

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

SHANE ROBERT COMEAU

Transcript of the Sentencing Hearing held before The Honourable Justice V.A. Schuler, sitting in Yellowknife, in the Northwest Territories, on the 23rd day of July, 2018.

APPEARANCES:

Ms. S. Boucher: Counsel for the Crown
Mr. S. Comeau: On his own behalf

(Charges under s. 5(2) of the *Controlled Drugs and Substances Act*)

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1 THE COURT: And, Ms. Boucher, are you on
2 Mr. Comeau's matter?
3 MS. BOUCHER: Yes, also. I have a letter
4 from the counsel on the file with dates
5 (indiscernible).
6 THE COURT: All right. So you are
7 Shane Comeau; is that correct?
8 MR. COMEAU: Yeah.
9 THE COURT: All right. Thanks. Just have
10 a seat for now, Mr. Comeau. I'm just going to
11 ask Ms. Boucher -- and I see that you've given
12 the clerk a letter with some dates in it?
13 MS. BOUCHER: Yes, indeed. I can give a
14 copy to Mr. Comeau as well. It just has a list
15 of dates.
16 THE COURT: And these are dates that --
17 MS. BOUCHER: So -- so this matter was in
18 the Territorial Court for a preliminary inquiry
19 in June. And now, it's been transferred into the
20 Supreme Court to start the Supreme Court
21 proceedings. And so, in the ordinary course of
22 matters, a file has a pretrial conference, and
23 there's the option of a bail review -- I think he
24 has a statutory bail review as well. And so the
25 list of dates there are possible dates where the
26 assigned counsel can come and speak to the
27 matter.

1 THE COURT: Can I ask you, I looked at the
2 file. I didn't see an Indictment.

3 MS. BOUCHER: So, if there's no Indictment
4 filed, then I would assume it would be filed by
5 the next -- by the next date.

6 THE COURT: So you are asking, then, that
7 the matter go over to one of these dates, that it
8 just be adjourned today for -- to one of these
9 dates to be spoken to and, if necessary, for a
10 bail review and an on-the-record pretrial
11 conference?

12 MS. BOUCHER: Yes, if -- if he is applying
13 for bail on one of those dates. And I would ask
14 for the earliest date in the series to -- just to
15 have this get moving because there can be
16 different delays associated, so August 1st, if
17 that's -- I don't have a calendar in front of me;
18 but, if that's a Monday, for example, that would
19 make sense.

20 MR. COMEAU: I have a letter here for you.

21 THE COURT: Just hold on a minute,
22 Mr. Comeau. I just want to make sure I -- well,
23 August 1st is a Wednesday --

24 MS. BOUCHER: Oh.

25 THE COURT: -- according to this. So, in
26 any event, all right.

27 Mr. Comeau, stand up. You had -- you have a

1 letter?

2 MR. COMEAU: It's from the psychiatrist
3 that I've been seeing. I went to see one
4 downtown here in Yellowknife here.

5 THE COURT: Okay. Well, are you seeing a
6 psychiatrist at the correctional centre?

7 MR. COMEAU: Yeah, and I seen one downtown.

8 THE COURT: All right. And what is the
9 purpose of the letter? Why are you asking --

10 MR. COMEAU: I want to you read it. It's
11 personal.

12 THE COURT: Have you seen the letter,
13 Ms. Boucher?

14 MR. COMEAU: She can read it, too, if she
15 wants.

16 THE COURT: All right. Well, I'm -- I'm
17 going to ask the police officer to hand it to
18 Ms. Boucher. She could have a look at it, and I
19 just don't know if it's something I should be
20 looking at or not; but, in any event --

21 Is -- do you take any issue as to whether I
22 should look at it or not?

23 MS. BOUCHER: Your Honour may wish to review
24 it because it discusses Mr. Comeau's
25 mental-health state in terms of participating in
26 the proceedings. Perhaps, I -- I don't know.
27 It's -- it's a representation about his current

1 condition and his -- the circumstances of his
2 incarceration and plus maybe -- there's a
3 reference to maybe this being used on sentence.

4 THE COURT: All right. Mr. Comeau, do you
5 have other copies of this letter? Because, if I
6 look at it, I think it should be on the Court
7 file.

8 MR. COMEAU: Yes, there's copies at the --
9 at the centre -- the nurses have copies.

10 THE COURT: All right. Is this an
11 original? Or is this a copy?

12 MR. COMEAU: That's the original.

13 THE COURT: All right. Well, it sounds,
14 from what the doctor's saying in the letter, that
15 she, at least, is anticipating that this is
16 information that may be used if you are found
17 guilty and sentenced on the charge.

18 MR. COMEAU: That's what I wanted to do. I
19 want to do that today. I feel like pleading
20 insanity 'cause I feel like killing myself every
21 day.

22 THE COURT: Well --

23 MR. COMEAU: (Indiscernible).

24 THE COURT: All right. And, Mr. Comeau,
25 just, as I understand it -- and I'm going by what
26 I saw in the Court file when I had a look at
27 it -- the -- the matter was put over to today --

1 MR. COMEAU: For a bail review, yeah.
2 THE COURT: -- for a bail review.
3 MR. COMEAU: I don't know -- can I -- can
4 get that --
5 THE COURT: All right. So --
6 MR. COMEAU: -- with my record?
7 THE COURT: Okay. And so now, I hear you
8 saying that you want to plead guilty. But, I
9 mean, from looking at the file again, it's a
10 serious charge. And normally, when someone's
11 going to plead guilty, especially to a serious
12 charge, there are some discussions between them
13 or their lawyer with the Crown about what the
14 facts are that the Court will be asked to proceed
15 on.
16 MR. COMEAU: There's a statement of facts.
17 And I don't know if they have it -- yeah.
18 THE COURT: All right. Well, I -- that's
19 not in the Court file. So I'm -- I'm not sure --
20 Have there been some discussions?
21 MS. BOUCHER: Indeed, there have been, yes.
22 When this was last in court in Inuvik, there were
23 extensive discussions between Mr. Comeau and the
24 Crown and an Agreed Statement of Facts prepared;
25 it's just a matter of him accepting them or not.
26 THE COURT: And so has he -- has he seen
27 that agreed -- has that been given to Mr. Comeau?

1 MS. BOUCHER: Yes.

2 MR. COMEAU: Yeah, I've seen it.

3 THE COURT: And --

4 MS. BOUCHER: He was --

5 THE COURT: Go ahead.

6 MS. BOUCHER: He was denying culpability.

7 He was denying knowledge of the contents of the

8 box. I -- so this is a drug case, and he's

9 alleged to have been in possession of drugs for

10 the purpose of trafficking. And so it's -- it's

11 a matter of accepting the facts or not accepting

12 the facts.

13 THE COURT: And what is your

14 understanding, then, about what's happened so

15 far? Has he -- has he --

16 MS. BOUCHER: He has not accepted the facts.

17 THE COURT: He has not accepted the facts.

18 MS. BOUCHER: But, if he -- if he changes

19 his position on that, certainly, we could proceed

20 to -- through to a guilty plea. That's really

21 his decision.

22 THE COURT: So that seems to be the

23 stumbling block, Mr. Comeau, is that, if you're

24 not accepting the facts that the Crown is saying

25 make up the offence that they are -- are saying

26 you're guilty of, then we can't proceed.

27 MR. COMEAU: Yeah.

1 THE COURT: So that's the difficulty.
2 Now, would it be helpful to you to have another
3 look at the Statement of Facts? I mean, has
4 there been any discussion in terms of --
5 MR. COMEAU: So it said --
6 THE COURT: -- what the --
7 MR. COMEAU: -- in the Statement of Facts,
8 that I was willingful [sic] blind to deliver a
9 box, but I knew there was something illegal in
10 it. And I didn't really know what was in the
11 box, but I knew there was something illegal, but
12 I didn't know there was that much stuff.
13 THE COURT: Well, I think that it has to
14 be a little bit more clear than that to go ahead
15 with a --
16 MS. BOUCHER: That was -- he's representing
17 correctly how it reads. I just have to -- I
18 could pull it out and give it back to him, but
19 he's more or less repeating what the Agreed
20 Statement of Facts says. And the Statement of
21 Facts was prepared on an assumption that he was
22 going to claim wilful blindness of the contents,
23 which is criminal liability for possession for
24 the purpose of trafficking. And so we're not
25 alleging actual knowledge necessarily. We're --
26 we're content with wilful blindness as well.
27 But I could give a copy to him, and if

1 there -- if there are parts of this that are in
2 dispute, he could indicate them, and we could
3 consider it. But previously, he was not willing
4 to accept the wilful blindness aspect of it
5 either.

6 THE COURT: Yes.

7 MS. BOUCHER: If he's changed his position,
8 we're -- we're certainly open to him changing his
9 position.

10 THE COURT: All right. But it sounds to
11 me as though there's got to be a little bit more
12 communication, then, to get that --

13 MS. BOUCHER: The -- but the only way to --

14 THE COURT: -- established.

15 MS. BOUCHER: -- really to -- for us to
16 communicate with Mr. Comeau is on the record. So
17 it would have to be in a forum like this or now.

18 MR. COMEAU: I tried calling on the phone,
19 but the guy wouldn't talk to me on the phone.

20 THE COURT: All right. Well, that's fine.

21 MR. COMEAU: I've been in here for seven
22 months. Since I came in, I got a skin condition,
23 and since I had that skin condition, I haven't
24 come back to the same person I was. And I've
25 been sick. I've been in bed -- in bed holding
26 for like a month. I'm not feeling the greatest,
27 and I'll never be the same person again because

1 of what happened to my face.

2 THE COURT: All right. Well, Mr. Comeau,
3 I'm just concerned that, because it's a serious
4 charge, that things be done properly and that the
5 Court have the information that it needs if
6 you're going to proceed with a guilty plea. So,
7 I mean, right now, as far as the court record
8 goes, you -- you have, at some point, asked for a
9 judge and jury trial. And, in the last court
10 appearance, as I understood it, you were asking
11 for a bail review.

12 Now, you're saying you'd like to plead
13 guilty to the charge, but this issue of the facts
14 needs to be worked out.

