*R v COMEAU*, 2018 NWTSC 43

# S-1-CR-2018-000017

**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.

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**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 --

1. MS. BOUCHER: Oh.
2. THE COURT: -- according to this. So, in
3. any event, all right.
4. 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
5. condition and his -- the circumstances of his
6. incarceration and plus maybe -- there's a
7. reference to maybe this being used on sentence.
8. THE COURT: All right. Mr. Comeau, do you
9. have other copies of this letter? Because, if I
10. look at it, I think it should be on the Court
11. file.
12. MR. COMEAU: Yes, there's copies at the --
13. at the centre -- the nurses have copies.
14. THE COURT: All right. Is this an
15. original? Or is this a copy?
16. MR. COMEAU: That's the original.
17. THE COURT: All right. Well, it sounds,
18. from what the doctor's saying in the letter, that
19. she, at least, is anticipating that this is
20. information that may be used if you are found
21. guilty and sentenced on the charge.
22. MR. COMEAU: That's what I wanted to do. I
23. want to do that today. I feel like pleading
24. insanity 'cause I feel like killing myself every
25. day.
26. THE COURT: Well --
27. MR. COMEAU: (Indiscernible).
28. THE COURT: All right. And, Mr. Comeau,
29. just, as I understand it -- and I'm going by what
30. I saw in the Court file when I had a look at
31. 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 |

1. alleged to have been in possession of drugs for
2. the purpose of trafficking. And so it's -- it's
3. a matter of accepting the facts or not accepting
4. the facts.
5. THE COURT: And what is your
6. understanding, then, about what's happened so
7. far? Has he -- has he --
8. MS. BOUCHER: He has not accepted the facts.
9. THE COURT: He has not accepted the facts.
10. MS. BOUCHER: But, if he -- if he changes
11. his position on that, certainly, we could proceed
12. to -- through to a guilty plea. That's really
13. his decision.
14. THE COURT: So that seems to be the
15. stumbling block, Mr. Comeau, is that, if you're
16. not accepting the facts that the Crown is saying
17. make up the offence that they are -- are saying
18. you're guilty of, then we can't proceed.
19. MR. COMEAU: Yeah.
20. THE COURT: So that's the difficulty.
21. Now, would it be helpful to you to have another
22. look at the Statement of Facts? I mean, has
23. there been any discussion in terms of --
24. MR. COMEAU: So it said --
25. THE COURT: -- what the --
26. MR. COMEAU: -- in the Statement of Facts,
27. that I was willingful [sic] blind to deliver a
28. box, but I knew there was something illegal in
29. it. And I didn't really know what was in the
30. box, but I knew there was something illegal, but
31. I didn't know there was that much stuff.
32. THE COURT: Well, I think that it has to
33. be a little bit more clear than that to go ahead
34. with a --
35. MS. BOUCHER: That was -- he's representing
36. correctly how it reads. I just have to -- I
37. could pull it out and give it back to him, but
38. he's more or less repeating what the Agreed
39. Statement of Facts says. And the Statement of
40. Facts was prepared on an assumption that he was
41. going to claim wilful blindness of the contents,
42. which is criminal liability for possession for
43. the purpose of trafficking. And so we're not
44. alleging actual knowledge necessarily. We're --
45. we're content with wilful blindness as well.
46. 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
47. of what happened to my face.
48. THE COURT: All right. Well, Mr. Comeau,
49. I'm just concerned that, because it's a serious
50. charge, that things be done properly and that the
51. Court have the information that it needs if
52. you're going to proceed with a guilty plea. So,
53. I mean, right now, as far as the court record
54. goes, you -- you have, at some point, asked for a
55. judge and jury trial. And, in the last court
56. appearance, as I understood it, you were asking
57. for a bail review.
58. Now, you're saying you'd like to plead
59. guilty to the charge, but this issue of the facts
60. needs to be worked out.
61. MR. COMEAU: Sorry -- yeah.
62. THE COURT: So do you have a copy you
63. could -- I'm just thinking whether if you've got
64. another copy of that Agreed Statement of Facts;
65. if you want to give it to Mr. Comeau, he can --
66. we'll stand down. He can read through it. I'm a
67. little concerned, though, about actually
68. proceeding with, if he wants to, a guilty plea
69. and sentencing. Do you -- does he know what the
70. Crown would be asking for on sentence? Has that
71. been discussed?
72. MS. BOUCHER: It -- it has been. I don't
73. know what his current understanding is. The
74. position we communicated to him was in and around
75. the three-and-a-half-year range.
76. THE COURT: So that's what the Crown is
77. asking for. So, Mr. Comeau, you -- I mean, since
78. you're not represented, you would have to, then,
79. speak on your own behalf and -- and make your
80. submissions to the Court as to what the sentence
81. should be.
82. MR. COMEAU: I was thinking, 'cause I was
83. willingful blind, that it would be less than
84. that. I knew there was a -- I knew there was --
85. I seen what was in the box, but I didn't know
86. what was in there 'cause I was paid to deliver
87. it.
88. THE COURT: Well, I don't want to get into
89. too many discussions and -- and -- I mean, I --
90. I -- I suppose one way of dealing with this --
91. and -- and I'm just a little bit hesitant about
92. doing this. I don't want to get into too many
93. background discussions and then be in a situation
94. where I'm the judge taking the guilty plea, if
95. that's what you decide to do. Now --
96. MR. COMEAU: That's what I wanted to do
97. today 'cause it's wearing and tearing on me. I
98. just want a release date to look forward to, and,
99. like, I've been so depressed. I've never been
100. 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
101. this --
102. MS. BOUCHER: But I -- I would give him this
103. copy to review. We could stand down for, you
104. know, a brief period of time. Then he could
105. indicate to us what that it is that he wants to
106. do, and --
107. THE COURT: And, when you say indicate to
108. us, do you mean indicate to you during the break?
109. Or come back into court and do that?
110. MS. BOUCHER: Sure. I could -- I could talk
111. to him, and then I could put the details of that
112. on the record. And then we could figure out what
113. to do, which could be setting it down for a
114. pretrial conference on one of those dates
115. suggested and -- and a bail review if that's what
116. he wants to do.
117. THE COURT: In other words, if he doesn't
118. want to plead guilty. And, if he -- if he
119. reviews your document and if you are both
120. satisfied that a guilty plea can proceed on the
121. basis of what's in the document, are you prepared
122. to go ahead today? Or --
123. MS. BOUCHER: I hadn't envisioned going
124. through a sentencing hearing today. I have
125. materials that I could use. I might need to
126. stand down to the afternoon to -- to get the rest
127. of the file materials to do a sentencing, but
128. certainly, we could proceed. And he's got the
129. document that he just filed with the Court, as
130. well, that he could use on his behalf in his
131. sentencing.
132. THE COURT: Well, I'm just -- you know, I
133. mean, I'm being frank with you, Mr. Comeau. I'm
134. just really concerned whether that you're sort of
135. rushing into doing this because you're not
136. feeling well.
137. MR. COMEAU: I've been trying to do this
138. for, like, a couple months now. The last judge I
139. said up -- that I seen up there, I told the
140. prosecutors, like, I didn't know what was in the
141. box. And --
142. THE COURT: Okay. But let's not -- let's
143. not get into that right now. I just mean in
144. terms of being able to go ahead with this; plead
145. guilty; admit to the facts, assuming that you
146. agree with Ms. Boucher about what the facts are
147. going to be presented as; and then go ahead with
148. the sentencing knowing that you could be getting
149. three years or three-and-a-half years or maybe
150. more than that. I mean, I don't know because
151. I -- I don't know enough about the case, but I
152. just -- so that's what I'm concerned about,
153. whether you feel that you're in a position to --
154. 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, |

