

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

-v-

TREYVON JEFFREY STEVENS

**Transcript of the Sentencing by Honourable Chief Justice L.A.
Charbonneau, sitting in Yellowknife, in the Northwest Territories,
on the 29th day of July, 2019**

APPEARANCES:

T. Johnson:

Counsel for the Crown

P. Harte:

Counsel for the Accused

Charge(s) under s. 5(2) of the Criminal Code of Canada

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1 THE CLERK: Order, all rise. This sitting of the
2 Supreme Court of the Northwest Territories is now in
3 session. The Honourable Justice Charbonneau
4 presiding. Please be seated.

5 P. HARTE: Good afternoon, Your Honour.

6 THE COURT: Good morning, counsel. So the matter of
7 Mr. Stevens is for sentencing, this afternoon. Are you
8 ready to proceed?

9 P. HARTE: Yes, Your Honour. I ask that Mr. Stevens
10 be permitted to join me, if I may, please.

11 THE COURT: Certainly. I understand that some time
12 ago, a guilty plea was entered to this charge. You can
13 have a seat, sir.

14 P. HARTE: Yes, that's correct, Your Honour.

15 THE COURT: And we're at the stage of the facts being
16 presented to the court, correct?

17 P. HARTE: That's correct.

18 THE COURT: Can we proceed now? Is there anything
19 preliminary that needs to be addressed?

20 P. HARTE: I -- I don't think so. The only caveat is I
21 know that the -- the court frequently deals with a
22 606(1.1) inquiry on the record. I have spoken to Mr.
23 Stevens about that explicitly and have written
24 instructions on that issue. And so I just thought I'd
25 mention that to Your Honour.

26 THE COURT: Thank you, and I -- I think you must have
27 mentioned it last time as well, because it is recorded in

1 the clerk's notes. So I don't propose to inquire any
2 further into -- into those issues. Mr. Johnson?

3 T.. JOHNSON: Thank you, Your Honour. The Crown
4 has an agreed statement of facts for Your Honour.

5 THE COURT: All right.

6 P. HARTE: I've signed that, Your Honour, as has my
7 client.

8 THE COURT: Thank you. So that will be marked as
9 Exhibit S1, but I will ask you to read it into the record,
10 please.

11 **EXHIBIT S-1: AGREED STATEMENT OF FACTS.**

12 T.. JOHNSON: Certainly, Your Honour. The facts as
13 alleged are that on October 17th, 2017, the Royal
14 Canadian Mounted Police conducted an investigation
15 into cocaine trafficking in the city of Yellowknife. On
16 October 17th, 2017, a *Controlled Drugs and*
17 *Substances Act* search warrant was executed on
18 apartment 207, Norseman Apartments, situated at
19 5009, 52nd Avenue in Yellowknife. The apartment was
20 being rented by a third party. As police were entering
21 the apartment, the accused, Mr. Stevens, jumped from
22 a second storey balcony to the ground below, injuring
23 his ankle. During his arrest, 12.5 grams of cocaine was
24 found on the ground underneath him. Mr. Stevens had
25 \$145 on his person.

26 Mr. Stevens admits that the cocaine was
27 possessed for the purposes of trafficking. During the

1 search of apartment 207, further indicia of trafficking
2 were located, including a cellphone with text messages
3 consistent with dial-a-dope operation. It is not alleged
4 that the cellphone belongs to Mr. Stevens. In the days
5 prior to the execution of the search warrant, Mr.
6 Stevens had been observed as a passenger in a Kia
7 Rio. The vehicle was parked in the parking place of
8 apartment 207 at the time of the execution of the
9 warrant on October 17th.

10 Further indicia of trafficking were observed in the
11 car, including a digital scale, a further two-point --
12 pardon me, 29.1 grams of crack cocaine was located in
13 a small safe in the vehicle. It is not alleged that Mr.
14 Stevens possessed that quantity of cocaine. A
15 handgun and ammunition were found in a vacuum-
16 sealed bag in a hidden compartment in the trunk of the
17 car. It is not alleged that Mr. Stevens possessed the
18 firearm or ammunition.

19 A number of exhibits were seized in the course
20 of the investigation. They are attached as Appendix A
21 of this agreed statement of facts. Mr. Stevens waives
22 any interest in those items and consents to their
23 forfeiture.

24 THE COURT: Thank you. Those facts are admitted?

25 P. HARTE: Yes, Your Honour.

26 THE COURT: So the plea is based on the possession
27 of the 12.5 grams of cocaine, and, I suppose, the \$145,

1 but not anything else?