15 MR. COMEAU: Sorry -- yeah.

16 THE COURT: So do you have a copy you
17 could -- I'm just thinking whether if you've got
18 another copy of that Agreed Statement of Facts;
19 if you want to give it to Mr. Comeau, he can --
20 we'll stand down. He can read through it. I'm a
21 little concerned, though, about actually
22 proceeding with, if he wants to, a guilty plea
23 and sentencing. Do you -- does he know what the
24 Crown would be asking for on sentence? Has that
25 been discussed?

26 MS. BOUCHER: It -- it has been. I don't
27 know what his current understanding is. The

1 position we communicated to him was in and around
2 the three-and-a-half-year range.

3 THE COURT: So that's what the Crown is
4 asking for. So, Mr. Comeau, you -- I mean, since
5 you're not represented, you would have to, then,
6 speak on your own behalf and -- and make your
7 submissions to the Court as to what the sentence
8 should be.

9 MR. COMEAU: I was thinking, 'cause I was
10 willingful blind, that it would be less than
11 that. I knew there was a -- I knew there was --
12 I seen what was in the box, but I didn't know
13 what was in there 'cause I was paid to deliver
14 it.

15 THE COURT: Well, I don't want to get into
16 too many discussions and -- and -- I mean, I --
17 I -- I suppose one way of dealing with this --
18 and -- and I'm just a little bit hesitant about
19 doing this. I don't want to get into too many
20 background discussions and then be in a situation
21 where I'm the judge taking the guilty plea, if
22 that's what you decide to do. Now --

23 MR. COMEAU: That's what I wanted to do
24 today 'cause it's wearing and tearing on me. I
25 just want a release date to look forward to, and,
26 like, I've been so depressed. I've never been
27 like this in my life.

1 THE COURT: Okay. But you -- but, at the
2 same time, you -- you want to make sure that you
3 deal with this matter in a way that makes sense;
4 in other words, not just rush into a guilty plea
5 and that you are in a position that, if you do
6 plead guilty, that you can speak to -- for
7 yourself on sentencing. Yes.

8 MR. COMEAU: I can speak for myself today.

9 MS. BOUCHER: He's been -- he's been talking
10 about pleading guilty for many -- many weeks,
11 about -- at least two months that I can see on
12 the record here. And I don't know if I can go
13 back further in the file to see other
14 discussions. I think the stumbling block has
15 been just over what the admissions are. I could
16 give him a copy of this to review, and then he
17 could just identify what the -- what the
18 problematic parts -- but we're not -- we're not,
19 as the Crown, alleging that he had specific
20 knowledge of exact amounts in the box. We're not
21 even alleging that he knew the exact nature of
22 the substance.

23 Our allegation is that he knew that it
24 contained illegal drugs and that he got a hundred
25 dollars to -- to do this transaction.

26 THE COURT: But -- but what are you --
27 just in terms of the -- how to proceed with

1 this --

2 MS. BOUCHER: But I -- I would give him this
3 copy to review. We could stand down for, you
4 know, a brief period of time. Then he could
5 indicate to us what that it is that he wants to
6 do, and --

7 THE COURT: And, when you say indicate to
8 us, do you mean indicate to you during the break?
9 Or come back into court and do that?

10 MS. BOUCHER: Sure. I could -- I could talk
11 to him, and then I could put the details of that
12 on the record. And then we could figure out what
13 to do, which could be setting it down for a
14 pretrial conference on one of those dates
15 suggested and -- and a bail review if that's what
16 he wants to do.

17 THE COURT: In other words, if he doesn't
18 want to plead guilty. And, if he -- if he
19 reviews your document and if you are both
20 satisfied that a guilty plea can proceed on the
21 basis of what's in the document, are you prepared
22 to go ahead today? Or --

23 MS. BOUCHER: I hadn't envisioned going
24 through a sentencing hearing today. I have
25 materials that I could use. I might need to
26 stand down to the afternoon to -- to get the rest
27 of the file materials to do a sentencing, but

1 certainly, we could proceed. And he's got the
2 document that he just filed with the Court, as
3 well, that he could use on his behalf in his
4 sentencing.

5 THE COURT: Well, I'm just -- you know, I
6 mean, I'm being frank with you, Mr. Comeau. I'm
7 just really concerned whether that you're sort of
8 rushing into doing this because you're not
9 feeling well.

10 MR. COMEAU: I've been trying to do this
11 for, like, a couple months now. The last judge I
12 said up -- that I seen up there, I told the
13 prosecutors, like, I didn't know what was in the
14 box. And --

15 THE COURT: Okay. But let's not -- let's
16 not get into that right now. I just mean in
17 terms of being able to go ahead with this; plead
18 guilty; admit to the facts, assuming that you
19 agree with Ms. Boucher about what the facts are
20 going to be presented as; and then go ahead with
21 the sentencing knowing that you could be getting
22 three years or three-and-a-half years or maybe
23 more than that. I mean, I don't know because
24 I -- I don't know enough about the case, but I
25 just -- so that's what I'm concerned about,
26 whether you feel that you're in a position to --
27 to deal with all that today.

1 MR. COMEAU: I am.

2 THE COURT: You feel that you are?

3 MR. COMEAU: Yeah. I do feel that I am,
4 but I already told you how I feel about myself.

5 THE COURT: All right.

6 MR. COMEAU: I'm sick, big time.

7 THE COURT: All right. But, yes, I guess
8 that sort of goes both ways, and that's what I'm
9 concerned about. All right. Let's do this:
10 We'll stand down. Ms. Boucher is going to give
11 you the document, which, as I understand it,
12 you've seen before, but I think you need to see
13 it again so that we -- you make sure that we know
14 what we're doing today.

15 MR. COMEAU: Okay.

16 THE COURT: And then, once you've looked
17 at it, you can both tell me whether you --
18 whether you're both thinking along the same
19 lines; in other words, does it look like we're
20 going to be able to have a guilty plea and
21 sentencing without disagreements about what the
22 facts are? And then Ms. Boucher is saying she
23 wouldn't be ready to actually do the sentencing
24 right now, but perhaps we could do it this
25 afternoon.

26 MR. COMEAU: Okay.

27 THE COURT: All right? So, for now, we'll

1 stand down. I want you to look carefully at
2 the -- the -- the document so that we can figure
3 out if there are any areas of disagreement that
4 are going to be too fundamental to be able to
5 proceed. All right. So we'll stand down for 15
6 minutes for now. If -- if you need more time,
7 just -- you can let me know.

8 THE COURT CLERK: Thank you, Your Honour.

9 All rise. Court is adjourned for 15
10 minutes.

11 (ADJOURNMENT)

12 THE COURT CLERK: Order. All rise. Court is in
13 session. Please be seated.

14 THE COURT: All right. Ms. -- actually,
15 I'm sorry, Madam Clerk, this might be a piece of
16 paper that was from one of the other -- the other
17 file this morning.

18 THE COURT CLERK: Thank you, Your Honour.

19 THE COURT: It doesn't seem to relate to
20 this file.

21 THE COURT CLERK: Okay.

22 MS. BOUCHER: Yes, Your Honour --

23 THE COURT: Ms. Boucher.

24 MS. BOUCHER: -- over the break, I went
25 through the Agreed Statement of Facts with
26 Mr. Comeau, and I explained what the Crown was
27 alleging his knowledge was, and that's in

1 paragraph 11. That's not -- that he didn't know
2 the exact amounts or the nature of the substance,
3 but that he was wilfully blind as to those two
4 facts, which, in -- in law, is the same thing
5 from a criminal responsibility perspective and
6 from a sentencing perspective.

7 And so he brought the Agreed Statement of
8 Facts down to the cells, reviewed it and came
9 back up and signed the document when he came back
10 up.

11 THE COURT: All right. So you're --
12 you're satisfied, Mr. Comeau, that you -- you
13 understand what is in that document and you've --
14 she's telling me that you've signed it, so I'm
15 inferring from that that you agree that that's
16 the information that would go before the Court.
17 Can you just confirm that out loud for me?

18 MR. COMEAU: Yes, Ma'am.

19 THE COURT: All right.

20 MS. BOUCHER: And I'll further say that he
21 explained to me that he was not pleading guilty
22 out of any pressure and that he was choosing to
23 plead guilty because there were independent
24 witnesses who observed him place the box on the
25 table.

26 THE COURT: All right. Now, just -- and I
27 want to make sure that, if we're going to go

1 ahead and do this, it's done properly. There's
2 still no Indictment for him to plead to.

3 MS. BOUCHER: Yes.

4 THE COURT: And I just want to make sure
5 that you're -- normally, we would have a court
6 reporter for a case that would proceed this way.
7 We don't have a court reporter today for reasons
8 that I'm not aware of. But there isn't one,
9 apparently. Everything's being recorded. But so
10 I just want to know how you anticipate
11 proceeding. I think we need to have the
12 Indictment.

13 If the intention is to go ahead today, I
14 assume that, Ms. Boucher, you could have the
15 Indictment prepared, have it filed, and we could
16 proceed. But one thing I'm a little concerned
17 about.

18 And, I mean, this is really an issue that
19 involves fairness to you, Mr. Comeau. If you --
20 if we proceed today, and -- and -- and I hear
21 the -- your guilty plea and the facts and
22 Ms. Boucher will tell me what she thinks you
23 should be -- you should get as a sentence; and
24 obviously, you'll have a chance to do the same
25 thing. But I'm assuming that she might want to
26 ask me to look at other cases where people have
27 been sentenced for a similar thing.

1 Now, in fairness, those cases should be
2 given to you so that you have a chance to read
3 them over so that you have a chance to say, Oh,
4 yes, but, in that case, there's this difference
5 from my case or whatever. And I'm just not sure
6 how we're going to get that all accomplished by
7 this afternoon. And I have another matter that's
8 scheduled for the rest of the week, so.

9 MS. BOUCHER: There's one case that we would
10 rely on from this jurisdiction. That sets our
11 starting point in the sentencing. And I told
12 Mr. Comeau what the name of the case was and what
13 the -- the amount of the drugs was in that case
14 and the -- the starting point attached to that.
15 And so I could provide that to him if -- if he's
16 going to be kept here. I don't know how that
17 works.

