

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

PATRICK JR ADZIN

Transcript of the Reasons for Sentence delivered by The Honourable Justice L.A. Charbonneau, sitting in Yellowknife, in the Northwest Territories, on the 12th day of March, 2019.

APPEARANCES:

Mr. J. Potter: Counsel for the Crown
Mr. J. Bran: Counsel for the Accused

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

1 THE COURT: Patrick Jr. Adzin has pleaded
2 guilty to possession of cocaine for the purpose
3 of trafficking, and this afternoon, it is my
4 responsibility to sentence him for that offence.
5 Mr. Adzin was charged following an investigation
6 by the Behchoko RCMP that lasted several months.
7 He was suspected of drug trafficking, and police
8 took various steps to investigate this. The
9 investigation started during the summer of 2017
10 and progressed during the following months. It
11 included police surveillance of residences and
12 people associated with Mr. Adzin. Police also
13 obtained judicial authorizations to track his
14 movements. Eventually, after surveillance that
15 included following a truck from Behchoko to
16 Dettah and then going back in the direction of
17 Behchoko, that truck was intercepted. Mr. Adzin
18 was a passenger.

19 He was found in possession of 51 grams of
20 crack cocaine and a few grams of powder cocaine.
21 He also had a hundred and forty dollars in cash
22 on him. The next day, he gave a statement to the
23 RCMP where he admitted that the crack cocaine was
24 in his possession for the purpose of trafficking.
25 The powder cocaine that was in his possession was
26 for his personal use.

27 He admitted to police he had been selling

1 crack cocaine in his community. He said that he
2 never sold any drugs that were contaminated with
3 fentanyl. There is no evidence suggesting that
4 he ever sold any drugs contaminated with
5 fentanyl.

6 The street value of the crack cocaine,
7 assuming it would have been sold in individual
8 doses of .3 to .5 grams, is between \$8,160 and
9 \$12,200. That method of selling was the standard
10 method of selling crack cocaine at the relevant
11 time.

12 This matter was scheduled to proceed to a
13 preliminary hearing, but Mr. Adzin ultimately
14 consented to his committal without any evidence
15 needing to be called.

16 He has a criminal record. It is not a
17 particularly extensive record, but it is not a
18 minor record either. There are convictions for
19 crimes of violence, uttering threats, possession
20 of weapon, and breaches of court orders. He has
21 been sentenced to jail before including a term of
22 some nine months imprisonment back in August
23 2011. The last entry on his record is from
24 September 2011, so there is a bit of a gap
25 between the last conviction and the offence that
26 I have to sentence him for today. There are no
27 drug-related convictions on his criminal record.

1 The Crown seeks a jail term in the range of
2 18 to 22 months. Defence counsel agrees with
3 that range and asks that the Court impose a
4 sentence at its lower end.

5 Mr. Adzin is 29 years old. He is Tlicho. I
6 have the benefit of a thorough Presentence Report
7 that gives me a lot of information about his
8 circumstances including his circumstances as an
9 Indigenous offender. The fact that Mr. Adzin is
10 an Indigenous offender alters the legal framework
11 that applies on sentencing. The usual sentencing
12 principles all apply, but sentencing must be
13 approached through a different lens. That lens
14 requires taking into account the systemic factors
15 that have had an impact on Indigenous people in
16 this country generally as well as specific
17 circumstances that Mr. Adzin himself has faced.
18 I am required to approach sentencing and the
19 sentencing tools available to me in light of
20 those circumstances. And if I conclude that a
21 jail term is required, I must consider whether
22 something less than what might otherwise be
23 imposed is appropriate given his circumstances
24 and the systemic factors that I have referred to.

25 Restraint is always an important sentencing
26 principle, but the *Criminal Code*, as interpreted
27 by the Supreme Court of Canada, makes that

1 principle especially important when dealing with
2 Indigenous offenders.