1. you've seen before, but I think you need to see
2. it again so that we -- you make sure that we know
3. what we're doing today.
4. MR. COMEAU: Okay.
5. THE COURT: And then, once you've looked
6. at it, you can both tell me whether you --
7. whether you're both thinking along the same
8. lines; in other words, does it look like we're
9. going to be able to have a guilty plea and
10. sentencing without disagreements about what the
11. facts are? And then Ms. Boucher is saying she
12. wouldn't be ready to actually do the sentencing
13. right now, but perhaps we could do it this
14. afternoon.
15. MR. COMEAU: Okay.
16. 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.

# (ADJOURNMENT)

* 1. THE COURT CLERK: Order. All rise. Court is in
  2. session. Please be seated.
  3. THE COURT: All right. Ms. -- actually,
  4. I'm sorry, Madam Clerk, this might be a piece of
  5. paper that was from one of the other -- the other
  6. file this morning.
  7. THE COURT CLERK: Thank you, Your Honour.
  8. THE COURT: It doesn't seem to relate to
  9. this file.
  10. THE COURT CLERK: Okay.
  11. MS. BOUCHER: Yes, Your Honour --
  12. THE COURT: Ms. Boucher.
  13. MS. BOUCHER: -- over the break, I went
  14. through the Agreed Statement of Facts with
  15. Mr. Comeau, and I explained what the Crown was
  16. 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
28. ahead and do this, it's done properly. There's
29. still no Indictment for him to plead to.
30. MS. BOUCHER: Yes.
31. THE COURT: And I just want to make sure
32. that you're -- normally, we would have a court
33. reporter for a case that would proceed this way.
34. We don't have a court reporter today for reasons
35. that I'm not aware of. But there isn't one,
36. apparently. Everything's being recorded. But so
37. I just want to know how you anticipate
38. proceeding. I think we need to have the
39. Indictment.
40. If the intention is to go ahead today, I
41. assume that, Ms. Boucher, you could have the
42. Indictment prepared, have it filed, and we could
43. proceed. But one thing I'm a little concerned
44. about.
45. And, I mean, this is really an issue that
46. involves fairness to you, Mr. Comeau. If you --
47. if we proceed today, and -- and -- and I hear
48. the -- your guilty plea and the facts and
49. Ms. Boucher will tell me what she thinks you
50. should be -- you should get as a sentence; and
51. obviously, you'll have a chance to do the same
52. thing. But I'm assuming that she might want to
53. ask me to look at other cases where people have
54. 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.
55. THE COURT: Knowing what's at stake
56. because, if -- if we go ahead with this, you
57. know, you're -- you're giving up your right to a
58. trial and you're saying, I'm admitting that this
59. is what I did and I'm going to go ahead and --
60. and be sentenced for it. And you're -- you're
61. satisfied that you're -- you're going to be able
62. to speak for yourself this afternoon? In other
63. words, you're going to be able to organize some
64. thoughts that you're going to want to communicate
65. to the Court about your background and about what
66. the sentence -- what the Court should take into
67. account in sentencing you?
68. MR. COMEAU: Yeah, I can tell you a bit
69. about myself.
70. THE COURT: All right. But can you -- do
71. you also feel that you're -- you're going to be
72. able to respond to whatever arguments Ms. Boucher
73. makes? In other words, if she says, Well, the
74. sentence should be longer because of whatever,
75. that you'll be able to respond to those
76. arguments? You'll be able to -- to focus on them
77. and understand them and respond to them?
78. MR. COMEAU: I'll try my best.
79. THE COURT: Okay. I mean, I'm -- I'm just
80. saying this because you know, it's not an easy
81. thing to speak to -- for yourself on sentence. I
82. just want to make sure that you're -- you feel
83. that you're going to be able to do that.
84. MR. COMEAU: M-hm.
85. THE COURT: All right.
86. MS. BOUCHER: And for a preview of the
87. submissions, which I -- I told to Mr. Comeau, it
88. would be based on the -- the amount of the drugs
89. in the box and plus his prior criminal record and
90. the starting point from the case law. That's
91. essentially the nature of the submissions.
92. THE COURT: All right. All right. So
93. then what we will do, because we need the --
94. what's called the Indictment, which is the piece
95. of paper that essentially brings the charge in
96. before the Court, and I didn't see it on the file
97. and may -- I don't know if you want to
98. double-check, but I know I checked because I
99. assumed there would be one and I didn't see
100. one -- so Ms. Boucher will get that done and
101. filed, and she'll give you a copy.
102. And then, once that's done, we can go ahead
103. with the guilty plea and -- and hearing the facts
104. that, from what I understand, you've agreed to --
105. MR. COMEAU: Yeah.
106. THE COURT: -- and then go ahead with the
107. sentencing.
108. 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.
109. THE COURT: All right. That's fine. If
110. we're going to go ahead this afternoon, how much
111. time -- how much time do you need, Ms. Boucher,
112. first to get the Indictment done and whatever it
113. is?
114. MS. BOUCHER: If we came back at 2 o'clock,
115. I think we could be --
116. THE COURT: And now, will that give you
117. time to give Mr. Comeau a copy of the Indictment
118. and --
119. MS. BOUCHER: I think so.
120. THE COURT: All right. All right.
121. MS. BOUCHER: Should I file the Indictment
122. here in court? Or should I bring it up to the
123. Registry? Or how -- how -- what would be the
124. best way to procedurally deal with that?
125. THE COURT CLERK: (Indiscernible) court file at
126. the Registry and I can bring it down.
127. THE COURT: Okay. I'll leave you to work
128. that out with Madam Clerk. And I'm sorry, there
129. was something else that just occurred to me.
130. Well, do you want to tell me the name of the case
131. that you've already indicated to Mr. Comeau
132. you're going to be relying on, and maybe I can
133. read it in advance.
134. 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
28. you for your plea on the charge. So that's what
29. we would go through this afternoon.
30. MR. COMEAU: Okay.
31. THE COURT: All right? So, as I say, I
32. just don't want you to be taken aback or
33. wondering why are we doing this.
34. MR. COMEAU: Yeah.
35. THE COURT: All right. So we will
36. adjourn, then, to 2 o'clock this afternoon.
37. Hopefully, everything will be straightforward and
38. in order, and hopefully I'll be able to give you
39. a decision this afternoon. But, if -- if I have
40. to -- if I want to take overnight to think about
41. it or something like that, then that's what I'll
42. do if I think that's the right thing to do. But
43. we'll see after I've heard everything what
44. happens.
45. MR. COMEAU: Okay.
46. THE COURT: All right? So 2 o'clock this
47. afternoon, and we'll leave things. And now, I
48. understand, from what you said earlier,
49. Mr. Comeau, that you would want the Court to look
50. at this letter that the doctor gave you.
51. So, Ms. Boucher, I -- I don't know if
52. there's any issue about that from your
53. perspective.
54. 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.