18 THE COURT OFFICER: He's going -- yes, over lunch,
19 yes.

20 MS. BOUCHER: If -- if there's a way to get
21 documents into them.

22 THE COURT: So you'd be able to give him
23 that case?

24 MS. BOUCHER: Yes.

25 THE COURT: A copy of that case so he
26 could read it and see for himself what you're
27 using as a comparison.

1 MS. BOUCHER: The only other thing we would
2 file is his criminal record as well. I have only
3 one copy here. I think I have a second copy. I
4 could give that to him right now.

5 THE COURT: So you're just going to give
6 him a copy of it now so that he knows what you'll
7 be putting forward as his criminal record?

8 MS. BOUCHER: Yes.

9 THE COURT: So, Mr. Comeau, I'm not going
10 to be looking at that right now, but that's just
11 so you have a copy so that, assuming we do go
12 ahead this afternoon, you know in advance what
13 the Crown is saying is your criminal record and
14 you have a chance to comment on it, if you feel
15 that there's something in there that -- that's
16 not right or that is different than what's
17 written down.

18 So -- and you're satisfied, Ms. Boucher,
19 then, that you could proceed this afternoon?

20 MS. BOUCHER: Yes.

21 THE COURT: All right. And so,
22 Mr. Comeau, are you -- I just want to make sure
23 that you're satisfied, in your own mind, that
24 you're ready to do this today. Can I just ask
25 you to stand up? And you're sure that you're
26 ready to go ahead with this today?

27 MR. COMEAU: Yeah.

1 THE COURT: Knowing what's at stake
2 because, if -- if we go ahead with this, you
3 know, you're -- you're giving up your right to a
4 trial and you're saying, I'm admitting that this
5 is what I did and I'm going to go ahead and --
6 and be sentenced for it. And you're -- you're
7 satisfied that you're -- you're going to be able
8 to speak for yourself this afternoon? In other
9 words, you're going to be able to organize some
10 thoughts that you're going to want to communicate
11 to the Court about your background and about what
12 the sentence -- what the Court should take into
13 account in sentencing you?

14 MR. COMEAU: Yeah, I can tell you a bit
15 about myself.

16 THE COURT: All right. But can you -- do
17 you also feel that you're -- you're going to be
18 able to respond to whatever arguments Ms. Boucher
19 makes? In other words, if she says, Well, the
20 sentence should be longer because of whatever,
21 that you'll be able to respond to those
22 arguments? You'll be able to -- to focus on them
23 and understand them and respond to them?

24 MR. COMEAU: I'll try my best.

25 THE COURT: Okay. I mean, I'm -- I'm just
26 saying this because you know, it's not an easy
27 thing to speak to -- for yourself on sentence. I

1 just want to make sure that you're -- you feel
2 that you're going to be able to do that.

3 MR. COMEAU: M-hm.

4 THE COURT: All right.

5 MS. BOUCHER: And for a preview of the
6 submissions, which I -- I told to Mr. Comeau, it
7 would be based on the -- the amount of the drugs
8 in the box and plus his prior criminal record and
9 the starting point from the case law. That's
10 essentially the nature of the submissions.

11 THE COURT: All right. All right. So
12 then what we will do, because we need the --
13 what's called the Indictment, which is the piece
14 of paper that essentially brings the charge in
15 before the Court, and I didn't see it on the file
16 and may -- I don't know if you want to
17 double-check, but I know I checked because I
18 assumed there would be one and I didn't see
19 one -- so Ms. Boucher will get that done and
20 filed, and she'll give you a copy.

21 And then, once that's done, we can go ahead
22 with the guilty plea and -- and hearing the facts
23 that, from what I understand, you've agreed to --

24 MR. COMEAU: Yeah.

25 THE COURT: -- and then go ahead with the
26 sentencing.

27 MR. COMEAU: She's asking for three years,

1 and I don't really want to take that 'cause I'm
2 scared to go down South. I don't want to go down
3 there.

4 THE COURT: Well, and that's something you
5 could say on the sentencing itself; but, I mean,
6 she takes the position she takes. I can't tell
7 her that she can't take that position or -- and
8 this is not the time --

9 MR. COMEAU: Yeah.

10 THE COURT: -- to argue whether that's the
11 right sentence, but I just want to make sure that
12 you're -- you feel sufficiently well to go ahead
13 with this today.

14 MR. COMEAU: Yeah, I just want to get it
15 over with, 'cause I went -- went through the
16 prelim. I already tried to get it over with once
17 upstairs. I tried to plead guilty, and I told
18 him I didn't know what was in the box. And the
19 judge said, Well, I think this is a matter for
20 prelim. So she set it over for a prelim. I went
21 all the way to Inuvik, and the witnesses showed
22 up and said, That's the man that left the box on
23 the desk. But I already told him that. I
24 already told him what happened and what I was
25 paid to do and what I did.

26 THE COURT: Okay.

27 MR. COMEAU: Yeah.

1 THE COURT: All right. That's fine. If
2 we're going to go ahead this afternoon, how much
3 time -- how much time do you need, Ms. Boucher,
4 first to get the Indictment done and whatever it
5 is?

6 MS. BOUCHER: If we came back at 2 o'clock,
7 I think we could be --

8 THE COURT: And now, will that give you
9 time to give Mr. Comeau a copy of the Indictment
10 and --

11 MS. BOUCHER: I think so.

12 THE COURT: All right. All right.

13 MS. BOUCHER: Should I file the Indictment
14 here in court? Or should I bring it up to the
15 Registry? Or how -- how -- what would be the
16 best way to procedurally deal with that?

17 THE COURT CLERK: (Indiscernible) court file at
18 the Registry and I can bring it down.

19 THE COURT: Okay. I'll leave you to work
20 that out with Madam Clerk. And I'm sorry, there
21 was something else that just occurred to me.
22 Well, do you want to tell me the name of the case
23 that you've already indicated to Mr. Comeau
24 you're going to be relying on, and maybe I can
25 read it in advance.

26 MS. BOUCHER: The case is *Mohammed*,
27 M-O-H-A-M-M-E-D, 2015 NWTSC 38.

1 THE COURT: All right. All right. Now,
2 Mr. Comeau, just -- I just want to make sure --
3 and I -- I -- you possibly think I'm repeating
4 this too often, but again, it's important that
5 you're -- you're doing this voluntarily. This is
6 a voluntary decision, on your part, that you want
7 to plead guilty to this and -- and be sentenced
8 on this charge?

9 And I also want to make sure that you
10 understand that the -- whatever you may say about
11 your sentence or whatever the Crown may say about
12 what your sentence should be, it would be up to
13 me to make that decision. In other words, I
14 don't have to do what either one of you says. It
15 would be up to me to make the decision about what
16 the sentence is going to be.

17 And the other thing I just want to let you
18 know because -- so that it doesn't -- you're not
19 puzzled by it or it doesn't come as a surprise to
20 you -- because, at some point, I think it was
21 back maybe earlier this year, you had elected
22 judge and jury in this case; when we go through
23 the proceedings this afternoon, the clerk will
24 ask you whether you changed that to elect to be
25 tried by a judge alone. In other words, that
26 means not having the involvement of a jury, just
27 being dealt with by a judge, and then she'll ask

1 you for your plea on the charge. So that's what
2 we would go through this afternoon.

3 MR. COMEAU: Okay.

4 THE COURT: All right? So, as I say, I
5 just don't want you to be taken aback or
6 wondering why are we doing this.

7 MR. COMEAU: Yeah.

8 THE COURT: All right. So we will
9 adjourn, then, to 2 o'clock this afternoon.
10 Hopefully, everything will be straightforward and
11 in order, and hopefully I'll be able to give you
12 a decision this afternoon. But, if -- if I have
13 to -- if I want to take overnight to think about
14 it or something like that, then that's what I'll
15 do if I think that's the right thing to do. But
16 we'll see after I've heard everything what
17 happens.

18 MR. COMEAU: Okay.

19 THE COURT: All right? So 2 o'clock this
20 afternoon, and we'll leave things. And now, I
21 understand, from what you said earlier,
22 Mr. Comeau, that you would want the Court to look
23 at this letter that the doctor gave you.

24 So, Ms. Boucher, I -- I don't know if
25 there's any issue about that from your
26 perspective.

27 MS. BOUCHER: There isn't, but I would like

1 to have a copy if I may.

2 THE COURT: All right. So, Madam Clerk,
3 I'll ask you to make a -- perhaps make a copy
4 available to both.

5 THE COURT CLERK: Certainly.

6 THE COURT: But we won't actually file it
7 until this afternoon.

8 THE COURT CLERK: Certainly, Your Honour.

9 THE COURT: All right? All right. So
10 2 o'clock this afternoon, then.

11 THE COURT CLERK: All rise. Court is adjourned
12 to 2:00 p.m.

13 (ADJOURNMENT)

14 THE COURT CLERK: Order. All rise. Court is in
15 session. Please be seated.

16 THE COURT: All right. Good afternoon.
17 Ms. Boucher.

18 MS. BOUCHER: Yes, good afternoon,
19 Your Honour. The Crown has filed an Indictment,
20 in this file now, with one count alleging that
21 Mr. Comeau possessed cocaine for the purpose of
22 trafficking. And we provided a copy of the
23 Indictment to Mr. Comeau.

24 THE COURT: All right.

25 MS. BOUCHER: Under Section 561(1)(b) of the
26 Code, he can re-elect as of right within a
27 certain number of days of the preliminary

1 inquiry, and I think he's still within that
2 window. I think the last day he appeared was
3 July 10th for the -- for the preliminary hearing.
4 If -- unless I am incorrect about that. Yes,
5 July 10th, he had a -- he was still -- he -- he
6 was -- he was committed for trial.

7 THE COURT: Oh, I see. All right. Yes.
8 Ordered to stand trial July 10, 2018. So does
9 that mean he's still within the --

10 MS. BOUCHER: Right, because it's the 23rd
11 today, so he has 14 days to re-elect as of right.

12 THE COURT: Fourteen days from --

13 MS. BOUCHER: The day of the preliminary
14 inquiry.

15 THE COURT: Oh, all right. So -- yes.
16 All right. That's fine.

17 So, Madam Clerk, what I'll ask you to do,
18 then, is to take the re-election from Mr. Comeau.

19 And, just before she goes ahead and does
20 that, as far as you know, from what you've done,
21 is everything ready to proceed, then, this
22 afternoon?