2 T. JOHNSON: That's correct, Your Honour.

3 THE COURT: All right. On that basis I will enter a
4 conviction on the charge of possession for a purpose of
5 trafficking of cocaine. Is there any further evidence
6 from the Crown at this hearing?

7 T. JOHNSON: No, Your Honour.

8 THE COURT: Any evidence from defence?

9 P. HARTE: Just submissions, Your Honour.

10 THE COURT: All right. Then I'll hear from the Crown.

11 **SUBMISSIONS ON SENTENCING BY MR. JOHNSON:**

12 T.. JOHNSON: Thank you, Your Honour. Crown takes
13 a position in this case, Your Honour, that in light of the
14 circumstances of this case, an appropriate sentence
15 would be a custodial sentence in the range of two
16 years. Crown will also be asking for a DNA order, as
17 well as a firearms prohibition under Section 109 of the
18 *Criminal Code*.

19 I will start by noting, Your Honour, that Crown is
20 not alleging a criminal record in this case. As far as
21 Crown is aware, Mr. Stevens comes before you with no
22 -- no admissible criminal record.

23 In the Crown's submission, the -- the sentence
24 that is being proposed is reasonable, and -- and
25 necessary to achieve the goals of denunciation and
26 deterrence that are -- are necessary in this case, owing
27 to a number of aggravating factors, which are present

1 in this case.

2 In particular I note that while we are dealing with
3 a -- an offence under Section 5 of the *Controlled Drugs*
4 *and Substances Act*, of course that covers a wide
5 range of substances. We are here dealing with
6 cocaine, which is a -- a hard drug, and a drug which
7 has very serious impact in the community. As well, we
8 are dealing with commercial scale trafficking.
9 Notwithstanding the relatively small amount found on
10 Mr. Stevens, all evidence indicates that he was a -- a
11 small part of a larger, more sophisticated operation.

12 So in the Crown's submission, that too is an
13 aggravating factor, which calls for a strong
14 denunciatory and deterrent sentence. And then of
15 course finally, there is the impact of these sort of
16 offences on the community. This sort of offence is all
17 too prevalent in this community. And in the Crown's
18 submission, judges faced with commercial trafficking in
19 such sophisticated operations should be sending a long
20 -- or should be sending a strong message to both the
21 accused before them, in this case Mr. Stevens, as well
22 as the community at large, that trafficking in hard drugs
23 in this community will not be acceptable, and it will be
24 met with long custodial sentences.

25 There is, of course, a guilty plea in this case,
26 which is mitigating. However, I -- I would suggest that
27 this is a -- while it is certainly mitigating that Mr.

1 Stevens takes responsibility for his actions, this is a
2 guilty plea in the face of a -- a strong Crown case. That
3 is to say, it's not a guilty plea where there were the
4 same sort of substantial triable issues that you
5 sometimes see in these sort of cases. So in that
6 sense, while it is certainly something Mr. Stevens ought
7 to get credit for, that is perhaps not -- not as much
8 credit as might be the case, where there were serious,
9 triable issues.

10 Ultimately, Your Honour, what I expect you to
11 hear today is a position from defence that they will be
12 joining the Crown's position of two years. So I won't
13 dwell too much more on the aggravating factors that I
14 think bring this into the two-year range, unless Your
15 Honour feels it necessary to justify that two-year range.
16 I -- I would simply note, again, that we are dealing with
17 commercial trafficking of a -- of a hard drug, of a
18 sophisticated operation, and as Your Honour knows all
19 too well, the impact that has on the community. And so
20 I would ask for a -- a lengthy period of custody here
21 today. The --

22 THE COURT: You're -- you're taking the position, or the
23 -- the -- the joint submission assumes the three-year
24 starting point for this type of offence? Is -- is that --

25 T. JOHNSON: It --

26 THE COURT: -- and then you've taken into account the
27 guilty plea, and that's how you got there?

1 T. JOHNSON: That's correct, Your Honour. The -- the
2 guilty plea, and the fact that Mr. Stevens is a first
3 offender. Now of course, that is taken into account in
4 the starting point. But in this case, I think it -- it certainly
5 justifies with the guilty plea going down from that three-
6 year starting point. And so that is where the two-year
7 comes from, Your Honour.