# (ADJOURNMENT)

1. THE COURT CLERK: Order. All rise. Court is in
2. session. Please be seated.
3. THE COURT: All right. Good afternoon.
4. Ms. Boucher.
5. MS. BOUCHER: Yes, good afternoon,
6. Your Honour. The Crown has filed an Indictment,
7. in this file now, with one count alleging that
8. Mr. Comeau possessed cocaine for the purpose of
9. trafficking. And we provided a copy of the
10. Indictment to Mr. Comeau.
11. THE COURT: All right.
12. MS. BOUCHER: Under Section 561(1)(b) of the
13. *Code*, he can re-elect as of right within a
14. certain number of days of the preliminary
15. inquiry, and I think he's still within that
16. 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

1. was -- he was committed for trial.
2. THE COURT: Oh, I see. All right. Yes.
3. Ordered to stand trial July 10, 2018. So does
4. that mean he's still within the --
5. MS. BOUCHER: Right, because it's the 23rd
6. today, so he has 14 days to re-elect as of right.
7. THE COURT: Fourteen days from --
8. MS. BOUCHER: The day of the preliminary
9. inquiry.
10. THE COURT: Oh, all right. So -- yes.
11. All right. That's fine.
12. So, Madam Clerk, what I'll ask you to do,
13. then, is to take the re-election from Mr. Comeau.
14. And, just before she goes ahead and does
15. that, as far as you know, from what you've done,
16. is everything ready to proceed, then, this
17. afternoon?
18. MS. BOUCHER: To my understanding, yes.
19. THE COURT: All right.
20. All right. Mr. Comeau, I will ask you to
21. stand up. Now, you remember this morning, I
22. mentioned that the clerk will be asking you
23. whether you're re-electing from judge and jury to
24. judge alone. So that's the step we would take
25. now. And she will also -- she'll read the charge
26. to you, and she'll also ask you how you plead to
27. the charge, guilty or not guilty.
28. Now -- and I just want to ask you because
29. I -- I don't want things to get off track. Are
30. -- is it still your intention to plead guilty,
31. having thought, between this morning and now,
32. about the things that were discussed in court
33. this morning?
34. MR. COMEAU: I can say I am guilty, but I
35. want to plead insanity 'cause I'm not all there.
36. THE COURT: Well, there's -- I don't want
37. to go into too detailed of an explanation, but I
38. think, when you -- when you're talking about
39. pleading insanity, that is a plea that, nowadays,
40. is known by another term: not criminally
41. responsible. But that is a not guilty plea. And
42. that means there would still be a trial. So I
43. just want to make sure that -- that we know what
44. you're doing.
45. If you're pleading guilty, it means you're
46. admitting -- you're admitting that you did have
47. in your possession, for the purpose of
48. trafficking, cocaine, on November 6th, 2017.
49. 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
50. be discussion about what is the trial going to
51. look like.
52. I mean, you -- as I said this morning,
53. according to what's in the Court file, you
54. originally elected trial by judge and jury. And
55. so, if you're now saying -- if you're saying now
56. you don't want to plead guilty, then I don't
57. think we're going to change that today. You can
58. discuss that at the pretrial conference.
59. But I mean, quite frankly, it sounds to me
60. like you're really not sure what you want to do,
61. and that concerns me.
62. MR. COMEAU: I want to get it over with.
63. I'm just not the same person anymore since all
64. this happened. I'm still trying to get over what
65. happened to me while I was in there.
66. THE COURT: Well, I don't know. Is there
67. any chance -- have you been in touch with
68. Legal Aid at all?
69. MR. COMEAU: Yeah, I've called them a
70. couple times, and I had a few lawyers that I
71. never really got along with. And, you know, I
72. always used to think that it was better to
73. represent myself. But, in the long run, it's
74. really not, but I do want to get this over with
75. today and just -- you know, since I got this face
76. infection, I haven't been the same person, and it
77. bugs the hell out of me 'cause now, when I look
78. in the mirror, I can see it, and I was always one
79. of those look-good, feel-good type of guys. And
80. it just hit me so hard that I don't exercise him.
81. I don't have the ambition to clean myself,
82. barely. I don't even really want to get up to
83. eat sometimes. I just don't feel right at all
84. anymore. I barely ever call home to my family.
85. I used to call them pretty much every day.
86. THE COURT: But, Mr. Comeau, did I
87. understand, though, that this morning, you told
88. me you'd spoken to a doctor about that?
89. MR. COMEAU: Yeah.
90. THE COURT: And, I mean, those are things
91. that a doctor is obviously going to be a lot more
92. qualified than I am --
93. MR. COMEAU: Yeah, I know.
94. THE COURT: -- to help you with. But I
95. mean, I -- I need to know whether you want to go
96. ahead with a guilty plea today, whether you want
97. some more time to think about it. What -- I'm
98. not -- I don't want to pressure you. And I'm not
99. pressuring you into doing anything in particular.
100. But do you feel that you -- you need some more
101. time to think about it?
102. MR. COMEAU: No. I've been thinking about
103. it for seven months. I know I am guilty of
104. bringing that box up there and dropping it off,
105. and that's what I want to admit to today. I knew
106. there was something illegal in it; and, but --
107. THE COURT: Okay. But again, let's not
108. get into the specifics of that at this point. If
109. you're going to plead guilty to it, then
110. Ms. Boucher would present that Agreed Statement
111. of Facts that she showed you this morning. Those
112. would be the facts. You -- you would be able to
113. comment on the facts; but essentially, those
114. would be the facts that I would have to accept
115. for the purposes of deciding what your sentence
116. is.
117. But. To go back to what you initially said
118. when you stood up, I mean, that doesn't happen if
119. you are looking at pleading insanity. That's an
120. entirely different type of proceeding that would
121. involve a trial. And I don't know when the trial
122. would be. It's not going to be today. It
123. could -- it would probably be some months from
124. now.
125. So, Ms. Boucher?
126. MS. BOUCHER: Yes, I'll just note as well,
127. in terms of the psychological concerns or the
128. mental health concerns that Mr. Comeau is
129. raising, they relate to some of the events that
130. occurred in his pretrial incarceration. And
131. certainly, that's -- some of that's documented in
132. the letter that he filed and is a factor that can
133. be taken into account in the sentencing by -- by
134. Your Honour in the process, not that it impacts
135. whether or not he would be found guilty; but
136. perhaps, in terms of the sentence that
137. Your Honour imposes, it may or may not be
138. relevant there.
139. THE COURT: Yes. I mean, you -- you've
140. submitted the letter. The letter is something I
141. can take into account. I'm not going to decide
142. now to what extent I would take it into account
143. or what effect it might have. But it's -- as I
144. say, it's really something you have to decide,
145. whether you are going to go ahead with your --
146. with pleading guilty, or whether you want more
147. time to think about whether that is what you
148. really want to do.
149. MR. COMEAU: I want to plead guilty 'cause
150. it's just haunting me, you know?
151. THE COURT: It's just what?
152. MR. COMEAU: It's haunting me. I seen the
153. priest and I seen my case worker, and they said,
154. You got to let go. And I said, Yeah, I know I
155. got to let go of this and just move on; and you
156. know, they've been telling me that for months,
157. and I never listened. Then I kept getting
158. stressed out.
159. Then I got some cleaner on my face a few
160. days ago and burned my skin. First, I broke out
161. at first, and then I had to go to the hospital
162. the other day 'cause I got cleaner in my face.
163. And I was just making it that much worse for me.
164. And I just want to get healthy again, and, you
165. know, stop worrying about how I look or -- like,
166. my whole life was always about looks and, like,
167. looking good, and I had good looking girlfriends
168. and stuff. And now, this all happened to me, and
169. now, my life has changed.
170. I got a son out there. He's seven years
171. old. He starts school this year, and I want to
172. be able to be a father and change my life. And,
173. I've been in and out of jail since I've been