23 MS. BOUCHER: To my understanding, yes.

24 THE COURT: All right.

25 All right. Mr. Comeau, I will ask you to
26 stand up. Now, you remember this morning, I
27 mentioned that the clerk will be asking you

1 whether you're re-electing from judge and jury to
2 judge alone. So that's the step we would take
3 now. And she will also -- she'll read the charge
4 to you, and she'll also ask you how you plead to
5 the charge, guilty or not guilty.

6 Now -- and I just want to ask you because
7 I -- I don't want things to get off track. Are
8 -- is it still your intention to plead guilty,
9 having thought, between this morning and now,
10 about the things that were discussed in court
11 this morning?

12 MR. COMEAU: I can say I am guilty, but I
13 want to plead insanity 'cause I'm not all there.

14 THE COURT: Well, there's -- I don't want
15 to go into too detailed of an explanation, but I
16 think, when you -- when you're talking about
17 pleading insanity, that is a plea that, nowadays,
18 is known by another term: not criminally
19 responsible. But that is a not guilty plea. And
20 that means there would still be a trial. So I
21 just want to make sure that -- that we know what
22 you're doing.

23 If you're pleading guilty, it means you're
24 admitting -- you're admitting that you did have
25 in your possession, for the purpose of
26 trafficking, cocaine, on November 6th, 2017.

27 If you are looking at a plea of insanity,

1 that's a whole different thing, and there would
2 still be a trial. So you're -- what you're
3 telling me now is quite different from what you
4 seemed to be thinking this morning.

5 MR. COMEAU: Okay. Yeah, I really don't
6 know what to do. I know I'm -- like, I'm guilty,
7 but it's just the things that happened to me
8 since I've been inside, how I feel 'cause a
9 lot -- a lot has happened to me in the last seven
10 months.

11 THE COURT: Well, I -- I mean, I can't
12 sort of -- I can't advise you what to do.
13 That's one thing that's absolutely clear. I know
14 you had at least one lawyer.

15 MR. COMEAU: Yeah.

16 THE COURT: I don't know if he was the
17 only lawyer you had, but you had at least one
18 lawyer so far on this charge. And I don't --
19 I'm -- do not know if you were able to discuss
20 those issues with him.

21 But, for this afternoon, based on what you
22 said this morning, you had said you wanted to
23 plead guilty. If you're changing your mind about
24 that, that's fine. But, I mean, you're not going
25 to have a trial today. It would be set -- we'd
26 have to set the matter over to have what's called
27 a pretrial conference, which is when there would

1 be discussion about what is the trial going to
2 look like.

3 I mean, you -- as I said this morning,
4 according to what's in the Court file, you
5 originally elected trial by judge and jury. And
6 so, if you're now saying -- if you're saying now
7 you don't want to plead guilty, then I don't
8 think we're going to change that today. You can
9 discuss that at the pretrial conference.

10 But I mean, quite frankly, it sounds to me
11 like you're really not sure what you want to do,
12 and that concerns me.

13 MR. COMEAU: I want to get it over with.
14 I'm just not the same person anymore since all
15 this happened. I'm still trying to get over what
16 happened to me while I was in there.

17 THE COURT: Well, I don't know. Is there
18 any chance -- have you been in touch with
19 Legal Aid at all?

20 MR. COMEAU: Yeah, I've called them a
21 couple times, and I had a few lawyers that I
22 never really got along with. And, you know, I
23 always used to think that it was better to
24 represent myself. But, in the long run, it's
25 really not, but I do want to get this over with
26 today and just -- you know, since I got this face
27 infection, I haven't been the same person, and it

1 bugs the hell out of me 'cause now, when I look
2 in the mirror, I can see it, and I was always one
3 of those look-good, feel-good type of guys. And
4 it just hit me so hard that I don't exercise him.
5 I don't have the ambition to clean myself,
6 barely. I don't even really want to get up to
7 eat sometimes. I just don't feel right at all
8 anymore. I barely ever call home to my family.
9 I used to call them pretty much every day.

10 THE COURT: But, Mr. Comeau, did I
11 understand, though, that this morning, you told
12 me you'd spoken to a doctor about that?

13 MR. COMEAU: Yeah.

14 THE COURT: And, I mean, those are things
15 that a doctor is obviously going to be a lot more
16 qualified than I am --

17 MR. COMEAU: Yeah, I know.

18 THE COURT: -- to help you with. But I
19 mean, I -- I need to know whether you want to go
20 ahead with a guilty plea today, whether you want
21 some more time to think about it. What -- I'm
22 not -- I don't want to pressure you. And I'm not
23 pressuring you into doing anything in particular.
24 But do you feel that you -- you need some more
25 time to think about it?

26 MR. COMEAU: No. I've been thinking about
27 it for seven months. I know I am guilty of

1 bringing that box up there and dropping it off,
2 and that's what I want to admit to today. I knew
3 there was something illegal in it; and, but --

4 THE COURT: Okay. But again, let's not
5 get into the specifics of that at this point. If
6 you're going to plead guilty to it, then
7 Ms. Boucher would present that Agreed Statement
8 of Facts that she showed you this morning. Those
9 would be the facts. You -- you would be able to
10 comment on the facts; but essentially, those
11 would be the facts that I would have to accept
12 for the purposes of deciding what your sentence
13 is.

14 But. To go back to what you initially said
15 when you stood up, I mean, that doesn't happen if
16 you are looking at pleading insanity. That's an
17 entirely different type of proceeding that would
18 involve a trial. And I don't know when the trial
19 would be. It's not going to be today. It
20 could -- it would probably be some months from
21 now.

22 So, Ms. Boucher?

23 MS. BOUCHER: Yes, I'll just note as well,
24 in terms of the psychological concerns or the
25 mental health concerns that Mr. Comeau is
26 raising, they relate to some of the events that
27 occurred in his pretrial incarceration. And

1 certainly, that's -- some of that's documented in
2 the letter that he filed and is a factor that can
3 be taken into account in the sentencing by -- by
4 Your Honour in the process, not that it impacts
5 whether or not he would be found guilty; but
6 perhaps, in terms of the sentence that
7 Your Honour imposes, it may or may not be
8 relevant there.

9 THE COURT: Yes. I mean, you -- you've
10 submitted the letter. The letter is something I
11 can take into account. I'm not going to decide
12 now to what extent I would take it into account
13 or what effect it might have. But it's -- as I
14 say, it's really something you have to decide,
15 whether you are going to go ahead with your --
16 with pleading guilty, or whether you want more
17 time to think about whether that is what you
18 really want to do.

19 MR. COMEAU: I want to plead guilty 'cause
20 it's just haunting me, you know?

21 THE COURT: It's just what?

22 MR. COMEAU: It's haunting me. I seen the
23 priest and I seen my case worker, and they said,
24 You got to let go. And I said, Yeah, I know I
25 got to let go of this and just move on; and you
26 know, they've been telling me that for months,
27 and I never listened. Then I kept getting

1 stressed out.

2 Then I got some cleaner on my face a few
3 days ago and burned my skin. First, I broke out
4 at first, and then I had to go to the hospital
5 the other day 'cause I got cleaner in my face.
6 And I was just making it that much worse for me.
7 And I just want to get healthy again, and, you
8 know, stop worrying about how I look or -- like,
9 my whole life was always about looks and, like,
10 looking good, and I had good looking girlfriends
11 and stuff. And now, this all happened to me, and
12 now, my life has changed.

13 I got a son out there. He's seven years
14 old. He starts school this year, and I want to
15 be able to be a father and change my life. And,
16 I've been in and out of jail since I've been
17 16 --

18 THE COURT: Okay. But, Mr. Comeau,
19 again --

20 MR. COMEAU: I'm 36 years old.

21 THE COURT: -- those are things that
22 you -- you can talk about on sentencing, but
23 they're not -- and I'm not minimizing them.
24 Obviously, these are things that are upsetting to
25 you.

26 But, in terms of whether you go ahead with a
27 guilty plea or not, there really isn't anything I

1 can do with that information.

2 And I just -- I don't want to put you in an
3 awkward position, Ms. Boucher. But are you --
4 from the contact you've had with Mr. Comeau,
5 today, are you satisfied that we can proceed with
6 anything today?

7 MS. BOUCHER: I've had no indication that
8 there's a problem in that regard. He's had
9 rational conversations with me and with the Court
10 on the record about his motivations for
11 proceeding and concluding the matter. So, if
12 he's prepared to enter the guilty plea,
13 certainly, the Crown would be prepared to file
14 the relevant materials and -- and proceed.

15 If he is not pleading voluntarily, then, of
16 course, no, we wouldn't be prepared to proceed.

17 THE COURT: All right.

18 All right. So, Mr. Comeau, I think it
19 really comes down to whether you're certain that
20 you want to proceed and with a guilty plea, I
21 mean, and -- and whether you are doing that of
22 your own free will and not under pressure from
23 anyone else. And, if you -- if -- if the
24 situation you're in right now is that you just
25 don't know, then maybe you need to think about it
26 for a few days now that it has kind of come down
27 to the wire in terms of you telling the Court

1 that that's what you want to do.

2 So, if you want a few days to think about
3 it, the Crown counsel, when we started off with
4 all this today, had been suggesting that the
5 matter go over to next week because the
6 prosecutor, who was normally in charge of this
7 case, was available next week.

8 MR. COMEAU: I want to get it over with
9 today.

10 THE COURT: And you -- you feel confident
11 that you are feeling well enough to go ahead with
12 it today?

13 MR. COMEAU: I guess, yeah.

14 THE COURT: You are?

15 MR. COMEAU: I feel like killing myself
16 every day. Like, I don't know. Will it be
17 better if -- will I get better if I put it behind
18 me? I hope so. I don't know. It's something I
19 got to work on. I got to work on myself.

20 THE COURT: Well, and -- and I guess
21 that's the -- what I'm asking you is, do you need
22 more time to do that before you take the very
23 serious step of pleading guilty, knowing that, if
24 you plead guilty, there is no trial and you are
25 going to be sentenced? So it's not a case of,
26 you know, thinking that somehow, you're --
27 you're -- you still have a chance of -- of not

1 being convicted. I mean, if you plead guilty,
2 the facts are before the Court and you're
3 convicted and you're sentenced.