8 THE COURT: All right.

9 T. JOHNSON: There is a small amount of pretrial credit
10 in this case. My understanding is that Mr. Stevens was
11 arrested on October 17th, 2017, and released on
12 October 23rd, 2017. For reasons I suspect my friend
13 will address more fully, defence is not going to be
14 asking for any credit for that time, and so Crown is not
15 seeking credit for that time. So ultimately, what I am
16 asking for is for Your Honour, today, to impose two
17 years on -- on top of the time that Mr. Stevens has
18 already served.

19 THE COURT: And you're not seeking -- I mean, I see
20 that there's a waiver of any interest in some of the -- in
21 the property seized. You're not seeking anything in that
22 regard, because there are ongoing proceedings, I take
23 it?

24 T. JOHNSON: That's correct, yes. There is still a co-
25 accused that is coming up for trial in October. I don't
26 remember the exact date right off-hand, but those will
27 be dealt with at that time. This simply establishes that

1 Mr. Stevens won't have any issue with the forfeiture at
2 that point.

3 THE COURT: Okay. And just because I wasn't the
4 judge when the plea was entered, was the plea entered
5 on the joint indictment? Or did -- did the Crown file a
6 separate indictment? I'm just -- it's -- it's -- is the
7 existing indictment is the only one I need to be
8 concerned about?

9 P. HARTE: That's my recollection, Your Honour.

10 T. JOHNSON: That's --

11 THE COURT: All right.

12 T. JOHNSON: -- my understanding, I wasn't the one
13 that dealt with that at that time, but my understanding is
14 it was on a joint indictment, Your Honour.

15 THE COURT: All right. Thank you.

16 T. JOHNSON: Subject to any questions from Your
17 Honour, that -- those would be the Crown's
18 submissions on sentence. I recognize they are
19 somewhat short, but we are here dealing with a -- a -- a
20 joint submission, and so I -- I'm certainly prepared to --
21 to go further and justify that further, if Your Honour feels
22 it necessary. But I -- I do -- I think that the position
23 that's being put forward by both Crown and defence is
24 well within the acceptable range for this sort of offence,
25 Your Honour.

26 THE COURT: Yes. I don't have any questions, thank
27 you. Mr. Harte?

1 **SUBMISSIONS ON SENTENCING BY MR. HARTE:**

2 P. HARTE: Your Honour, my friend is correct. This is a
3 joint submission. And with respect to the range, I'll --
4 for the -- the -- the -- non-request, if I can put it that
5 way, for any credit with respect to time in custody. Mr.
6 Stevens is here with his partner today. They've flown
7 up from Edmonton to be dealt with before Your Honour.
8 She's here for support, which is reciprocated, if you will,
9 in the request that Mr. Stevens makes to serve his time
10 in a federal institution, because that will give him an
11 opportunity to serve his time closer to where his partner
12 resides.

13 In any event, with that by way of explanation for
14 the -- the waiver of any request for credit in relation to
15 pretrial custody, I'll provide to you with the rest of my
16 submissions. Mr. Stevens was born in Toronto, and
17 grew up in the Morningside area. Shortly after he was
18 born, his father departed for Edmonton, leaving his
19 mother as a single mother with, ultimately, five kids. He
20 had six siblings, one on his step -- sibling on his father's
21 side, but he -- his -- his father left his mother with five
22 children and was not paying support.

23 Unfortunately, as a result of that, and -- and
24 maybe not surprisingly, he ended up in foster care for
25 the whole of grade 10, and -- and that didn't do -- or
26 didn't ultimately result in a very successful school year,
27 and school after that became problematic.

1 He has other family members who have had
2 similar struggles. His youngest brother is in trouble with
3 the law in Toronto, and as I say, perhaps because of
4 the factual situation, and a mom with five kids, it's not
5 surprising that Treyvon finds himself where he does.

6 At -- at about age 20 -- he's 26 now -- at about
7 age 20, he made a connection with his father, sort of
8 out of the blue, ended up moving to Edmonton and --
9 and was initially employed at one of the Superstores in
10 the -- on the road leading in from the airport to
11 Edmonton, and worked there for a time, and then
12 decided he -- he had more to offer, and frankly, from
13 my dealings with him, that's clear. And ended up
14 looking for work and other educational opportunities,
15 found himself unfortunately coming up to Yellowknife to
16 look for work. He had resumes with him, but he ended
17 up making connections with people from Edmonton
18 who were in a position to offer him money that he
19 wasn't able to secure by way of employment.

20 And at -- at the end of the day, the critical
21 variable in terms of the -- identifying the person you're
22 dealing with is, after he was released he went back to
23 NAIT. He did the upgrading that was required to get
24 himself into the carpentry program there, then
25 completed the academic portion of the carpentry
26 program, and worked as an apprentice -- a first-year
27 apprentice carpenter until November.