3 Without going into all the details of the
4 Presentence Report, I agree with counsel that it
5 does provide important and relevant information
6 about Mr. Adzin's circumstances as an Indigenous
7 offender. I will not refer to everything that is
8 in the report, but I want to touch on a few
9 points.

10 The first is that both his parents attended
11 residential school. Up until Mr. Adzin was
12 9 years old, they were both heavy drinkers. That
13 is not uncommon. For many people, attendance at
14 residential school is associated with traumatic
15 experiences. This often leads to personal
16 distress and addictions, and that, in turn, often
17 leads to dysfunction that perpetuates trauma for
18 the next generation. It is a terrible cycle that
19 we often hear about in courtrooms in this
20 jurisdiction. We must be cognizant of it and
21 attempt to address and recognize this reality in
22 sentencing decisions. The problem, of course, is
23 that the Court only has limited tools at its
24 disposal to do so.

25 It goes without saying that, if a child
26 grows up for almost the first decade of his or
27 her life in an environment where there is alcohol

1 abuse, this will have an impact on that child. I
2 do not doubt it had an impact on Mr. Adzin even
3 though his memory of those years is somewhat
4 limited. To their credit, his parents have been
5 able to address their addiction issue and now
6 live a sober lifestyle. Hopefully, in that
7 sense, they can inspire others to take the same
8 path, including their son.

9 I read, in the Presentence Report, that
10 Mr. Adzin was very close to his grandparents. He
11 spent a lot of time with them and acquired
12 traditional knowledge from them. He spent time
13 on the land with them. He learned good values
14 from them, in particular from his grandmother.
15 In recent years, he has had to cope with the loss
16 of his grandparents. Not surprisingly, this has
17 been difficult for him.

18 I found it interesting to note that,
19 according to the Presentence Report, while he
20 used to participate in community activities such
21 as gatherings and drum dances when he was
22 younger, Mr. Adzin now feels somewhat
23 disconnected from his community and no longer
24 participates in those kinds of events. I do not
25 know if there is any connection between that and
26 the death of his grandparents and the grief and
27 sorrow that he has experienced as a result, but I

1 suggest that it might be helpful for Mr. Adzin to
2 try to reconnect with those parts of himself that
3 he associates with his grandparents because that
4 might be something that would help him stay out
5 of trouble in the future.

6 Members of his family continue to go out on
7 the land and carry out traditional activities,
8 and he can continue that tradition if he chooses
9 to. He was taught those skills by his
10 grandparents, and one way to honour their memory
11 would be to continue to put those skills to good
12 use.

13 Although this family has had its fair share
14 of struggles and some members of that family have
15 ongoing health issues, they are supportive.
16 Members of his family were here yesterday and are
17 here again today. Mr. Adzin is very fortunate to
18 have support from his family. Many people I have
19 had to sentence have faced court proceedings
20 completely alone. I hope that, when he is
21 released, Mr. Adzin will get some strength from
22 that support, from constructive activities on the
23 land, that he will remember the lessons and
24 values that he learned from his grandparents, and
25 will make a point of contributing to making
26 Behchoko a better place as opposed to making it a
27 worse place by selling dangerous drugs to people.

1 But for that to happen, he will have to address
2 his own addiction issues.

3 I have to say that one of the areas that I
4 find of considerable concern and troubles me,
5 from the Presentence Report, is that Mr. Adzin
6 does not seem to fully appreciate, or at least
7 did not at the time he was interviewed, that he
8 has an issue with alcohol and with substance
9 abuse generally. I am not sentencing him today
10 for a crime directly related to the consumption
11 of alcohol, but I am troubled by this aspect of
12 the report because it gives me concern about his
13 level of insight.

14 For example, the report says that Mr. Adzin
15 reports binge drinking from time to time to the
16 point of blacking out; that when he blacks out,
17 he becomes angry and conflict arises; that he
18 does not believe he has an issue with alcohol but
19 is willing to attend treatment and counselling if
20 ordered by the Court.