4 MR. COMEAU: I don't think I stand a chance
5 at trial, and I already admitted to what I'm
6 guilty of, is dropping off that box in a hotel.
7 And that's what I'm guilty of, and I want to
8 plead guilty to it today.

9 THE COURT: So you --

10 MR. COMEAU: I want to get it over with.

11 THE COURT: So you want to go ahead today?
12 All right. Well, then that's fine. We will go
13 ahead with it today. And so the first thing the
14 clerk will do, as I mentioned to you before, is
15 she'll -- and this is something we need to have
16 so that the process is clear -- take what's
17 called the re-election from you; in other words,
18 ask you whether you're changing from judge and
19 jury to judge alone.

20 MR. COMEAU: Okay.

21 THE COURT: And then she'll ask for your
22 plea.

23 MR. COMEAU: Okay.

24 THE COURT CLERK: Shane Robert Comeau, you have
25 given notice stating that you wish to re-elect to
26 be tried by a judge without a jury. You have
27 been committed to stand trial on the following

1 charge: On or about the 6th day of November, in
2 the year of 2017, at the Town of Inuvik, in the
3 Northwest Territories, did possess a substance
4 included in Schedule I, to wit, cocaine for the
5 purpose of trafficking, contrary to Section 5(2)
6 of the *Controlled Drugs and Substances Act*.

7 You have given notice of your wish to
8 re-elect the mode of your trial. You now have
9 the option to do so. How do you wish to
10 re-elect? To be tried by a judge alone? Or a
11 jury trial?

12 MR. COMEAU: Judge alone.

13 THE COURT CLERK: Thank you. Having re-elected
14 to be tried by a judge without a jury, how do you
15 plead to the charge, guilty or not guilty?

16 MR. COMEAU: Guilty.

17 THE COURT CLERK: Thank you.

18 The accused pleads guilty, Your Honour.

19 THE COURT: All right. Thank you.

20 So Ms. Boucher will read the facts in. But
21 again, I just want to confirm you're -- you've
22 made this plea of guilt voluntarily; you
23 understand it means you're admitting the offence;
24 and that whatever sentence I impose is not, in
25 any way, restricted by anything that you and
26 Ms. Boucher may have discussed or by the
27 positions that either of you takes? Do you

1 understand that? Can I get you to answer out
2 loud, Mr. --

3 MR. COMEAU: Yes, Ma'am.

4 THE COURT: -- Comeau. All right. Thank
5 you. So just have a seat. Ms. Boucher will read
6 the facts, and then I'll ask you whether you
7 agree with those facts.

8 Are you going to file the written Agreed
9 Statement of Facts? Is that your --

10 MS. BOUCHER: Yes. I have tendered a copy
11 of the Agreed Statement of Facts to the Court
12 this morning, right after the accused had signed
13 it. Is it still in -- on the desk up here?

14 THE COURT: I haven't actually seen it.

15 MS. BOUCHER: I don't think it was handed up
16 to the Court, but it was put -- it was put into
17 the --

18 THE COURT CLERK: I think you gave a copy to the
19 accused.

20 MS. BOUCHER: All right. Well --

21 THE COURT CLERK: Thank you.

22 MS. BOUCHER: That's the Agreed Statement of
23 Facts.

24 THE COURT: All right. Thank you. So
25 I'll ask to you read it into the record in any
26 event.

27 MS. BOUCHER: So this is what the written

1 document says that we've just filed, and I am
2 just going to read it for the Court. And it
3 reads as follows: (as read)

4 The following facts are admitted by
5 the accused without the necessity of
6 calling evidence, pursuant to Section
7 655 of the *Criminal Code*: On
8 November 6, 2017, in Inuvik,
9 Northwest Territories, the RCMP were
10 called to the Nova Inn after hotel
11 employees discovered a box they
12 believed contained drugs.

13 Corporal Newman attended the Nova Inn
14 and met with Derek Pillay, the hotel
15 manager. Derek Pillay stated that,
16 earlier that morning, he and his
17 coworker, Kelly Harassy (phonetic),
18 observed Mr. Comeau in the main lobby
19 carrying a cardboard box and talking
20 on his cell phone.

21 After a short time, Mr. Comeau set
22 the box down on a table in the main
23 lobby and exited into a taxi. After
24 Mr. Comeau left the hotel,
25 Mr. Pillay, Ms. Harassy, and two
26 other bystanders, Ralph Steinwall
27 (phonetic) and Vincent Sharpe, opened
the box.

The box contained a paper bag that
contained 15 unlabeled pill bottles
and a 10-inch Stanley wrench. The
pill bottles appeared to contain 584
prepackaged doses of a white powder,
which was later identified by a
Health Canada analyst as cocaine.

Upon discovering the contents of the
box, the Inuvik RCMP were immediately
called, attended the scene; and
seized the box and its contents.

Mr. Comeau is known to Mr. Pillay
from having dealt with him several
times on previous occasions when
Mr. Comeau stayed at the Nova Inn.
Mr. Harassy does not know Mr. Comeau
personally -- Ms. Harassy, rather --
but she correctly identified him
later on November 6, 2017, from an
appropriately constituted photograph
lineup that was prepared and
administered by the RCMP members who
were not directly involved in the

1 investigation.
2 Mr. Comeau was arrested on December
3 13, 2017, in Norman Wells, where he
4 was located on a flight bound for
5 Inuvik.
6 An iPhone was seized from Mr.
7 Comeau's person at that time.
8 The total quantity of the drugs,
9 inclusive of the packaging, was
10 approximately 286 grams or 10 ounces.
11 This quantity of cocaine, if sold
12 in -- in the individual doses that
13 they were wrapped in as full grams,
14 60 to 100 dollars per dose, would
15 have an approximate street value in
16 Inuvik of \$35,040 to \$48,400.
17 If the drugs were sold as half-grams,
18 the street value would be \$23,360 --
19 \$23,360 to \$35,040. It is a quantity
20 of product that would typically only
21 be entrusted to a courier with
22 previous affiliation with a supplier
23 and who had earned their trust.
24 Mr. Comeau had been paid \$100 from a
25 friend to bring the box to Inuvik,
26 and he willingly did so. He was not
27 pressured or coerced in any way. He
knew the box likely contained illicit
drugs destined for sale in Inuvik,
but deliberately chose not to make
further inquiries of his friend, who
gave him the box, or anyone else.
Mr. Comeau admits the iPhone is
offence-related property pursuant to
Section 16 of the *Controlled Drugs
and Substances Act*.

19 And then the statement is
20 signed by both me, for the -- for the prosecution
21 service, and by Mr. Comeau.

22 THE COURT: All right. Thank you.

23 And, Mr. Comeau, then, I see that you've
24 signed this document, and so, then, I understand
25 and I'm just going to ask you to confirm that you
26 admit the facts that Ms. Boucher has just read.
27 You admit that those are true?

1 MR. COMEAU: Yes. I admit the facts, but I
2 didn't know what was in the box. I wouldn't have
3 left it on the hotel desk like that.

4 THE COURT: Well, the -- in paragraph 11,
5 it says: (as read)
6 He knew the box likely contained
7 illicit drugs destined for sale in
8 Inuvik.

8 MR. COMEAU: I knew there was something in
9 there, but I didn't know that's what was in
10 there.

11 THE COURT: But that's not what this says.
12 This says, and what you've signed, and I'm just
13 asking to you confirm is that you knew the box
14 likely contained illicit drugs --

15 MR. COMEAU: Yes.

16 THE COURT: -- destined for sale in
17 Inuvik?

18 MR. COMEAU: Yes.

19 THE COURT: Is that correct? All right.
20 All right. Thank you.
21 On sentence -- there will be a conviction.
22 And on sentence?

23 MS. BOUCHER: Yes, just -- just to confirm,
24 Your Honour, in the 606 inquiry that Your Honour
25 did just prior to taking the plea, I think
26 Your Honour outlined that -- the nature and
27 consequences of a guilty plea versus a not guilty

1 plea. I think -- I'm not sure if that was part
2 of the recitation that Your Honour went through;
3 but, I think, from the context, it's obvious that
4 that's what we're doing.

5 THE COURT: That we're proceeding with
6 conviction and sentencing.

7 Yes, you understand that, Mr. Comeau,
8 correct?

9 MR. COMEAU: Yeah.

10 THE COURT: Yes? Again, you'll have to
11 speak out loud because the tape can't --

12 MR. COMEAU: Yes.

13 THE COURT: You do?

14 MR. COMEAU: Yeah.

15 THE COURT: All right. Thank you.

16 MS. BOUCHER: And so earlier, I had informed
17 the Court and Mr. Comeau that I would be filing a
18 copy of the -- his criminal record as well, and I
19 gave him a copy. And this is a copy for the
20 judge.

21 THE COURT: All right. So the Agreed
22 Statement of Facts, we'll mark as Exhibit S-1.

23 THE COURT CLERK: Thank you.

24 EXHIBIT S-1: AGREED STATEMENT OF FACTS

25 THE COURT: And the criminal record,
26 Mr. Comeau, can you just confirm that the
27 criminal record that Ms. Boucher has showed you

1 and that she is now about to give me is in fact
2 your criminal record?

3 MR. COMEAU: Yes, Ma'am.

4 THE COURT: All right. Thank you.

5 THE COURT CLERK: Thank you.

6 THE COURT: And again, because we don't
7 have a court reporter, we just have the tape, I'm
8 just a bit concerned that -- that your voice be
9 picked up by the tape.

