*R v Abdula*, 2023 NWTSC 28 S-1-CR-2021-000043

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

**IN THE MATTER OF:**

**HIS MAJESTY THE KING**

**-v-**

**RASID ABDULA**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Transcript of the Reasons for Sentence delivered by the Honourable Justice S.M. MacPherson, sitting in Yellowknife, in the Northwest Territories, on the 15th day of August, 2023.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**APPEARANCES:**

**D. Praught: Counsel for the Crown**

**J. Hale: Counsel for the Defence appearing**

**via videoconference**

**--------------------------------------------------------------------------**

**Charges under s. 5(1) of the *Controlled Drugs and Substances Act***

**I N D E X**

**PAGE**

**RULINGS, REASONS**

Reasons for Sentence 1

THE COURT: Good afternoon, gentlemen.

D. PRAUGHT: Good afternoon, Your Honour.

J. HALE: Good afternoon, Your Honour. I apologize for the delay at my end, Your Honour.

THE COURT: No worries. You did provide us with a heads up, Mr. Hale, that you might be a bit late, and so that is absolutely fine.

J. HALE: All right.

THE COURT: Unless counsel have anything to add to sentencing submissions yesterday, I am prepared to deliver my decision.

D. PRAUGHT: Nothing from the Crown.

THE COURT: Thank you. On August 14th, 2023, Rasid Abdula pleaded guilty to one charge of trafficking in a substance included in Schedule I, namely cocaine, contract to section 5(1) of the *Controlled Drugs and Substances Act*. This offence occurred on August 12th, 2018. Two other charges alleging trafficking of cocaine on August 14th and August 15th, 2018 were withdrawn by the Crown. It is my job today to sentence Mr. Abdula.

The facts of the offence are included in an Agreed Statement of Facts. Briefly, they are as follows. In late 2017, the RCMP began a drug trafficking and money laundering investigation in Yellowknife using, amongst others, undercover police officers referred to in the Agreed Statement of Facts as UCOs. The purpose of the investigation was to reveal the supply chain of illicit drugs into the Northwest Territories.

Between March 2018 and early August 2018, a number of contacts occurred between an undercover police officer and an individual I will refer to as Mr. C. These contacts all involved the purchase of fairly significant amounts of cocaine with one contact discussing the possibility of the UCO becoming involved with transporting the cocaine.

In early August, the UCO and Mr. C discussed and arranged the sale of a kilogram of cocaine for $46,500. It was agreed this transaction would occur on August 12th.

On August 12th, the UCO and Mr. C met up in a parking lot where the UCO joined Mr. C in Mr. C's truck. Mr. C then phoned Mr. Abdula, the accused, and told him to bring the cocaine to his truck. Shortly thereafter, the accused arrived in a taxi and joined Mr. C and the UCO. He was carrying a bag and he opened it, displaying what appeared to be sealed bags of cocaine. The UCO then signalled to a second undercover officer who gave Mr. C a bag containing $46,500.

The accused was then instructed by Mr. C to give the bag he was holding to the first undercover officer. He did so, and then he and the first UCO exited Mr. C's vehicle and Mr. C drove away with the money. The bag given to the undercover officer by the accused was found to contain 963 grams of Phenacetin, a substance used to cut or dilute cocaine.

Part of the Agreed Statement of Facts also includes information regarding the accused directly participating in the trafficking of two relatively small amounts of cocaine. On August 14th, an undercover officer purchased .6 grams of cocaine from the accused for $60. On August 15th, an undercover officer purchased 1.2 grams of cocaine from the accused for $80.

It was agreed by the Crown and the defence that the accused worked for and under the direction of Mr. C.

Mr. Abdula was charged in November 2018 and first appeared in court in January 2019. For a variety of reasons, including his failure to keep in touch with legal counsel or to attend court, this matter was not addressed substantively until Mr. Abdula was arrested on June 29th pursuant to a warrant issued by this court.

The accused is 28 years of age. At the time that this offence was committed, he was 23 years of age. He and his family emigrated from Serbia when he was five years old. The family settled in Edmonton where his parents and his two brothers still live. I am advised that his parents have been married for over 30 years and are hard working and productive members of Canadian society. The family is described as a tight-knit family that supports one another.

The accused left home at the young age of 16 and subsequently became the father of a child who is now eight years of age. His parents are close to their granddaughter and she visits their home regularly.