21 Binge drinking, blacking out, getting mad,
22 and assaulting people is a clear indication to me
23 that there is, in fact, a serious issue there.
24 Many people drink and do not get into trouble and
25 do not become violent. If a person drinks to the
26 point of blacking out and, in that state, gets
27 angry, that is a sure sign that the alcohol is

1 being used to mask other problems, anger, pain,
2 and that once intoxicated, that anger and that
3 pain comes crashing out. I am no expert in this
4 area, but it is not very hard to figure out. We
5 see it in the criminal courts all the time.

6 Although I was not specifically told, I
7 suspect that the crimes of violence that
8 Mr. Adzin was convicted for arose from situations
9 when he was intoxicated. As for substance abuse,
10 it should be obvious to him that, if he was
11 prepared to sell hard drugs in his own community
12 and cause this much harm to others to feed his
13 habit, then there very much is a problem there
14 that needs to be addressed. Those are things
15 that Mr. Adzin will have to address if he is to
16 have a bright future. The Court cannot force him
17 to address those issues. He has to want to do
18 that himself, for himself, for his family, and
19 for his community. That needs to be at the heart
20 of his motivation, not the fact that the Court
21 has ordered it.

22 From everything I have read about Mr. Adzin
23 and what I heard from his counsel, he has a lot
24 of valuable traditional skills and knowledge that
25 were passed on to him by his grandparents and his
26 family. He can help keep those practices and
27 skills alive. He could teach others. He has a

1 lot to contribute if he wants to.

2 No one is suggesting that a sentence other
3 than jail can be imposed today, and that is
4 because, among other reasons, sentencing is not
5 just about the offender before the Court.
6 Sentencing today is not just about Mr. Adzin,
7 although it is obviously about him. It is also
8 about sending a strong, clear message to anyone
9 who is tempted to make money by selling drugs,
10 especially hard drugs.

11 There are many cases from this Court,
12 unfortunately, that talk about the harm that
13 drugs cause in our communities. *R v Mohammed*,
14 2015 NWTSC 38, referred to by counsel, is just
15 one example of such a case. Mr. Mohammed was a
16 young man. He pleaded guilty to a similar charge
17 to the one that Mr. Adzin pleaded guilty to. He
18 was found in possession of 55 grams of
19 crack cocaine and over \$12,000 in cash. He also
20 pleaded guilty to a charge of breach of
21 recognizance. Mr. Mohammed had not done well at
22 all on bail. His reporting was sporadic and, at
23 one point, ceased completely.

24 In that case, the Crown and Defence had
25 presented a joint submission that a range of
26 two-and-a-half to three years' imprisonment would
27 be appropriate. I decided, in the end, that a

1 sentence of 32 months was appropriate minus the
2 credit to be given for remand time.

3 The range that is being proposed in this
4 case is quite a bit lower than that, although the
5 quantity of drugs seized is comparable. Of
6 course, each case is different and must be
7 decided on its own facts.

8 Sentencing is a highly discretionary
9 fact-driven exercise, but some of the governing
10 principles that applied in *Mohammed* apply in this
11 case. In particular, the need for deterrence and
12 denunciation, when dealing with trafficking in
13 hard drugs, is present in this case as much as it
14 was in *Mohammed*. In that case, I talked about
15 the harm that trafficking in these drugs does to
16 our communities. As I said, there are,
17 unfortunately, many other cases where this Court
18 has had to say the same things. But it bears
19 repeating, and I am going to read from what I
20 said in *Mohammed* at paragraphs 10 to 12:

21 The North is a very tempting market
22 for drug traffickers, and judging by
23 the number of drug cases that have
24 been heard by the Territorial Court
25 and this court over the last few
26 decades, it is apparent that there
27 continues to be a need to impose
sentences that denounce this conduct
and send a clear message that when
people do get caught, they will face
stern sentences no matter how young
they are or no matter how good their
background might otherwise be.
Sadly, there are quite a few young

1 people in the Northwest Territories
2 who have learned that lesson the hard
way.