10 MR. COMEAU: Okay.

11 THE COURT: So, when you do speak, I'm
12 going to ask you to stand up --

13 MR. COMEAU: Okay.

14 THE COURT: -- because I think the glass
15 may muffle --

16 MR. COMEAU: Okay.

17 THE COURT: -- what you're saying.

18 MR. COMEAU: All right.

19 THE COURT: All right. Thank you. All
20 right. So the record will be Exhibit S-2.

21 EXHIBIT S-2: CRIMINAL RECORD OF SHANE COMEAU

22 THE COURT: And so Ms. Boucher will tell
23 me what she says the sentence should be. I'm
24 going to ask to you listen very carefully to her.
25 When she's finished, then you'll have a chance to
26 respond to the things she said and to tell me
27 what you say the sentence should be, tell me a

1 bit about your background; and, if you wish to
2 comment on the circumstances of the offence, you
3 will be able to do that as well. So I'm going to
4 ask you to sit down while -- while Ms. Boucher is
5 speaking, and --

6 MR. COMEAU: Okay.

7 THE COURT: -- but, as I say, listen,
8 because, if she says something and you want to
9 respond to it, you're going to have to wait till
10 she's finished to do that.

11 MR. COMEAU: Okay.

12 MS. BOUCHER: Thank you. I'll just note,
13 for Your Honour as well, in terms of the criminal
14 record, there are two particularly relevant
15 convictions for Your Honour's consideration in
16 his background. There are two different
17 convictions for possession of Schedule I
18 substances for the purpose of trafficking: one
19 from 2013, where he received a fine of \$1,000;
20 and one from 2015, where he received a 22-month
21 sentence. And, with that second conviction,
22 there was also a possession charge going along
23 with that.

24 The criminal record, as well, contains
25 numerous property offences and administration of
26 justice offences over the time period in the
27 record.

1 THE COURT: Now, can I just ask you
2 because sometimes I find these records a bit
3 confusing the way they're set out. I see there's
4 three pages going from 1998 to 2017; but then
5 there are -- there's something called an offence
6 record report, most of which has been edited out.
7 So this -- what -- where do these last few things
8 on the offence report -- have -- are they already
9 reflected in the criminal record? Or are these
10 other --

11 MS. BOUCHER: It looks to me like they are.
12 It's not -- where it's -- especially, where it's
13 referring to drug offences, there's -- it's the
14 same one from 2013 that I can see here because
15 it's the same sentence.

16 THE COURT: Right. So really, I only need
17 to pay attention to the first three pages.

18 MS. BOUCHER: Yes, I think so, for the
19 purpose of this exercise for what's going to be
20 relevant here. There may be additional charges
21 that weren't reflected in the sequent document,
22 like, the -- the 129 charge, for example, but I
23 don't think so. But it won't make a -- it won't
24 make any difference on the sentence. So it could
25 be -- it could be just -- it could be disregarded
26 altogether. The -- the main parts of the -- the
27 record that are relevant, for the sentence, are

1 the prior drug offences.

2 THE COURT: All right.

3 MS. BOUCHER: The -- the other matter that I
4 drew to the Court's attention this morning and to
5 Mr. Comeau's attention is the *Mohammed* case from
6 the Northwest Territories Supreme Court from
7 2015, Judgment Number 38. That was a decision of
8 Justice Charbonneau. And, in that case, the
9 Court adopts, as a sentencing range, for
10 commercial trafficking of cocaine, so commercial
11 possession for the purpose of trafficking
12 cocaine, in more than minimal amounts at a -- at
13 a starting point of three years, which starting
14 point can move up or down based on the
15 aggravating and mitigating factors in the given
16 case.

17 In *Mohammed's* case, he was in possession of
18 55 grams of cocaine as well as \$12,000 in cash.
19 And he was a youthful offender. And there was no
20 record outlined for prior substance offences.

21 Here, I would point out that there's a
22 significantly larger amount of drugs involved,
23 286 grams, as compared to 55 grams in the other
24 case. It's -- these are amounts that are
25 commercial in nature; and, as the Agreed
26 Statement of Facts outlined implies, that he was
27 at least a trusted courier with a value between

1 \$35,000 and \$58,000 for the value of the drugs
2 depending on how they were ultimately
3 distributed.

4 The nature of the substance is also
5 aggravating in itself. It's -- cocaine is a
6 highly addictive, dangerous and destructive
7 substance in our communities. In -- in the
8 *Mohammed* decision, at approximately pages 4
9 through 5, Justice Charbonneau details the -- the
10 aggravating nature of the substance and the
11 impact on the communities, noting as well that
12 the Northwest Territories is a tempting market in
13 which to traffic and that the Courts need to send
14 a clear message to denounce the conduct no matter
15 the circumstances and denotes that denunciation
16 and deterrence are paramount sentencing
17 consideration [sic] in these cases.

18 So the factors regarding the amount of drugs
19 and it's -- and the value, in addition to
20 Mr. Comeau's prior record, are the -- the primary
21 aggravating factors that the Court should
22 consider in the sentence.

23 In terms of mitigating factors for
24 Mr. Comeau, I'm sure that he will outline the
25 rest of his personal circumstances for
26 Your Honour's consideration. The primary
27 mitigating factor that the Court should consider

1 is the guilty plea, and that is -- that entitles
2 him to significant mitigating treatment by the
3 Court; although I'll note that, in *Mohammed*, that
4 was also a guilty plea with the three-year
5 starting point.

6 Mr. Comeau's mental health concerns are also
7 something that Your Honour could consider in
8 terms of the sentence imposed. These are
9 concerns that primarily seem to arise in the
10 context of his pretrial incarceration. He is
11 getting some treatment for those issues right
12 now.

13 In terms of what impact it should have on
14 the sentence, I would suggest perhaps that it has
15 made his pretrial incarceration probably more
16 difficult than for other people. But he has been
17 receiving treatment for -- for these issues
18 throughout his stay, and so has been well cared
19 for in that regard.

20 But what I would suggest is that it is not
21 established on the evidence that the mental
22 health concerns had any impact on the commission
23 of the offence. And that is something that's not
24 proven, but it's something Your Honour can take
25 into account in terms of how this sentence will
26 impact him as he serves the rest of his time
27 should the Court impose additional time.

1 In terms of parity, so this is the kinds of
2 sentence that similar offenders receive in
3 similar circumstances, as I've noted, three years
4 is the starting point; and where that starting
5 point has been established has been in cases with
6 significantly lower amounts of substances in
7 lower values.

8 Here, in light of that, the Crown would
9 suggest that three-and-a-half years at a minimum
10 is probably the right range for this offence,
11 given those amounts; and that would be a --
12 globally a low sentence in the -- in the scheme
13 of things, given how much -- how much drugs
14 we're -- we're talking about, but that it would
15 be acceptable to impose that sentence given the
16 guilty plea in the circumstances on his first
17 appearance in the Supreme Court, and so not
18 engaging the -- the remaining resources of the
19 State and the limited number of trial weeks that
20 are available in the jurisdiction. So he would
21 be entitled to significant credit for that.

22 THE COURT: So, just so I'm clear on that,
23 you're saying he should be given credit for
24 pleading guilty, and that credit should reduce
25 the three-and-a-half years that you're suggesting
26 is the minimum?

27 MS. BOUCHER: I am suggesting that, in

1 another case, perhaps five years would be
2 appropriate or maybe even six years, given the --
3 the amount; but, given the fact that he's pled
4 guilty right off the bat, in the Supreme Court,
5 is -- something in the three-and-a-half year
6 range wouldn't be inappropriate or possibly even
7 lower if you're -- depending on what Your Honour
8 considers of his personal circumstances. He also
9 has seven months of pretrial credit, as I
10 understand it. That's what he told me, and
11 then --

12 MR. COMEAU: Since December.

13 MS. BOUCHER: Since December, and so he
14 would be entitled to enhanced credit of
15 one-and-a-half times credit for that.

16 THE COURT: To be taken off --

17 MS. BOUCHER: Off, yes, off the sentence.
18 There would also be ancillary orders, so orders
19 that flow automatically and on a discretionary
20 basis because of the sentence. So the different
21 orders here are -- there's a mandatory firearms
22 prohibition under Section 109(1)(c). The minimum
23 for the firearms prohibition is ten years. Had
24 we filed notice in advance, it would have been a
25 lifetime prohibition. We didn't file the notice
26 in advance. Your Honour could certainly impose a
27 higher than ten-year prohibition order given that

1 he has two prior offences. He would have -- he
2 would have qualified for the lifetime had -- had
3 the notice been filed. So something even in the
4 15 or 20-year range wouldn't be inappropriate in
5 the circumstances.

6 He -- an order -- a DNA order should also
7 follow in the circumstances. It's a secondary
8 offence and so discretionary, but it is a
9 noninvasive procedure, and he has an extensive
10 criminal record. It would be -- it would be
11 appropriate in the circumstances, especially
12 given the seriousness of the offence. And a
13 victim of crime surcharge flows automatically as
14 well.

15 THE COURT: And that surcharge is \$200, is
16 it?

17 THE COURT CLERK: Yes, Your Honour.

18 MS. BOUCHER: So -- yes. There should also
19 be a forfeiture order for the -- for the iPhone
20 in accordance with the Agreed Statement of Facts
21 because he's admitted that it's offence-related
22 property. Subject to questions, those are my
23 submissions.

24 THE COURT: All right. Thank you.

25 All right. Mr. Comeau, then, you can
26 respond to what Ms. Boucher has said. And you
27 can -- I'm going to suggest that you tell me

1 something about your background so that I have an
2 idea of your past history. And I don't think we
3 marked the letter from the doctor as an exhibit;
4 but I take it, from what I understand from what
5 you had said this morning, I'm assuming that you
6 want me to -- or you're going to be asking me to
7 take into consideration what the doctor has said
8 in the letter.

9 MR. COMEAU: Yeah.

10 THE COURT: All right. So we'll mark that
11 as -- that would be S-3, then.

12 THE COURT CLERK: Thank you, Your Honour.

13 EXHIBIT S-3: LETTER FROM THE DOCTOR

14 THE COURT: All right. So just take your
15 time and --

16 MR. COMEAU: I don't know if I want to go
17 through with this. My anxiety is just going
18 right up. Like, I'm really scared. I don't want
19 to go down South. I just want to do my time up
20 here. You know, I got used to being on a unit
21 with 12 guys. I am on a mental health unit right
22 now. There's only 12 of us on there. I've been
23 there for seven months. I'm not used to being
24 around a lot of people. I got this skin
25 condition while I was in there.

26 I grew up in Nova Scotia. I grew up poor,
27 never had much money growing up, grew up in a

1 low-income area. My dad made me come out here
2 when I was 19 to start working, got a job as a
3 landscaper, was landscaping for a long time.