At the time the offence was committed in 2018, the accused had no criminal record and was a first offender. Since then, between July 2020 and June 2022, he has been convicted of ten offences in Alberta, including six offences that might be characterized as administration of justice offences such as failing to comply with court orders.

His lawyer advised that the time the accused has recently spent in custody in Alberta has been a wakeup call for him and that he is now determined to turn his life around with the support of his family.

With respect to the circumstances of the offence, the accused's counsel advises that Mr. Abdula fell into the wrong crowd. He was not the subject of this RCMP investigation and his knowledge of what was happening was quite minimal. His involvement was only for a brief period of time during what was otherwise a significant investigation.

While he had subsequent criminal charges, his lawyer advises that those charges were a wakeup call to him and that he very much wants to change his life and to not continue on the path he was on. He has educational ambitions and he wishes to finish high school and to go on to college.

The Crown and the defence have presented a joint submission to the court for a 22-month conditional sentence order. They have agreed that the accused should be given credit for two months of pre-conviction time spent in remand, leaving 20 months to serve under a conditional sentence order. They ask that the accused be sentenced to house arrest for 12 of those months with some defined exceptions and that he then be permitted to be in the community during defined daytime hours for the balance of the conditional sentence order.

They have agreed on the other conditions of the CSO which will apply for the full 20 months, such as the accused residing with his parents in Edmonton, providing his conditional sentence supervisor with a telephone number where he can be reached at all times, that he may not possess or consume alcohol or illegal drugs, and that he must follow the recommendations of his conditional sentence supervisor with respect to counselling and treatment.

The case law is clear with respect to joint submissions. Per the Supreme Court of Canada in the case of *R v Anthony-Cook*, [2016] 2 S.C.R. 204, at paragraph 34, the Court notes:

In my view, these powerful statements capture the essence of the public interest test developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold.

The case law respecting sentencing a first-time offender for a drug offence must be reviewed in the context of the fact that the parties have made a joint submission and the significant body of case law regarding the deference that must be given to that proposal. The case law is also clear that a fundamental principle of sentencing is that the sentence must be proportionate to the gravity of the offence and to the degree of responsibility of the offender.

A primary objective in sentencing for trafficking in cocaine is deterrence and denunciation, a point that was made by Crown counsel -- the deterrence of others who might be attempted to engage in trafficking and the denunciation of that unlawful conduct. These objectives have been articulated in a number of cases dealing with trafficking, *R v Maskell*, 1981 ABCA 50, *R v Joe*, 2018 NWTCA 1 and *R v Mohammed*, 2020 NWTSC 45.

The reason for the focus on deterrence and denunciation is simple. Hard drugs such as cocaine have had a devastating impact on the highly vulnerable northern population that has already seen so much trauma and so much tragedy through the decades. For this reason, the courts have held that the starting point for trafficking in cocaine is three years for commercial transactions and four-and-a-half years for wholesale transactions. See *R v Maskell*, *R v Lau*, 2004 ABCA 408, and *R v Joe*, all appellate decisions of either this court or Alberta's court.

In this case, while it might be arguable that the facts of the conviction support characterizing the transaction as a wholesale transaction, thus generally attracting a sentence in the higher range, it is agreed by all parties that the accused's role in the operation was a minor one. Essentially, his role was to fetch a bag of what was held out to be cocaine and that is his role with respect to the specific charge for which he is being sentenced today.

When viewed in the context of the other two transactions involving the accused selling small amounts of cocaine on August 14th and 15th, the argument is made that the accused is not a big player and was only incidentally involved with the larger transaction and a fit sentence must reflect that smaller role. For that reason, because of these unique facts, there is a credible argument to be made that the starting point for sentencing on these particular facts is a three-year sentence. To do so is to recognize the important sentencing principle of proportionality.

As was pointed out by then Justice Smallwood, now Chief Justice Smallwood, in *R v Mohammed*, a starting point is not a minimum sentence or a set sentence, but it is a guideline where the court begins and it must be adjusted to reflect the mitigating and the aggravating factors of each case, taking into account the circumstances of the offence and the offender.

In terms of mitigating factors, the most important mitigating factor is Mr. Abdula's guilty plea. These events happened five years ago and the Crown acknowledged that there would be difficulties in prosecuting the case due to the fact that some of those involved have moved on or even retired. That is not to say that the case is incapable of being prosecuted, simply that it would be more challenging than might otherwise be the case.