1 Now, he ended up laid off and he was looking
2 for work, but then decided that -- and he -- and he
3 found a job, but he decided it didn't make sense to try
4 and get back into an apprenticeship program, because
5 he wouldn't be able to finish the year, as a result of the
6 period of time that he's going to spend in custody. So
7 he's been working, sort of, at what's become available,
8 but at the end of the day, the -- the bottom line for him
9 is, he wants to get back into carpentry.

10 The -- the fact of the matter is, in my submission,
11 the fact that -- there's too many facts in that sentence.
12 But in any event, he's -- the -- the proof in -- in the
13 pudding is that he's gone back to NAIT, got himself
14 qualified to work as an apprentice, learned his lesson
15 from the -- the idiocy that he's found himself involved in
16 here in Yellowknife. I think on the basis of that, I can
17 represent that it's unlikely that he's going to find himself
18 before the court again.

19 The relationship that he has with Ms. McCauley
20 (phonetic), the strength of that relationship, it's about --
21 they've been together -- they've known each other for
22 about five years, but been together as a couple for
23 about two-and-a-half. And the fact that she's here with
24 him today speaks to the strength of that relationship.

25 So on the basis of the fact that he's gone back to
26 school, has earned himself a position as an apprentice
27 -- a carpenter, as a result of the work that he's done

1 academically, the fact that he's here with somebody
2 who flew up from Edmonton to be with him in court,
3 suggests -- and -- and it's on the basis of those two
4 facts that I represent to the Court that it's unlikely that
5 you'll find Mr. Stevens before the court again, Your
6 Honour.

7 THE COURT: You're in agreement with the Crown's
8 request for the DNA order, and the Section 109 order?

9 P. HARTE: I -- the Section 109 order, I know is
10 mandatory. I think the DNA order is mandatory as well,
11 so I have no submissions with respect to that.

12 THE COURT: I don't think the DNA order is on drug
13 cases, because I seem to recall refusing to grant them
14 on occasion. But I -- they've also been granted on
15 many other occasions too, so.

16 P. HARTE: I -- I -- I -- Your Honour, the only experience
17 that I've had with DNA was that it resulted in a client
18 being eliminated from a pool of potential offenders, so
19 it's difficult to -- it's difficult to make a strenuous
20 objection to the -- to the request of the Crown that a
21 DNA order be grant -- be granted.

22 THE COURT: It works both ways, I guess. Mr.
23 Johnson, are you able to assist me?

24 T. JOHNSON: I am in the process of looking to do that
25 right now, Your Honour.

26 THE COURT: I know the Crown usually seeks it. But I
27 don't think it's mandatory.

1 T. JOHNSON: No, Your Honour, it appears that it is a
2 secondary designated offence.

3 THE COURT: Yes, a s. 487.04, paragraph -- well
4 actually, Paragraph B of the secondary designated
5 defence definition is what I'm looking at. Is that what
6 you're looking at?

7 T. JOHNSON: It -- it -- yes, Your Honour.

8 THE COURT: All right.

9 T. JOHNSON: Paragraph B(i) of that. And it appears
10 that then under s. 487.051(3) --

11 THE COURT: It is discretionary.

12 T. JOHNSON: It is discretionary, yes.

13 THE COURT: All right. So this is a secondary
14 designated offence. Do you have anything you want to
15 add to your -- what you've already said?

16 T. JOHNSON: No, Your Honour.

17 THE COURT: All right. Mr. Stevens, if there's anything
18 you'd like to tell me directly, this is your opportunity.

19 THE ACCUSED: No, Your Honour.

20 **SENTENCING BY THE COURT:**

21 THE COURT: All right. You can sit down. Well, it's
22 often said that sentencing is a difficult task, and it's
23 certainly never pleasant to impose a jail term on
24 someone who is obviously smart and has potential, and
25 whose time could be much better spent than in jail.
26 That being said, when the court is presented with a joint
27 submission that is well within the range, that makes the

1 decision less difficult, perhaps, than in some other
2 cases.

3 The law is that when a joint submission is
4 presented, the court has to follow it, unless it is clearly
5 unreasonable. There is nothing unreasonable about
6 the joint submission that is being presented to me
7 today. For these types of offences, and this has been
8 stated in many cases in this jurisdiction, the starting
9 point is three years' imprisonment. That comes from
10 originally a case in the Alberta Court of Appeal, but it
11 has been applied in many, many cases in this
12 jurisdiction. And considering that Mr. Stevens has
13 entered a guilty plea, that he is still relatively young and
14 has no prior record, it makes complete sense to me to
15 impose the sentence that is being jointly proposed,
16 which is a sentence of two years.