17 16 --

1. THE COURT: Okay. But, Mr. Comeau,
2. again --
3. MR. COMEAU: I'm 36 years old.
4. THE COURT: -- those are things that
5. you -- you can talk about on sentencing, but
6. they're not -- and I'm not minimizing them.
7. Obviously, these are things that are upsetting to
8. you.
9. But, in terms of whether you go ahead with a
10. guilty plea or not, there really isn't anything I
11. can do with that information.
12. And I just -- I don't want to put you in an
13. awkward position, Ms. Boucher. But are you --
14. from the contact you've had with Mr. Comeau,
15. today, are you satisfied that we can proceed with
16. anything today?
17. MS. BOUCHER: I've had no indication that
18. there's a problem in that regard. He's had
19. rational conversations with me and with the Court
20. on the record about his motivations for
21. proceeding and concluding the matter. So, if
22. he's prepared to enter the guilty plea,
23. certainly, the Crown would be prepared to file
24. the relevant materials and -- and proceed.
25. If he is not pleading voluntarily, then, of
26. course, no, we wouldn't be prepared to proceed.
27. THE COURT: All right.
28. All right. So, Mr. Comeau, I think it
29. really comes down to whether you're certain that
30. you want to proceed and with a guilty plea, I
31. mean, and -- and whether you are doing that of
32. your own free will and not under pressure from
33. anyone else. And, if you -- if -- if the
34. situation you're in right now is that you just
35. don't know, then maybe you need to think about it
36. for a few days now that it has kind of come down
37. to the wire in terms of you telling the Court
38. that that's what you want to do.
39. So, if you want a few days to think about
40. it, the Crown counsel, when we started off with
41. all this today, had been suggesting that the
42. matter go over to next week because the
43. prosecutor, who was normally in charge of this
44. case, was available next week.
45. MR. COMEAU: I want to get it over with
46. today.
47. THE COURT: And you -- you feel confident
48. that you are feeling well enough to go ahead with
49. it today?
50. MR. COMEAU: I guess, yeah.
51. THE COURT: You are?
52. MR. COMEAU: I feel like killing myself
53. every day. Like, I don't know. Will it be
54. better if -- will I get better if I put it behind
55. me? I hope so. I don't know. It's something I
56. got to work on. I got to work on myself.
57. THE COURT: Well, and -- and I guess
58. that's the -- what I'm asking you is, do you need
59. more time to do that before you take the very
60. serious step of pleading guilty, knowing that, if
61. you plead guilty, there is no trial and you are
62. going to be sentenced? So it's not a case of,
63. you know, thinking that somehow, you're --
64. you're -- you still have a chance of -- of not
65. being convicted. I mean, if you plead guilty,
66. the facts are before the Court and you're
67. convicted and you're sentenced.
68. MR. COMEAU: I don't think I stand a chance
69. at trial, and I already admitted to what I'm
70. guilty of, is dropping off that box in a hotel.
71. And that's what I'm guilty of, and I want to
72. plead guilty to it today.
73. THE COURT: So you --
74. MR. COMEAU: I want to get it over with.
75. THE COURT: So you want to go ahead today?
76. All right. Well, then that's fine. We will go
77. ahead with it today. And so the first thing the
78. clerk will do, as I mentioned to you before, is
79. she'll -- and this is something we need to have
80. so that the process is clear -- take what's
81. called the re-election from you; in other words,
82. ask you whether you're changing from judge and
83. jury to judge alone.
84. MR. COMEAU: Okay.
85. THE COURT: And then she'll ask for your
86. plea.
87. MR. COMEAU: Okay.
88. THE COURT CLERK: Shane Robert Comeau, you have
89. given notice stating that you wish to re-elect to
90. be tried by a judge without a jury. You have
91. been committed to stand trial on the following
92. charge: On or about the 6th day of November, in
93. the year of 2017, at the Town of Inuvik, in the
94. Northwest Territories, did possess a substance
95. included in Schedule I, to wit, cocaine for the
96. purpose of trafficking, contrary to Section 5(2)
97. of the *Controlled Drugs and Substances Act*.
98. You have given notice of your wish to
99. re-elect the mode of your trial. You now have
100. the option to do so. How do you wish to
101. re-elect? To be tried by a judge alone? Or a
102. jury trial?
103. MR. COMEAU: Judge alone.
104. THE COURT CLERK: Thank you. Having re-elected
105. to be tried by a judge without a jury, how do you
106. plead to the charge, guilty or not guilty?
107. MR. COMEAU: Guilty.
108. THE COURT CLERK: Thank you.
109. The accused pleads guilty, Your Honour.
110. THE COURT: All right. Thank you.
111. So Ms. Boucher will read the facts in. But
112. again, I just want to confirm you're -- you've
113. made this plea of guilt voluntarily; you
114. understand it means you're admitting the offence;
115. and that whatever sentence I impose is not, in
116. any way, restricted by anything that you and
117. Ms. Boucher may have discussed or by the
118. 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 |

