principles. It is clear, from that
        7. project, that drugs, specifically the trafficking
        8. in cocaine, continues to be a significant problem
        9. in this jurisdiction.
        10. Mr. Dunn's role, in this organization, was
        11. essentially that of a courier. He helped move
        12. drugs and cash for Mr. Hache. And, while it is
        13. not surprising to hear that the Hache
        14. organization was distributing drugs throughout
        15. the Northwest Territories, it is of concern.
        16. The accused, in his employment with an
        17. airline, was able to facilitate this.
        18. Buffalo Airways flies to many communities in the
        19. North bringing needed supplies to remote
        20. communities, many of which are not accessible by
        21. road. Some communities are accessible by road in
        22. the winter; but, for most communities, groceries
        23. and supplies are flown in. Communities rely on
        24. air cargo. That is the way it is and has been in
        25. the North for many years.
        26. That the airline was used by Mr. Hache's
        27. organization, using the accused's position with
55. the airline to distribute cocaine to these remote
56. communities, is aggravating.
57. While there have long been ways to get
58. illicit substances like cocaine, marihuana, and
59. alcohol into remote communities, Mr. Dunn's
60. position with the airline made the distribution
61. of the drugs much easier and facilitated the
62. spread of cocaine.
63. Many of these communities, like Fort Good
64. Hope, which was referred to in the intercepted
65. conversations which were played this morning,
66. have social problems going back many years.
67. These problems existed before the introduction of
68. cocaine into the community, but the introduction
69. of cocaine will not help those problems and can
70. only make it worse; and it is disheartening to
71. hear that getting cocaine into the community was
72. as easy as calling up Mr. Hache and having the
73. accused send up the drugs using his employment
74. with Buffalo Airways.
75. The amount of cocaine involved with the
76. organization was significant. For example, the
77. amount of cocaine which was seized in
78. Fort Resolution was 362.5 grams of cocaine. That
79. is a significant amount of cocaine which was
80. destined for small communities in the South Slave
81. area. The amounts that are involved are
82. sufficient to demonstrate that the organization
83. was engaged in wholesale commercial trafficking.
84. Turning to Mr. Dunn's circumstances, he is
85. 48 years old and has no criminal record. He is a
86. first-time offender. I have read about his
87. background in the presentence report and heard
88. from his counsel. He has been a productive
89. member of society for many years. He has been
90. gainfully employed for most of his adult life.
91. He worked for over 20 years for Buffalo Airways.
92. He is married. He is active in the community on
93. the Board of organizations; and, in some ways, it
94. is quite mystifying as to why he would get caught
95. up in these activities.
96. In the presentence report, he talks about
97. trying to help out his brother-in-law, and that
98. being his motivation for getting involved, to
99. help out his brother-in-law. He says, in the
100. presentence report, that he began doing favours
101. here and there and to ship parcels. In the
102. presentence report, he spoke of being wilfully
103. blind to the contents of the packages that he was
104. shipping.
105. In sentencing submissions, counsel for
106. Mr. Dunn says that Mr. Dunn, in his conversations
107. with him, accepts that he was aware of what he
108. was involved in. And it may be that what
109. Mr. Dunn said, in the presentence report, was an
110. attempt to rationalize his behaviour after the
111. fact.
112. While Mr. Dunn may have started out doing
113. favours for his brother-in-law, it is clear that,
114. by the time the police were intercepting the
115. communications with Mr. Hache, he was aware of
116. the nature of what he was doing.
117. The intercepted conversations demonstrate
118. that Mr. Dunn knew what was involved and what he
119. was dealing with and that he was dealing with
120. more than just Mr. Hache. He spoke, in the
121. conversations with Mr. Hache, of talking with
122. people down South; and he was clearly aware of
123. what he was involved in, and he was concerned
124. once he hears that the police have begun to
125. arrest people.
126. Mr. Dunn is fortunate that he has the
127. support of his spouse and his employer. You were
128. warned by your spouse not to get involved with
129. her brother, but you did it anyway; and you are
130. fortunate that she has stood by you. You were a
131. trusted, valued, long-term employee, and you
132. abused the trust of your employer by using your
133. position to transport drugs and the proceeds of
134. crime.
135. On the one hand, you are very lucky that
     1. they are still willing to employ you. A lot of
     2. employers would not take that risk. On the other
     3. hand, that also speaks to your value to the
     4. company and how out of character this offence
     5. was.
     6. A guilty plea was entered in this case. It
     7. is not at the earliest opportunity; but, like
     8. many of the cases involved with this project, it
     9. was a complicated matter with a number of
     10. co-accused and significant disclosure.
     11. Mr. Dunn did, ultimately, waive his
     12. preliminary inquiry, and this matter was never
     13. set for trial. If it had proceeded to trial, it
     14. would have taken some time and required
     15. significant resources; so Mr. Dunn will receive
     16. full credit for his guilty plea.