4 THE COURT: Can I just ask you, when you
5 say -- I think I heard -- you said my -- your dad
6 made you come out here. Do you mean to the
7 Northwest Territories?

8 MR. COMEAU: No, into Alberta.

9 THE COURT: To Alberta. All right. Thank
10 you.

11 MR. COMEAU: Yeah. And I was working --
12 working in Alberta for a while.

13 THE COURT: How old are you now?

14 MR. COMEAU: Almost 37. And I got a kid.
15 He's seven years old, and I really want to be
16 there for him. I just want to stop thinking
17 about killing myself every day because of the way
18 I look in the mirror, changed me so much since I
19 come in this time. I used to always be happy and
20 a funny guy, and now, I just -- I don't know what
21 to do.

22 I'm really scared. I don't want to go down
23 South. I was hoping to go get a sentence for
24 two-and-a-half years or 30 months so I could get
25 credited and not be able to have to go down
26 there, do my time up here.

27 I have a girlfriend in Inuvik. Her family

1 lives up there. My address was up there. I was
2 living there for a while in a house at
3 43 Bowenpump (phonetic).

4 I'm just really sick in the head right now.
5 I'm on a lot of medications. I take a Restoril
6 at night, a Zyprexa, and an antidepressant every
7 night. It's still not helping me. I'd said to
8 the psychiatrist; I said, Well, you think
9 medication's going to help me? I got to wake up
10 and look in the mirror every day and see my face,
11 how it's irritated. I've got scars on it, since
12 I came in, from acne. And I said, Do you think
13 the medication's actually going to help me? And
14 it's, like, I don't think it is; it's something I
15 got to work on myself because I look in the
16 mirror and I'm going to see it all the time; and
17 you know, it's -- medication, I don't think
18 that's going to help me.

19 And I just grew up -- most of my -- my
20 offences are property offences. I got one drug
21 conviction in Lloydminster back in 2013. The
22 other one was just possession of cocaine 'cause
23 I'm a drug addict. Most of the things I do is
24 for drugs. I've been a drug addict since I've
25 been 17 years old.

26 I have a good family. I come from a good
27 family. Like, all my brothers are -- do good,

1 and my parents are okay. I grew up poor still,
2 but my -- all my brothers never ended up in jail.
3 It was only me. I got three other brothers. I'm
4 the only one that ever got in trouble.

5 And I'd like to say I'm sorry, apologize
6 for -- for what I left on the desk there. I
7 didn't know what was exactly in there. I
8 wouldn't have just left it like that. And, if
9 the drugs were mine, I probably would have had to
10 pay a lawyer here today to stick up for me
11 instead of talking for myself.

12 You know, the drugs didn't belong to me.
13 They were somebody else's that paid me to bring
14 them there. And, you know, I just -- I just wish
15 I wouldn't have made the stupid decision to do
16 that. It's probably the dumbest decision I ever
17 made in my life. And I don't know why I keep
18 getting into trouble. I guess it's 'cause I have
19 a bipolar disorder. I didn't even know I had it
20 until now. I wish I would have known this a long
21 time ago. It helps when I talk to the
22 psychiatrist 'cause I can open up to them and
23 tell them how I'm feeling.

24 I just hope you take into consideration
25 today what I told you. And, you know,
26 two-and-a-half years, 30 months or something like
27 a little bit better would make me feel a lot

1 better. But I know, at the end of the day, it's
2 your decision on what you give me. I want to
3 apologize to you for keeping you here all day
4 till 3 o'clock to sentence me in the Court.

5 I really just want to move on with my life,
6 but I got to stop thinking about killing myself
7 all the time. I don't want to hang myself or cut
8 my wrists or anything like that. The way I think
9 about it is the best way is just blowing my
10 brains out. Die -- why die slow when you can
11 just do that?

12 Sometimes, I think every day, like, when I
13 get out of jail, I'm just going to shoot myself
14 in the head, get it over with 'cause I'm just
15 living in misery now. And I really don't know
16 what to do with myself right now. I'm a mess.
17 I've never been this way in my life until I come
18 into this jail. I was always a happy-go-lucky
19 guy, and now, I'm down and I hit rock bottom and
20 I don't know what to do. I don't know how to
21 bring myself back up, and it bugs me every day.

22 The first thing I do every day is wake up,
23 and I run to the mirror to see if I healed
24 better. But it's not healing, and it's as good
25 as it's going to heal, and I really don't know
26 what to do. I barely ever talk to anybody. I
27 pace around. I'm off balance. I don't clean

1 myself. I barely can do my laundry, and I've
2 been sitting in med-holding for the last month
3 'cause I just want to be myself thinking my face
4 will heal better. I'm just a mess right now.

5 I really don't know what to do with myself,
6 and I just hope that whatever decision is made
7 today is the right one for me, and then I can get
8 some help and look forward to a release date,
9 maybe get out there and, like, start being a dad
10 to my son instead of getting in trouble and being
11 a low life.

12 I really don't know what to do, and, like, I
13 don't even feel -- I do not even feel right
14 pleading guilty, but I know that representing
15 myself, there's nothing I can do. Those two
16 people seen me put the box there. Can they prove
17 that I knew what was in the box? Not really, but
18 this is the NWT, and they see things their own
19 way.

20 I took it to prelim, and the witnesses
21 showed up and they said they seen me leave the
22 box on the desk. And, if I would have known what
23 was in that box, I wouldn't have just left it
24 there like that. And, if the drugs were mine,
25 like I said, I would have had a paid lawyer to
26 represent me and probably would have been out by
27 now.

1 You know, at the end of the day, I'm just a
2 junky and that's it. That's all I really have to
3 say.

4 THE COURT: All right. You heard
5 Ms. Boucher mention that there are some other
6 orders that are -- some of which are mandatory:
7 a firearm prohibition order, an order to take a
8 sample of your DNA, and then there's the victim
9 surcharge. Is there anything you want to say
10 about any of those?

11 MR. COMEAU: No.

12 THE COURT: All right. All right.
13 Anything else at all that you think I should take
14 into consideration on deciding your sentence?

15 MR. COMEAU: Well, I just want you to take
16 into consideration that, you know, I left that
17 box there, and if I would have known what was in
18 it, I wouldn't have left it there like that. I
19 knew there was something illegal; but, if I knew
20 there was that much stuff in there, I would have
21 picked it up and took it with me or kept it in my
22 arm all the time. You know, I feel really bad
23 about it, but it's, like, you know -- and I am
24 not trying to cover up anything. You know, I
25 want to plead guilty. I want to get this over
26 with. I'm not taking the trial. I don't want to
27 waste the Court's time. The lawyer I had in the

1 beginning is the one that wanted to take it to
2 pretrial. His name was Peter Harte. And then he
3 tried to convince me to plead guilty 'cause the
4 two witnesses seen me leave the box on the table.
5 And I said, No. I said I didn't know what was in
6 the box. I said, I want to plead not guilty.
7 And then he quit on me.

8 And then I had another lawyer. Before my
9 pretrial, he wanted to -- he tried to get me to
10 take three years, and I didn't agree with it; so
11 he quit on me. And then I couldn't get any more
12 Legal Aid lawyers; and now, I'm here representing
13 myself, which isn't the smartest thing in the
14 word 'cause I'm not the sharpest knife in the
15 drawer.

16 You know, I have a learning disability,
17 dyslexia. I was always in slow classes growing
18 up. And you know, I really don't know what else
19 to say, Your Honour. I'm just lost.

20 THE COURT: All right. All right. Thank
21 you. I am going to take a few minutes just to
22 gather my thoughts, so we'll adjourn briefly.

23 But I just want to make sure, Ms. Boucher,
24 you are suggesting that -- you're suggesting the
25 proper sentence, in this case, would be
26 three-and-a-half years with the remand time
27 credited against that?

1 MS. BOUCHER: Three-and-a-half years less
2 remand time, yes.

3 THE COURT: Less remand time. Take the
4 remand time off?

5 MS. BOUCHER: Yes.

6 THE COURT: All right. I just wanted to
7 make sure I understood that.

8 All right. We will adjourn for 20 or 30
9 minutes so that I can just think about this and
10 gather my thoughts.

11 THE COURT CLERK: All rise. Court is adjourned
12 for 30 minutes.

13 (ADJOURNMENT)

14 THE COURT CLERK: Order. All rise. Court is in
15 session. Please be seated.

16 THE COURT: All right. I will just ask
17 you to bear with me. I have put together some
18 notes, and I think they will help me cover
19 everything I wish to say.

20 So Shane Robert Comeau has pleaded guilty
21 today and is now convicted of a charge under
22 Section 5(2) of the *Controlled Drugs and*
23 *Substances Act* and specifically possession of
24 cocaine for the purpose of trafficking.

25 The facts are set out in the Agreed
26 Statement of Facts and admissions that were filed
27 as Exhibit S-1, and that document, I will just

1 note, Mr. Comeau signed. He is self-represented,
2 but he indicated, after we had quite a lot of
3 discussion in court about what he wanted to do,
4 that he wanted to proceed with pleading guilty
5 today; so he has signed that document for
6 himself.

7 Since that will be on the court file and it
8 was read into the record, I am not going to go
9 into a great deal of detail about it. But just
10 so that the facts are clear, if anyone is reading
11 a sentencing transcript, they are that: On
12 November 6th, 2017, Mr. Comeau was seen by
13 witnesses in the lobby of a hotel in Inuvik
14 carrying a cardboard box. He set it down on a
15 table and left it, and he left in a taxi, leaving
16 the box behind. The box was discovered; and,
17 when it was opened, it was discovered to contain
18 drugs, and they were ultimately analyzed. And
19 what was in the box was 286 grams of cocaine
20 packaged in grams with an approximate street
21 value in Inuvik of \$35,040 to \$58,400. If sold
22 in half-gram packages, the street value,
23 according to the Agreed Statement of Facts, would
24 be \$23,360 to \$35,040. And the Agreed Statement
25 of Facts indicates that this quantity suggests
26 that only a trusted courier would be given a box
27 containing that much drugs.