1. the facts, and then I'll ask you whether you
2. agree with those facts.
3. Are you going to file the written Agreed
4. Statement of Facts? Is that your --
5. MS. BOUCHER: Yes. I have tendered a copy
6. of the Agreed Statement of Facts to the Court
7. this morning, right after the accused had signed
8. 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 the accused without the necessity of
5. calling evidence, pursuant to Section 655 of the *Criminal Code*: On

6 November 6, 2017, in Inuvik, Northwest Territories, the RCMP were

1. called to the Nova Inn after hotel employees discovered a box they
2. believed contained drugs.

Corporal Newman attended the Nova Inn

1. and met with Derek Pillay, the hotel manager. Derek Pillay stated that,
2. earlier that morning, he and his coworker, Kelly Harassy (phonetic),
3. observed Mr. Comeau in the main lobby carrying a cardboard box and talking
4. on his cell phone.

After a short time, Mr. Comeau set

1. the box down on a table in the main lobby and exited into a taxi. After
2. Mr. Comeau left the hotel,

Mr. Pillay, Ms. Harassy, and two

1. other bystanders, Ralph Steinwall (phonetic) and Vincent Sharpe, opened
2. the box.

The box contained a paper bag that

1. contained 15 unlabeled pill bottles and a 10-inch Stanley wrench. The
2. pill bottles appeared to contain 584 prepackaged doses of a white powder,
3. which was later identified by a Health Canada analyst as cocaine.
4. Upon discovering the contents of the box, the Inuvik RCMP were immediately
5. called, attended the scene; and seized the box and its contents.
6. Mr. Comeau is known to Mr. Pillay from having dealt with him several
7. times on previous occasions when Mr. Comeau stayed at the Nova Inn.
8. Mr. Harassy does not know Mr. Comeau personally -- Ms. Harassy, rather --
9. but she correctly identified him later on November 6, 2017, from an
10. appropriately constituted photograph lineup that was prepared and
11. administered by the RCMP members who were not directly involved in the
    1. investigation.

Mr. Comeau was arrested on December

* 1. 13, 2017, in Norman Wells, where he was located on a flight bound for
  2. Inuvik.

An iPhone was seized from Mr.

* 1. Comeau's person at that time. The total quantity of the drugs,
  2. inclusive of the packaging, was approximately 286 grams or 10 ounces.
  3. This quantity of cocaine, if sold in -- in the individual doses that
  4. they were wrapped in as full grams,

60 to 100 dollars per dose, would

* 1. have an approximate street value in Inuvik of $35,040 to $48,400.
  2. If the drugs were sold as half-grams, the street value would be $23,360 --
  3. $23,360 to $35,040. It is a quantity of product that would typically only
  4. be entrusted to a courier with previous affiliation with a supplier
  5. and who had earned their trust.

Mr. Comeau had been paid $100 from a

* 1. friend to bring the box to Inuvik, and he willingly did so. He was not
  2. pressured or coerced in any way. He knew the box likely contained illicit
  3. drugs destined for sale in Inuvik, but deliberately chose not to make
  4. further inquiries of his friend, who gave him the box, or anyone else.
  5. Mr. Comeau admits the iPhone is offence-related property pursuant to
  6. Section 16 of the *Controlled Drugs and Substances Act*.
  7. And then the statement is
  8. signed by both me, for the -- for the prosecution
  9. service, and by Mr. Comeau.
  10. THE COURT: All right. Thank you.
  11. And, Mr. Comeau, then, I see that you've
  12. signed this document, and so, then, I understand
  13. and I'm just going to ask you to confirm that you
  14. admit the facts that Ms. Boucher has just read.
  15. 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 illicit drugs destined for sale in
      7. 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. |

1. On sentence -- there will be a conviction.
2. And on sentence?
3. MS. BOUCHER: Yes, just -- just to confirm,
4. Your Honour, in the 606 inquiry that Your Honour
5. did just prior to taking the plea, I think
6. Your Honour outlined that -- the nature and
7. consequences of a guilty plea versus a not guilty
8. plea. I think -- I'm not sure if that was part
9. of the recitation that Your Honour went through;
10. but, I think, from the context, it's obvious that
11. that's what we're doing.
12. THE COURT: That we're proceeding with
13. conviction and sentencing.
14. Yes, you understand that, Mr. Comeau,
15. correct?
16. MR. COMEAU: Yeah.
17. THE COURT: Yes? Again, you'll have to
18. speak out loud because the tape can't --
19. MR. COMEAU: Yes.
20. THE COURT: You do?
21. MR. COMEAU: Yeah.
22. THE COURT: All right. Thank you.
23. MS. BOUCHER: And so earlier, I had informed
24. the Court and Mr. Comeau that I would be filing a
25. copy of the -- his criminal record as well, and I
26. gave him a copy. And this is a copy for the
27. judge.
28. THE COURT: All right. So the Agreed
29. Statement of Facts, we'll mark as Exhibit S-1.
30. THE COURT CLERK: Thank you.