3 The reason why courts have to be
4 firm in their sentencing practices is
5 very simple and was referred to this
6 morning. Cocaine causes ravages and
7 devastation in our communities.
8 Yellowknife has seen its fair share
9 of the collateral damage that crack
10 cocaine has caused. The people who
11 become addicted to this drug harm
12 themselves of course. They sometimes
13 lose everything to it, their
14 families, their work, and their
15 health, but they also often harm
others. Houses get broken into,
people commit robberies, sometimes on
the street in broad daylight or in
small convenience stores or gas
stations to get money to buy more
drugs, or they break into homes and
steal property. And they steal, in
addition to property, the occupants'
sense of safety in their own home,
sometimes for a very long time. Some
addicts get to the point of being so
dysfunctional that they neglect their
own children.

16 We do not just hear about
17 cocaine in the criminal courts. We
18 hear about cocaine in family court
frequently, and the Territorial Court
hears about it in child welfare court
frequently.

19 *Mohammed* was a case that arose in Yellowknife. I
20 have no doubt at all that these kinds of impacts
21 are also felt in Behchoko when people consume
22 this drug.

23 Trafficking in hard drugs does real damage.
24 It aggravates the problem that people in our
25 communities are already struggling with including
26 intergenerational trauma. It feeds a destructive
27 cycle of misery, as the Crown put it in

1 submissions. It takes money away from families,
2 money that should be used to look after
3 childrens' needs and the needs of others in the
4 community. It leads to the commission of crimes;
5 it leads to desperation, and it can lead to
6 death.

7 Several decades ago, the Alberta Court of
8 Appeal set a starting point of three years'
9 imprisonment for trafficking in cocaine at a more
10 than minimal scale. That standard has been
11 adopted in this jurisdiction and has been applied
12 many times, and it is the reason why even
13 relatively young people who commit this crime
14 receive long jail terms even after a guilty plea.
15 That is why a significant jail term,
16 unfortunately, has to be imposed today.

17 The problem of drug trafficking in this
18 jurisdiction is not diminishing. It was, all
19 things being relative, not so long ago that crack
20 cocaine found its way here and in cases before
21 the courts. The effects were soon very visible
22 in this community and others. We saw
23 well-established businesses destroyed,
24 relationships shattered, children neglected,
25 serious crimes committed associated with this
26 activity. It never seems to stop.

27 In the last few years, we have started

1 seeing more and more cases involving fentanyl.
2 This is a particularly dangerous drug, and yet
3 some people still choose to use it, and others
4 unscrupulously continue to sell it. And it seems
5 there is always the next drug, the next thing
6 that people will sell. So the need for
7 deterrence and denunciation, the need for stern
8 sentences, which is the only tool the Courts have
9 to try to deter this, has not diminished.

10 Many say this is a public health issue, that
11 prevention, treatment, and counselling is what is
12 needed, not repression. I do not disagree that
13 those things are needed, but they are outside the
14 control of the Courts. The Court does not have a
15 lot of tools. There is so much money to be made
16 with the sale of these drugs; there has to be
17 meaningful consequences for those who get caught
18 because that really is the only tool that the
19 Court has to respond to this very destructive,
20 very lucrative activity.

21 As the Crown acknowledges, the range of 18
22 to 22 months that is being proposed here is quite
23 lenient when one takes into account the
24 three-year starting point, but yesterday, the
25 Crown prosecutor explained why that range was
26 being sought. That was very helpful for the
27 Court to know because, without those

1 explanations, it may, in fact, have been very
2 difficult for me to agree that this range is
3 indeed appropriate.

4 The guilty plea, of course, is an important
5 factor, as is the Accused's cooperation and
6 admission to the authorities about his activities
7 shortly after his arrest. I believe him when he
8 says he is sorry and that he understands the harm
9 that his actions have caused his community. The
10 guilty plea is especially mitigating in this case
11 because the Crown said that there would have been
12 many triable issues had the matter gone to trial.