     17. The guilty plea is also a demonstration of
     18. an acceptance of responsibility and a
     19. demonstration of remorse; and Mr. Dunn, in the
     20. presentence report and in his words in court
     21. today, clearly accepts responsibility for his
     22. involvement in this offence.
     23. In determining a fit sentence for Mr. Dunn,
     24. it is also important to consider the principle of
     25. parity and the sentences that were imposed on
     26. others involved in the organization. I have
     27. heard that Mr. Bode-Harrison pled guilty to a
136. charge of having conspired with others to traffic
137. cocaine and possess cocaine for the purpose of
138. trafficking. Mr. Bode-Harrison was a supplier
139. for Mr. Hache's drug-trafficking network, and he
140. was responsible for coordinating and sending
141. shipments of cocaine to the
142. Northwest Territories.
143. He was characterized as being the supplier
144. of the organization, and Mr. Hache was
145. responsible for controlling the distribution of
146. the drugs. They were considered equals in the
147. organization in the sense that neither directed
148. the other's activities.
149. Mr. Hache also pled guilty, and both their
150. sentences were the subject of joint submissions.
151. Mr. Bode-Harrison was sentenced to four years'
152. imprisonment and Mr. Hache to five years'
153. imprisonment. Both of those individuals were
154. higher up in the organization than Mr. Dunn.
155. And, as I noted, both of their sentences were
156. joint submissions, where the Court stated that
157. the joint submission was at the low end of the
158. spectrum.
159. Another person involved in Mr. Hache's
160. network was Devon Herback. He pled guilty to the
161. trafficking in cocaine. He was involved as a
162. street-level dealer. He was involved in the
163. supply of drugs to other dealers and in
164. collecting money owed. Mr. Herback could be
165. referred to as a go-to guy. He was relied on, by
166. the organization, to get things done. He was
167. sentenced to imprisonment for three years.
168. The Crown also presented two other cases;
169. that of *R v Stiopu*, 2018 NWTSC 7, and *Dube and*
170. *Radeka*. Those individuals were involved in
171. another drug network that was operating at the
172. same time, that of Todd Dube. That organization
173. also trafficked in cocaine, but also sold
174. fentanyl. The sentences involved in the
175. trafficking in fentanyl are treated more
176. seriously than for trafficking in cocaine.
177. In the *Radeka* case, Eddy Radeka was a
178. courier, who was 53 years old, who had no
179. criminal record. He was an addict who was
180. involved in the organization to fund his
181. addiction. He pled guilty and was sentenced, on
182. a joint submission, to five years' imprisonment.
183. Ms. Stiopu was involved in the storage and
184. distribution of drugs for Mr. Dube. She also had
185. no criminal record and pled guilty. She received
186. a sentence of four-and-a-half years.
187. So those sentences provide some indication
188. of the range of sentence that is appropriate for
189. sentencing Mr. Dunn for this offence.
     1. First, I will deal with the ancillary orders
     2. that have been requested by the Crown, and
     3. defence counsel has not made any submissions in
     4. opposition to them; the first, being a DNA order,
     5. Section 5(1) of the *Controlled Drugs and*
     6. *Substances Act* is a secondary designated offence
     7. pursuant to Section 487.04 of the *Criminal Code.*
     8. And there will been an order pursuant to
     9. Section 487.051 for the taking of Mr. Dunn's DNA
     10. for the DNA Data Bank.
     11. Pursuant to Section 109 of the
     12. *Criminal Code*, a firearms prohibition order is
     13. mandatory, and Mr. Dunn will be prohibited from
     14. possessing firearms for a period of ten years
     15. following his release from imprisonment. There
     16. will also be the mandatory victim of crime
     17. surcharge of $200.
     18. Mr. Dunn, please stand up. Mr. Dunn, you
     19. could easily be facing a lengthier sentence of
     20. imprisonment than I am about to impose, but I am
     21. going to go along with the sentencing
     22. recommendation of the Crown and your lawyer.
     23. For the offence of trafficking in cocaine --
     24. or conspiracy to traffic in cocaine and possess
     25. cocaine for the purpose of trafficking, I
     26. sentence you to a period of imprisonment of
     27. 36 months. You may sit down.
         1. Mr. Hoare, did you want an endorsement on
         2. the warrant of committal to serve his --
         3. MR. HOARE: I did. I -- I -- I understand
         4. that it's not binding on prison authorities;
         5. however, I'm asking for an endorsement that he be
         6. allowed to serve his sentence in the
         7. Northwest Territories close to his family and
         8. hopefully for eligibility for work release.
         9. THE COURT: Okay. There will be that
         10. endorsement on the warrant of committal, then.
         11. Thank you.
         12. Is there anything else, counsel?
         13. MR. PRAUGHT: No, Your Honour.
         14. THE COURT: Mr. Hoare?
         15. MR. HOARE: That's it, Your Honour.
         16. Thank you.
         17. THE COURT: All right. Thank you,
         18. counsel.

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# 1 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 6th day of June, 2018.

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1. Certified Pursuant to Rule 723
2. Of the Rules of Court

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1. Janet Belma, CSR(A), B.Ed.
2. Court Reporter

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