# EXHIBIT S-1: AGREED STATEMENT OF FACTS

1. THE COURT: And the criminal record,
2. Mr. Comeau, can you just confirm that the
3. criminal record that Ms. Boucher has showed you
4. and that she is now about to give me is in fact
5. your criminal record?
6. MR. COMEAU: Yes, Ma'am.
7. THE COURT: All right. Thank you.
8. THE COURT CLERK: Thank you.
9. THE COURT: And again, because we don't
10. have a court reporter, we just have the tape, I'm
11. just a bit concerned that -- that your voice be
12. picked up by the tape.
13. MR. COMEAU: Okay.
14. THE COURT: So, when you do speak, I'm
15. going to ask you to stand up --
16. MR. COMEAU: Okay.
17. THE COURT: -- because I think the glass

15 may muffle --

1. MR. COMEAU: Okay.
2. THE COURT: -- what you're saying.
3. MR. COMEAU: All right.
4. THE COURT: All right. Thank you. All
5. right. So the record will be Exhibit S-2.

# EXHIBIT S-2: CRIMINAL RECORD OF SHANE COMEAU

1. THE COURT: And so Ms. Boucher will tell
2. me what she says the sentence should be. I'm
3. going to ask to you listen very carefully to her.
4. When she's finished, then you'll have a chance to
5. respond to the things she said and to tell me
6. what you say the sentence should be, tell me a
7. bit about your background; and, if you wish to
8. comment on the circumstances of the offence, you
9. will be able to do that as well. So I'm going to
10. ask you to sit down while -- while Ms. Boucher is
11. speaking, and --
12. MR. COMEAU: Okay.
13. THE COURT: -- but, as I say, listen,
14. because, if she says something and you want to
15. respond to it, you're going to have to wait till
16. she's finished to do that.
17. MR. COMEAU: Okay.
18. MS. BOUCHER: Thank you. I'll just note,
19. for Your Honour as well, in terms of the criminal
20. record, there are two particularly relevant
21. convictions for Your Honour's consideration in
22. his background. There are two different
23. convictions for possession of Schedule I
24. substances for the purpose of trafficking: one
25. from 2013, where he received a fine of $1,000;
26. and one from 2015, where he received a 22-month
27. sentence. And, with that second conviction,
28. there was also a possession charge going along
29. with that.
30. The criminal record, as well, contains
31. numerous property offences and administration of
32. justice offences over the time period in the
33. 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
34. the prior drug offences.
35. THE COURT: All right.
36. MS. BOUCHER: The -- the other matter that I
37. drew to the Court's attention this morning and to
38. Mr. Comeau's attention is the *Mohammed* case from
39. the Northwest Territories Supreme Court from
40. 2015, Judgment Number 38. That was a decision of
41. Justice Charbonneau. And, in that case, the
42. Court adopts, as a sentencing range, for
43. commercial trafficking of cocaine, so commercial
44. possession for the purpose of trafficking
45. cocaine, in more than minimal amounts at a -- at
46. a starting point of three years, which starting
47. point can move up or down based on the
48. aggravating and mitigating factors in the given
49. case.
50. In *Mohammed*'s case, he was in possession of
51. 55 grams of cocaine as well as $12,000 in cash.
52. And he was a youthful offender. And there was no
53. record outlined for prior substance offences.
54. Here, I would point out that there's a
55. significantly larger amount of drugs involved,
56. 286 grams, as compared to 55 grams in the other
57. case. It's -- these are amounts that are
58. commercial in nature; and, as the Agreed
59. Statement of Facts outlined implies, that he was
60. at least a trusted courier with a value between
61. $35,000 and $58,000 for the value of the drugs
62. depending on how they were ultimately
63. distributed.
64. The nature of the substance is also
65. aggravating in itself. It's -- cocaine is a
66. highly addictive, dangerous and destructive
67. substance in our communities. In -- in the
68. *Mohammed* decision, at approximately pages 4
69. through 5, Justice Charbonneau details the -- the
70. aggravating nature of the substance and the
71. impact on the communities, noting as well that
72. the Northwest Territories is a tempting market in
73. which to traffic and that the Courts need to send
74. a clear message to denounce the conduct no matter
75. the circumstances and denotes that denunciation
76. and deterrence are paramount sentencing
77. consideration [sic] in these cases.
78. So the factors regarding the amount of drugs
79. and it's -- and the value, in addition to
80. Mr. Comeau's prior record, are the -- the primary
81. aggravating factors that the Court should
82. consider in the sentence.
83. In terms of mitigating factors for
84. Mr. Comeau, I'm sure that he will outline the
85. rest of his personal circumstances for
86. Your Honour's consideration. The primary
87. mitigating factor that the Court should consider
88. is the guilty plea, and that is -- that entitles
89. him to significant mitigating treatment by the
90. Court; although I'll note that, in *Mohammed*, that
91. was also a guilty plea with the three-year
92. starting point.
93. Mr. Comeau's mental health concerns are also
94. something that Your Honour could consider in
95. terms of the sentence imposed. These are
96. concerns that primarily seem to arise in the
97. context of his pretrial incarceration. He is
98. getting some treatment for those issues right
99. now.
100. In terms of what impact it should have on
101. the sentence, I would suggest perhaps that it has
102. made his pretrial incarceration probably more
103. difficult than for other people. But he has been
104. receiving treatment for -- for these issues
105. throughout his stay, and so has been well cared
106. for in that regard.
107. But what I would suggest is that it is not
108. established on the evidence that the mental
109. health concerns had any impact on the commission
110. of the offence. And that is something that's not
111. proven, but it's something Your Honour can take
112. into account in terms of how this sentence will
113. impact him as he serves the rest of his time
114. 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
115. he has two prior offences. He would have -- he
116. would have qualified for the lifetime had -- had
117. the notice been filed. So something even in the
118. 15 or 20-year range wouldn't be inappropriate in
119. the circumstances.
120. He -- an order -- a DNA order should also
121. follow in the circumstances. It's a secondary
122. offence and so discretionary, but it is a
123. noninvasive procedure, and he has an extensive
124. criminal record. It would be -- it would be
125. appropriate in the circumstances, especially
126. given the seriousness of the offence. And a
127. victim of crime surcharge flows automatically as
128. well.
129. THE COURT: And that surcharge is $200, is
130. it?
131. THE COURT CLERK: Yes, Your Honour.
132. MS. BOUCHER: So -- yes. There should also
133. be a forfeiture order for the -- for the iPhone
134. in accordance with the Agreed Statement of Facts
135. because he's admitted that it's offence-related
136. property. Subject to questions, those are my
137. submissions.
138. THE COURT: All right. Thank you.
139. All right. Mr. Comeau, then, you can
140. respond to what Ms. Boucher has said. And you
141. can -- I'm going to suggest that you tell me
142. something about your background so that I have an
143. idea of your past history. And I don't think we
144. marked the letter from the doctor as an exhibit;
145. but I take it, from what I understand from what
146. you had said this morning, I'm assuming that you
147. want me to -- or you're going to be asking me to
148. take into consideration what the doctor has said
149. in the letter.
150. MR. COMEAU: Yeah.
151. THE COURT: All right. So we'll mark that
152. as -- that would be S-3, then.
153. THE COURT CLERK: Thank you, Your Honour.