13 In any case such as this one, where there is
14 a long investigation and potential *Charter*
15 issues, giving up the right to litigate those
16 issues and saving all the resources and court
17 time needed to have a trial is an important
18 consideration. The Crown knows its file, knows
19 the details of the case, and is better placed
20 than I am to assess the challenges that it would
21 have faced at trial and how much credit Mr. Adzin
22 deserves for giving up his right to have a trial.
23 I accept, based on what the prosecutor has told
24 me, that the guilty plea in this case should be
25 given exceptional weight.

26 As I already mentioned, Mr. Adzin's
27 circumstances as an Indigenous offender must also

1 be taken into account and justify an exceptional
2 degree of restraint. As was noted in the
3 submissions, this was not a factor that was at
4 play in the *Mohammed* case.

5 In conclusion, even though the range being
6 proposed is quite low considering the starting
7 point that applies in cases like this one, based
8 on the submissions I heard from the Crown and
9 based on the submissions I heard from Defence
10 counsel, based on the mitigating factors,
11 Mr. Adzin's circumstances, and the importance of
12 restraint, I am satisfied that the sentence for
13 this offence can be within the range proposed.
14 However, I do not think that it can be at its low
15 end. In my view, the top end of that range is
16 the absolute minimum sentence that can be imposed
17 in order to address the important and continued
18 need to denounce this destructive behaviour.

19 I hope Mr. Adzin uses the time he will spend
20 in custody productively. I hope he will think
21 about the things that brought him here today,
22 that he will acknowledge that he has a
23 substance-abuse issue to address, and that he
24 will take steps to address it because, as I said,
25 and I hope I have made clear, I think there are a
26 lot of positive things that he can contribute to
27 his family and his community if he sets his mind

1 to it. He can contribute to building a stronger
2 community instead of carrying on activities that
3 are harming the community and destroying it.

4 The Crown has asked for a number of
5 ancillary orders. I will deal with those first.
6 There will be a firearms prohibition order which
7 will commence today and expire ten years after
8 Mr. Adzin's release. I will include, as asked by
9 Defence, the Section 113 exemption so that
10 Mr. Adzin can, under certain conditions, continue
11 to use the skills he has learned from his family
12 to go out on the land, provide for his family and
13 others in the community, and maybe even teach
14 those skills to others.

15 The second order that the Crown seeks is a
16 DNA order. That order is discretionary. The
17 factors to be considered in deciding whether to
18 issue such an order are set out in the
19 *Criminal Code*, and they include the criminal
20 record, whether the person has been found guilty
21 of a designated offence in the past, the nature
22 of the offence, and the circumstances surrounding
23 its commission, as well as the impact that the
24 order would have on the person's privacy.

25 I accept and understand that the impact on a
26 person's privacy of taking a small sample for DNA
27 analysis is not immense. There are other

1 designated offences on Mr. Adzin's criminal
2 record. That is a factor as well, but as I
3 noted, there are no drug offence convictions.

4 The circumstances of the commission of this
5 offence do not really assist one way or another.
6 He was found with the drugs on his person. There
7 is no indication that he had someone else hold
8 them or stash them for him, so the usefulness of
9 a DNA sample in future drug investigations is not
10 necessarily immediately apparent from the
11 circumstances of this offence.

12 In the *Mohammed* case, a DNA order was made,
13 but it was consented to. Here, the Defence
14 opposes the making of that order. I have taken
15 into consideration, as I said, that this perhaps
16 is not the most intrusive procedure. But at the
17 same time, there is still an impact in having
18 someone's DNA included in a database, and as I
19 said, there are no other convictions for
20 drug-related offences on his record. Under all
21 the circumstances, having given the matter some
22 consideration, I am not going to issue a DNA
23 order.

24 I have reviewed the Draft Forfeiture and
25 Return Order that was submitted by the Crown.
26 The Defence does not take issue with any of the
27 terms in that order, and so I have signed it, and

1 it will be issued.