17 Ordinarily, the time Mr. Stevens has already
18 spent in custody would be credited against that
19 sentence, but in this case I am being specifically asked
20 not to do that, because Mr. Stevens wishes to, as I
21 understand the submissions of his counsel, receive a
22 sentence that actually is in the penitentiary range. He
23 wants to be able to serve it in southern Canada,
24 because of his own circumstances.

25 I will just add that the reason the starting point
26 for these types of offences is high, is because this type
27 of activity causes immense harm in our communities.

1 Against this is something that has been said in many
2 cases that I won't refer to specifically now, but the fact
3 that people use these drugs and develop, often,
4 addictions to them, leads to all sorts of other crimes. It
5 harms the lives of the people who become addicted,
6 but it also causes a lot of harm to what we sometimes
7 refer to as indirect victims.

8 Indirect victims are the people whose houses
9 get broken into, so that items can be obtained and sold
10 so that people can support their habits. Indirect victims
11 are the children of addicts who find themselves not
12 cared for the way they should be. Indirect victims are
13 other members of the community who have to deal with
14 the aftermath and the consequences of the social
15 problems that come from people becoming addicted to
16 these drugs. And we see manifestations of that every
17 day on the streets of Yellowknife, on the streets of
18 some of our other communities, and the same is true
19 everywhere in the country.

20 This court and others have been imposing
21 significant jail terms for trafficking in hard drugs for
22 many years for that reason, and this court will continue
23 to impose significant sentences to try to continue to
24 convey the message that this is highly harmful conduct.
25 Although it is a way to make money quickly, there is a
26 price to pay for those who get caught.

27 I really wish Mr. Stevens had chosen to go back

1 to school, and start this carpentry program before
2 succumbing to the temptation of making money quickly.
3 I am sure that those who encouraged him to get
4 involved with this, talked about the rapid profits and that
5 no harm is done because this is being sold to people
6 who want to consume it. I really hope that he
7 understands now that that's not the case. There are
8 many, many ways to make a living, and this is not one
9 of them.

10 I am very glad to hear that he has taken steps to
11 further his education and pursue lawful means of
12 employment. I am also very glad to hear he has the
13 support of his spouse. That says a lot. You are very
14 lucky. Many people appear in this court to be
15 sentenced, and they have no one supporting them. So
16 you're very lucky, and I hope that you will prove worthy
17 of your partner's support.

18 For these reasons, I will impose a sentence of
19 two years, as has been suggested. There will be a
20 firearms prohibition order under Section 109
21 commencing today, and expiring 10 years after Mr.
22 Stevens' release from imprisonment.

23 I will also issue a DNA order. This is a
24 secondary designated offence, and the order is not
25 mandatory, but in the authorities' efforts to investigate
26 and put a stop to drug trafficking, the ability to use this
27 technology can be very helpful, and as defence counsel

1 has pointed out, it can also sometimes be very helpful
2 in excluding persons from the group of people being
3 investigated. So both orders will issue.

4 There will be no order today with respect to any
5 items seized in relation to this matter, because there
6 are ongoing proceedings, and my understanding is that
7 that will be dealt with at some later point. Is there
8 anything else that I need to address this afternoon from
9 the Crown's perspective?

10 T. JOHNSON: No, Your Honour.

11 THE COURT: Anything from defence?

12 T. HARTE: No. Thank you, Your Honour.

13 THE COURT: I hope things work out for you, Mr.

14 Stevens, and I hope we never see you again in this
15 courtroom for anything of the sort, because it does
16 cause a lot of harm.

17 I want to thank counsel for their work in resolving
18 this matter. A case that resolves is always a good
19 thing. And guilty pleas are also always a good thing,
20 because they represent the start, one has to hope, of a
21 person changing the course of their life. Thank you.

22 Close court.

23 THE CLERK: All rise.

24

25

26 **(PROCEEDINGS CONCLUDED)**

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CERTIFICATE OF TRANSCRIPT

Neesons, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings transcribed from the audio recording to the best of our skill and ability. Judicial amendments have been applied to this transcript.

Dated at the City of Toronto, in the Province of Ontario, this 4th day of September, 2019.



Kim Neeson
Principal