# EXHIBIT S-3: LETTER FROM THE DOCTOR

1. THE COURT: All right. So just take your
2. time and --
3. MR. COMEAU: I don't know if I want to go
4. through with this. My anxiety is just going
5. right up. Like, I'm really scared. I don't want
6. to go down South. I just want to do my time up
7. here. You know, I got used to being on a unit
8. with 12 guys. I am on a mental health unit right
9. now. There's only 12 of us on there. I've been
10. there for seven months. I'm not used to being
11. around a lot of people. I got this skin
12. condition while I was in there.
13. I grew up in Nova Scotia. I grew up poor,
14. never had much money growing up, grew up in a
15. low-income area. My dad made me come out here
16. when I was 19 to start working, got a job as a
17. landscaper, was landscaping for a long time.
18. THE COURT: Can I just ask you, when you
19. say -- I think I heard -- you said my -- your dad
20. made you come out here. Do you mean to the
21. Northwest Territories?
22. MR. COMEAU: No, into Alberta.
23. THE COURT: To Alberta. All right. Thank
24. you.
25. MR. COMEAU: Yeah. And I was working --
26. working in Alberta for a while.
27. THE COURT: How old are you now?
28. MR. COMEAU: Almost 37. And I got a kid.
29. He's seven years old, and I really want to be
30. there for him. I just want to stop thinking
31. about killing myself every day because of the way
32. I look in the mirror, changed me so much since I
33. come in this time. I used to always be happy and
34. a funny guy, and now, I just -- I don't know what
35. to do.
36. I'm really scared. I don't want to go down
37. South. I was hoping to go get a sentence for
38. two-and-a-half years or 30 months so I could get
39. credited and not be able to have to go down
40. there, do my time up here.
41. 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,
42. and my parents are okay. I grew up poor still,
43. but my -- all my brothers never ended up in jail.
44. It was only me. I got three other brothers. I'm
45. the only one that ever got in trouble.
46. And I'd like to say I'm sorry, apologize
47. for -- for what I left on the desk there. I
48. didn't know what was exactly in there. I
49. wouldn't have just left it like that. And, if
50. the drugs were mine, I probably would have had to
51. pay a lawyer here today to stick up for me
52. instead of talking for myself.
53. You know, the drugs didn't belong to me.
54. They were somebody else's that paid me to bring
55. them there. And, you know, I just -- I just wish
56. I wouldn't have made the stupid decision to do
57. that. It's probably the dumbest decision I ever
58. made in my life. And I don't know why I keep
59. getting into trouble. I guess it's 'cause I have
60. a bipolar disorder. I didn't even know I had it
61. until now. I wish I would have known this a long
62. time ago. It helps when I talk to the
63. psychiatrist 'cause I can open up to them and
64. tell them how I'm feeling.
65. I just hope you take into consideration
66. today what I told you. And, you know,
67. two-and-a-half years, 30 months or something like
68. a little bit better would make me feel a lot
69. better. But I know, at the end of the day, it's
70. your decision on what you give me. I want to
71. apologize to you for keeping you here all day
72. till 3 o'clock to sentence me in the Court.
73. I really just want to move on with my life,
74. but I got to stop thinking about killing myself
75. all the time. I don't want to hang myself or cut
76. my wrists or anything like that. The way I think
77. about it is the best way is just blowing my
78. brains out. Die -- why die slow when you can
79. just do that?
80. Sometimes, I think every day, like, when I
81. get out of jail, I'm just going to shoot myself
82. in the head, get it over with 'cause I'm just
83. living in misery now. And I really don't know
84. what to do with myself right now. I'm a mess.
85. I've never been this way in my life until I come
86. into this jail. I was always a happy-go-lucky
87. guy, and now, I'm down and I hit rock bottom and
88. I don't know what to do. I don't know how to
89. bring myself back up, and it bugs me every day.
90. The first thing I do every day is wake up,
91. and I run to the mirror to see if I healed
92. better. But it's not healing, and it's as good
93. as it's going to heal, and I really don't know
94. what to do. I barely ever talk to anybody. I
95. pace around. I'm off balance. I don't clean
96. myself. I barely can do my laundry, and I've
97. been sitting in med-holding for the last month
98. 'cause I just want to be myself thinking my face
99. will heal better. I'm just a mess right now.
100. I really don't know what to do with myself,
101. and I just hope that whatever decision is made
102. today is the right one for me, and then I can get
103. some help and look forward to a release date,
104. maybe get out there and, like, start being a dad
105. to my son instead of getting in trouble and being
106. a low life.
107. I really don't know what to do, and, like, I
108. don't even feel -- I do not even feel right
109. pleading guilty, but I know that representing
110. myself, there's nothing I can do. Those two
111. people seen me put the box there. Can they prove
112. that I knew what was in the box? Not really, but
113. this is the NWT, and they see things their own
114. way.
115. I took it to prelim, and the witnesses
116. showed up and they said they seen me leave the
117. box on the desk. And, if I would have known what
118. was in that box, I wouldn't have just left it
119. there like that. And, if the drugs were mine,
120. like I said, I would have had a paid lawyer to
121. represent me and probably would have been out by
122. 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
123. beginning is the one that wanted to take it to
124. pretrial. His name was Peter Harte. And then he
125. tried to convince me to plead guilty 'cause the
126. two witnesses seen me leave the box on the table.
127. And I said, No. I said I didn't know what was in
128. the box. I said, I want to plead not guilty.
129. And then he quit on me.
130. And then I had another lawyer. Before my
131. pretrial, he wanted to -- he tried to get me to
132. take three years, and I didn't agree with it; so
133. he quit on me. And then I couldn't get any more
134. Legal Aid lawyers; and now, I'm here representing
135. myself, which isn't the smartest thing in the
136. word 'cause I'm not the sharpest knife in the
137. drawer.
138. You know, I have a learning disability,
139. dyslexia. I was always in slow classes growing
140. up. And you know, I really don't know what else
141. to say, Your Honour. I'm just lost.
142. THE COURT: All right. All right. Thank
143. you. I am going to take a few minutes just to
144. gather my thoughts, so we'll adjourn briefly.
145. But I just want to make sure, Ms. Boucher,
146. you are suggesting that -- you're suggesting the
147. proper sentence, in this case, would be
148. three-and-a-half years with the remand time
149. 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.