2 Can you stand up please, Mr. Adzin.

3 Mr. Adzin, for the reasons I have given on the
4 charge of possession of cocaine for the purpose
5 of trafficking, I would sentence you to
6 22 months' imprisonment if you did not have any
7 remand time. For the seven days you have spent
8 on remand, I will credit you the maximum I can,
9 which is ten days. The further jail term will be
10 21 months and 3 weeks. You can sit down.

11 I hope that you can make the most of your
12 time in jail. I hope you can start to get some
13 assistance and some help to deal with some of the
14 things you have been through and your
15 relationship with alcohol and drugs; and I hope
16 that, when you are released, you will go back to
17 Behchoko and become a leader in that community.
18 If you set your mind to it, I am sure that you
19 can do much more productive things than what you
20 were up to in the times where you were
21 investigated. You can honour your grandparents'
22 memory by doing those kinds of things, and I hope
23 that you are able to do that, and I wish you luck
24 in that respect.

25 Is there anything I have omitted,

26 Mr. Potter?

27 MR. POTTER: Crown's not seeking it,

1 Your Honour, but I think the Court does need to
2 address the victim fine surcharge. I think it
3 can be waived by the Court, but I do think that
4 needs to be addressed as part of the --

5 THE COURT: I would have to look. My
6 understanding of the decision rendered by the
7 Supreme Court of Canada, I thought that they had,
8 basically, struck it down.

9 MR. POTTER: I believe they struck the
10 mandatory nature down. I'm not sure if they
11 struck the provision entirely.

12 THE COURT: Well, I would waive it if that
13 is what they said I should do. I thought that
14 they, basically, left it to Parliament to reword
15 it, but you are making me doubt myself now, so I
16 will double-check. But in the event that this is
17 what they decided, I am going to waive the
18 imposition of the victim of crime surcharge
19 because I am imposing a lengthy jail term, and
20 based on what I have heard about the family
21 circumstances of Mr. Adzin, I think that any
22 funds that he has access to should be used to
23 assist his family.

24 Have I overlooked anything from the
25 Defence's perspective, Mr. Bran?

26 MR. BRAN: No. The -- I think you
27 covered everything that we discussed, with the

1 one exception: Mr. Adzin does make reference, in
2 the Presentence Report, to concerns of being able
3 to serve his time here. This is a Territorial
4 Court -- or the sentence is short enough that
5 there (sic) doesn't appear that he would be
6 transferred South, but the only thing I was going
7 to request was a judicial recommendation that he
8 be allowed to serve his time, if at all possible,
9 here in Yellowknife to be as close to his family
10 as he can. So I think I still will ask the Court
11 to do that.

12 THE COURT: All right. Well, I mean the
13 only reason -- I do not know what the
14 arrangements are for transfer of people serving
15 Territorial time South, but presumably it would
16 have to be for some sort of security reason,
17 which would not be known at this point and would
18 not matter, or is not something I could recommend
19 anything on.

20 But certainly, given that his family is in
21 Behchoko and given that Yellowknife is accessible
22 by road from that community, I will ask Madam
23 Clerk that the Warrant of Committal reflect my
24 recommendation that, if at all possible, he be
25 permitted to serve his sentence at the
26 North Slave Correctional Centre to facilitate
27 ongoing contact with members of his family and

1 his support network.

2 Thank you very much, counsel, for your work
3 in resolving this case and thank you for your
4 thorough submissions.

5 MR. POTTER: Thank you, Your Honour.

6 -----

7

8 **CERTIFICATE OF TRANSCRIPT**

9

10 I, the undersigned, hereby certify that the
11 foregoing transcribed pages are a complete and
12 accurate transcript of the digitally recorded
13 proceedings taken herein to the best of my skill and
14 ability.

15 Dated at the City of Edmonton, Province of
16 Alberta, this 26th day of March, 2019.

17

18 Certified Pursuant to Rule 723
19 of the Rules of Court

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23

Ashley DeMarco

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Court Transcriber

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