1 Mr. Comeau was paid a hundred dollars by a
2 friend to bring the box to Inuvik. He did so
3 willingly without being pressured, and he knew
4 that it likely contained illicit drugs destined
5 for sale in Inuvik, but chose not to inquire
6 further than that about the contents of the box.

7 Mr. Comeau was arrested in December of 2017,
8 and he has been in remand for something over
9 seven months.

10 In terms of Mr. Comeau's background, when he
11 spoke, he indicated that he is 36 years old, that
12 he grew up in a poor, but, as he said, good
13 family in Nova Scotia. At the age of 19, he went
14 to Alberta and worked as a landscaper. He has a
15 seven-year-old son. He lived in Inuvik for a
16 while and had a girlfriend there. He indicated
17 that he has been using drugs. He described
18 himself as a drug addict since the age of 17. He
19 admits that he made a stupid decision to bring
20 the drugs to Inuvik and that he is sorry for
21 that.

22 He has expressed a number of concerns and
23 appears to be quite agitated by a facial
24 irritation combined with what I think he said was
25 acne and that, from what he has said, I
26 understand he has developed since being
27 incarcerated at the North Slave Correctional

1 Centre.

2 There was submitted, for purposes of the
3 sentencing, a letter from Dr. Hutchings, which is
4 Exhibit S-3, and she describes Mr. Comeau as
5 distressed, depressed, and says that he may have
6 psychotic features or a bipolar disorder. He is
7 on medication, which Dr. Hutchings started him on
8 for these issues, and he saw a psychiatrist in
9 May. So it seems that he is getting attention,
10 from medical staff at the correctional centre,
11 for these issues; and hopefully this will help
12 him with those concerns and with the stress and
13 uncertainty associated with these proceedings,
14 which, now that he will know his sentence and can
15 find out his release date, can no longer be said
16 to be uncertain.

17 Mr. Comeau's criminal record is significant.
18 It begins in 1998, when he was a youth. He has a
19 number of convictions for a variety of offences
20 in various jurisdictions in Canada. Most
21 significant, for purposes of today's sentencing,
22 is a conviction for possession for the purposes
23 of trafficking for which he was sentenced to
24 22 months in jail and for which he had seven
25 months presentence custody, and that was in 2015
26 in Saskatchewan. And, at that time, he also had
27 a simple possession charge.

1 He also has a conviction for possession for
2 the purposes of trafficking in 2013 for which he
3 received a thousand-dollar fine.

4 He has a number of other offences, as I
5 said, many of which are quite serious. For
6 example, he was convicted of break and enter in
7 2010 in Alberta for which he was given a sentence
8 of 28-and-a-half months. So I take it that that
9 must have been an incident of some seriousness.

10 So Mr. Comeau is no stranger to the Courts
11 or to incarceration. And, at his age, he is very
12 much at risk of spending most of his life in jail
13 if he does not change his ways, and I am sure
14 that he is well aware of that, but that is
15 something that really is within his own control.

16 There, of course, is no victim impact
17 statement in this case. There almost never,
18 probably never, is in a drug -- possession for
19 the purpose of trafficking cases; but generally
20 speaking, it is fair to say that, with crimes of
21 this nature, it is society that is the victim.

22 And I have, in a number of other cases,
23 referred to -- I want to refer today to what
24 Justice Richard said in a 2006 case of *Turner*,
25 which I do not have a citation for, but he said
26 that:

27 Those who are involved in the supply
 and sale and trafficking of cocaine

1 are like vultures or predators who
2 are preying upon those weak members
3 of the community who are addicted to
4 this drug.

5 And whatever Mr. Comeau's own
6 drug issues may be, he is certainly playing a
7 role in making sure and encouraging other people
8 to prey on others who are addicted.

9 It has been noted, in many cases, that
10 cocaine has had a devastating effect on
11 Yellowknife and other communities in the
12 Northwest Territories. There are many people, a
13 lot of whom come before this Court, whose lives
14 have been very negatively affected because of
15 violence, property crime, child neglect, and
16 other circumstances that are the result of their
17 own or someone else's cocaine use.

18 The fact that possession for the purpose of
19 trafficking is treated as a very serious offence,
20 in the case of cocaine, which is a Schedule I
21 drug, is reflected by the maximum punishment
22 available, which is life in prison.

23 In this case, the aggravating and mitigating
24 factors, I think, are quite straightforward. The
25 aggravating factors are the quantity.
26 Mr. Comeau, because of his record, clearly has
27 not distanced himself from criminal activity, so
28 that has to be considered.

29 The only really mitigating factor is the

1 guilty plea, and it is worthy of significant
2 credit because it has come very early on in the
3 proceedings in this Court since the preliminary
4 inquiry was just earlier this month. So it means
5 that the resources of this Court will not have to
6 be taken up with this case. But it also means
7 that Mr. Comeau is acknowledging that what he did
8 is wrong, and he is taking responsibility for it.

9 As always, in cases like this, the paramount
10 considerations for the Court, in terms of what
11 goal the sentence should achieve, are
12 denunciation and deterrence; but also, because of
13 Mr. Comeau's record, the sentence has to be aimed
14 at deterring him from committing further
15 offences.

16 Rehabilitation is something that is never --
17 or I would say almost never not considered; but,
18 in this case, of course, Mr. Comeau has had many
19 chances to rehabilitate himself and has not been
20 able to do so. Whether he is unable to or
21 unwilling to, I do not know.

22 Crown counsel submits that a sentence of
23 three-and-a-half years would be appropriate
24 considering the guilty plea and does not object
25 to the remand time being credited at 1.5 and
26 being applied to that.

27 Mr. Comeau, as I understand it, seeks a

1 sentence that would mean that he -- or a sentence
2 that would essentially be one of Territorial
3 time. It would mean that he would remain in the
4 Northwest Territories because he is concerned
5 that he will not cope in a Federal penitentiary.

6 Crown counsel has referred to the case of
7 *Mohammed*, 2015 NWTSC 38, where
8 Justice Charbonneau imposed a sentence for the
9 purposes of trafficking in cocaine. The quantity
10 in that case was quite a bit less, 55.2 grams,
11 and the amounts that it would -- that that amount
12 of cocaine would attract on sale in Yellowknife,
13 quite a bit less as well than in this case.

14 She noted that three years is the starting
15 point established in the law for that type of
16 offence. In that case, the accused had no
17 record. He pleaded guilty, and she indicated
18 that the appropriate sentence for that possession
19 for the purposes of trafficking offence would be
20 32 months. She credited remand time at six
21 months. So, at the end of the day, the sentence
22 was 26 months on that charge.

23 She did note, in her decision, that the
24 North is a very tempting market for drug
25 traffickers; and of course, that is the case, and
26 it is always of concern when someone who is not
27 local or even if it is someone who is local,

1 views the North as a good place to traffic in
2 drugs and gives into that temptation.

3 So, in this case, the quantity obviously is
4 quite a bit more than in the *Mohammed* case.
5 Mr. Comeau cannot claim to be youthful, as the
6 accused in the *Mohammed* case did; and he cannot
7 claim to have a background that is not marked by
8 criminal activity.

9 I do take into account that Mr. Comeau was
10 not making a lot of money from this. He -- and I
11 just want to check again the amount -- he was
12 paid a hundred dollars to bring the box. He
13 obviously was not high up in the chain of drug
14 activity; but nevertheless, he played a part.

15 As I have said, the remand time is something
16 over seven months. I will credit it as at 1.5,
17 and ultimately, give him credit of 11 months for
18 the remand time.

19 Taking into consideration the facts of the
20 case, the guilty plea, and Mr. Comeau's record,
21 and all the other circumstances, in my view, an
22 appropriate sentence, before credit for the
23 remand time, would be 40 months in jail; so, with
24 the remand time credited, the sentence today is
25 29 months in jail.

26 There will be an order that Mr. Comeau give
27 a sample of his DNA. That is a mandatory

1 order -- or it is not mandatory; it is
2 discretionary, but he did not raise any issues
3 about it, and I am satisfied that it would be
4 minimally intrusive.

5 As far as the firearm prohibition order,
6 under Section 109 of the *Criminal Code*, since
7 this is -- even though he has a previous order,
8 this offence did not involve firearms or violence
9 of any kind at all or threat of violence; I am
10 going to make the order a ten-year order, so it
11 will commence today, and it will expire ten years
12 after Mr. Comeau's release from imprisonment.

13 And there will also be the victim surcharge
14 of \$200.

15 So you understand all that, Mr. Comeau?

16 MR. COMEAU: Yeah, I'm just so worried. I
17 don't want to go down there.

18 THE COURT: Well, you can make your pitch
19 to the correctional authorities here. I do not
20 have any control over that; but, in any event --

21 MR. COMEAU: I wish I never did this today.

22 THE COURT: In any event, I want to thank
23 you both for your submissions today and to thank
24 you, Ms. Boucher, for -- I know you probably had
25 to do quite a bit of running around. And so we
26 will close court.

27 Good luck, Mr. Comeau. You really need to

1 think about what you are doing with your life.

2 MS. BOUCHER: Just before court closes, I
3 wonder -- there was also the matter of the
4 forfeiture order for the offence-related property
5 that was outlined in the Agreed Statement of
6 Facts.

7 THE COURT: That is the iPhone?

8 MS. BOUCHER: Yes. And I gave a copy to
9 Mr. Comeau already.

10 THE COURT: All right. So the Crown is
11 asking that that iPhone be forfeited, Mr. Comeau.
12 You understand that? All right. You are nodding
13 your head, so I will take that as a yes.

14 MR. COMEAU: I shouldn't have did this
15 today.

16 THE COURT: Well, you did. I gave you
17 lots of chances to take more time to think about
18 it, and you did not take the time, so it is done
19 now, Mr. Comeau. I cannot do anything to change
20 it or do anything further. All right. So this
21 order just applies to the iPhone.

22 THE COURT CLERK: Thank you, Your Honour.

23 THE COURT: All right. Thank you. We
24 will close court.

25 THE COURT CLERK: All rise. Court is now
26 closed.

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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 produced and transcribed from audio recording to the best of my skill and ability.

Dated at the City of Edmonton, Province of Alberta, this 9th day of August, 2018.

Certified Pursuant to Rule 723
of the Rules of Court



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