# (ADJOURNMENT)

* 1. THE COURT CLERK: Order. All rise. Court is in
  2. session. Please be seated.
  3. THE COURT: All right. I will just ask
  4. you to bear with me. I have put together some
  5. notes, and I think they will help me cover
  6. everything I wish to say.
  7. So Shane Robert Comeau has pleaded guilty
  8. today and is now convicted of a charge under
  9. Section 5(2) of the *Controlled Drugs and*
  10. *Substances Act* and specifically possession of
  11. cocaine for the purpose of trafficking.
  12. The facts are set out in the Agreed
  13. Statement of Facts and admissions that were filed
  14. 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

1. witnesses in the lobby of a hotel in Inuvik
2. carrying a cardboard box. He set it down on a
3. table and left it, and he left in a taxi, leaving
4. the box behind. The box was discovered; and,
5. when it was opened, it was discovered to contain
6. drugs, and they were ultimately analyzed. And
7. what was in the box was 286 grams of cocaine
8. packaged in grams with an approximate street
9. value in Inuvik of $35,040 to $58,400. If sold
10. in half-gram packages, the street value,
11. according to the Agreed Statement of Facts, would
12. be $23,360 to $35,040. And the Agreed Statement
13. of Facts indicates that this quantity suggests
14. that only a trusted courier would be given a box
15. 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
16. Centre.
17. There was submitted, for purposes of the
18. sentencing, a letter from Dr. Hutchings, which is
19. Exhibit S-3, and she describes Mr. Comeau as
20. distressed, depressed, and says that he may have
21. psychotic features or a bipolar disorder. He is
22. on medication, which Dr. Hutchings started him on
23. for these issues, and he saw a psychiatrist in
24. May. So it seems that he is getting attention,
25. from medical staff at the correctional centre,
26. for these issues; and hopefully this will help
27. him with those concerns and with the stress and
28. uncertainty associated with these proceedings,
29. which, now that he will know his sentence and can
30. find out his release date, can no longer be said
31. to be uncertain.
32. Mr. Comeau's criminal record is significant.
33. It begins in 1998, when he was a youth. He has a
34. number of convictions for a variety of offences
35. in various jurisdictions in Canada. Most
36. significant, for purposes of today's sentencing,
37. is a conviction for possession for the purposes
38. of trafficking for which he was sentenced to
39. 22 months in jail and for which he had seven
40. months presentence custody, and that was in 2015
41. in Saskatchewan. And, at that time, he also had
42. 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
43. are like vultures or predators who are preying upon those weak members
44. of the community who are addicted to this drug.
45. And whatever Mr. Comeau's own
46. drug issues may be, he is certainly playing a
47. role in making sure and encouraging other people
48. to prey on others who are addicted.
49. It has been noted, in many cases, that
50. cocaine has had a devastating effect on
51. Yellowknife and other communities in the
52. Northwest Territories. There are many people, a
53. lot of whom come before this Court, whose lives
54. have been very negatively affected because of
55. violence, property crime, child neglect, and
56. other circumstances that are the result of their
57. own or someone else's cocaine use.
58. The fact that possession for the purpose of
59. trafficking is treated as a very serious offence,
60. in the case of cocaine, which is a Schedule I
61. drug, is reflected by the maximum punishment
62. available, which is life in prison.
63. In this case, the aggravating and mitigating
64. factors, I think, are quite straightforward. The
65. aggravating factors are the quantity.
66. Mr. Comeau, because of his record, clearly has
67. not distanced himself from criminal activity, so
68. that has to be considered.
69. 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,
70. views the North as a good place to traffic in
71. drugs and gives into that temptation.
72. So, in this case, the quantity obviously is
73. quite a bit more than in the *Mohammed* case.
74. Mr. Comeau cannot claim to be youthful, as the
75. accused in the *Mohammed* case did; and he cannot
76. claim to have a background that is not marked by
77. criminal activity.
78. I do take into account that Mr. Comeau was
79. not making a lot of money from this. He -- and I
80. just want to check again the amount -- he was
81. paid a hundred dollars to bring the box. He
82. obviously was not high up in the chain of drug
83. activity; but nevertheless, he played a part.
84. As I have said, the remand time is something
85. over seven months. I will credit it as at 1.5,
86. and ultimately, give him credit of 11 months for
87. the remand time.
88. Taking into consideration the facts of the
89. case, the guilty plea, and Mr. Comeau's record,
90. and all the other circumstances, in my view, an
91. appropriate sentence, before credit for the
92. remand time, would be 40 months in jail; so, with
93. the remand time credited, the sentence today is
94. 29 months in jail.
95. There will be an order that Mr. Comeau give
96. a sample of his DNA. That is a mandatory
97. order -- or it is not mandatory; it is
98. discretionary, but he did not raise any issues
99. about it, and I am satisfied that it would be
100. minimally intrusive.
101. As far as the firearm prohibition order,
102. under Section 109 of the *Criminal Code*, since
103. this is -- even though he has a previous order,
104. this offence did not involve firearms or violence
105. of any kind at all or threat of violence; I am
106. going to make the order a ten-year order, so it
107. will commence today, and it will expire ten years
108. after Mr. Comeau's release from imprisonment.
109. And there will also be the victim surcharge

14 of $200.

1. So you understand all that, Mr. Comeau?
2. MR. COMEAU: Yeah, I'm just so worried. I
3. don't want to go down there.
4. THE COURT: Well, you can make your pitch
5. to the correctional authorities here. I do not
6. have any control over that; but, in any event --
7. MR. COMEAU: I wish I never did this today.
8. THE COURT: In any event, I want to thank
9. you both for your submissions today and to thank
10. you, Ms. Boucher, for -- I know you probably had
11. to do quite a bit of running around. And so we
12. will close court.
13. 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.

# 27 -----------------------------------------------------

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 produced and
4. transcribed from audio recording to
5. the best of my skill and ability.
6. Dated at the City of Edmonton, Province of
7. Alberta, this 9th day of August, 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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