Mr. Abdula had the right to require the state to prove their case against him and he has given up a very significant right, saving the time and expense of a trial. That must be given meaningful credit in the sentencing process and I do so.

Another mitigating factor is the relatively minor role of the accused in the events of August 12th. I am mindful of the fact that I have already taken this factor into consideration when reflecting on the appropriate sentence range. Even so, as the defence asserts, the role of the accused was at the lesser end of the scale even for commercial transactions, and I speak of the role of the accused on the day in question being August 12th.

I am also mindful of Mr. Abdula's relatively youthful age and his plan for rehabilitation. While the principles of denunciation and deterrence are key principles in drug sentencing, also relevant are the principles of proportionality and restraint. I am required to exercise as much restraint as is possible while still achieving the purposes of sentencing.

Counsel for the accused submits that the accused's age, his supportive family, and his solid plan for his future calls for restraint in sentencing. I agree with this submission. In all of the circumstances, I find the proposal for a 22-month sentence with two months credit deducted from that for remand time is a reasonable proposal.

Both counsel have asked that a conditional sentence order be made rather than requiring Mr. Abdula to serve his time in jail. To consider a conditional sentence order, section 742.1 of the *Criminal Code* requires that I be satisfied of two things amongst other criteria. Firstly, that serving the sentence in the community would not endanger the safety of the community; and secondly, that it would be consistent with the fundamental principles and purposes of sentencing.

With respect to the second branch of the test, I am satisfied that a conditional sentence would be consistent with the principles of sentencing for the reasons outlined earlier. It is the first branch of the test that gives me pause.

In considering the safety of the community, a relevant factor is the risk of the offender reoffending. It is very concerning that Mr. Abdula has racked up six convictions for failing to abide by court orders. Indeed the reason for the delay in this court addressing this matter is Mr. Abdula's failure to respect this court's process.

Both the Crown and the defence point to the very strict conditions regarding the conditional sentence order as being conditions designed to maximize the chance that Mr. Abdula will not reoffend. The Crown notes the significance of requiring Mr. Abdula to have a phone on him at all times where he can be reached. The defence highlighted the strong work and family ethic of Mr. Abdula's parents and note that they would not tolerate any breach of the conditional sentence terms or of Mr. Abdula falling back into his old ways.

I have concluded, notwithstanding my very real concerns regarding the lack of respect shown by Mr. Abdula for the court process, that the proposed terms are sufficiently strict so as to minimize the prospect of Mr. Abdula reoffending. If Mr. Abdula is tempted to reoffend or to breach the terms of the sentencing order, I am confident that those charged with supporting him throughout his sentence, namely, his parents and his sentencing supervisor, will quickly know about it.

I am taking Mr. Abdula at his word as expressed through his counsel that he strongly wishes to turn his life around. It is my hope that this sentence will assist him in doing so with the guidance and support of his family.

Having taken into consideration remand time of two months, I sentence Mr. Abdula to 20 months to be served in the community under a conditional sentence order. The terms of that sentence have been read into the record by Crown counsel but essentially, Mr. Abdula, the terms are that you are to reside at all times at your parents' residence, that you must stay in your parents' residence at all times with very limited and very defined exceptions for the first 12 months of your sentence. For the balance of your sentence, you must be in your parents' residence between the hours of 9:00 p.m. to 6:00 a.m. every day.

There are other conditions that I have referred to, such as providing a telephone number where you can be reached at all times, refraining from consuming alcohol or using non-prescription drugs, and taking any counselling or treatment that may be recommended by your supervisor. At the conclusion of these proceedings today, you will be provided with a written copy of all of these conditions and you must obey these conditions at all times.

I also make the mandatory firearms prohibition order under section 109(1)(c) of the *Criminal Code*. Mr. Abdula will be prohibited from possessing firearms commencing today for a period of ten years.

I also exercise my discretion and make a DNA collection order pursuant to section 487.04 of the *Criminal Code*. The defence did not oppose a DNA order and I acknowledge the role that DNA plays with respect to solving crimes of this nature. In the circumstances, I also waive the victims of crime surcharge. Mr. Abdula, I wish you the very best of luck.

THE ACCUSED: Thank you.

THE COURT: I hope you are able to be appropriately reunited with your family and that you find that with their assistance that you will be on that right path that I know you so very much want, not just for yourself, but for your parents who clearly love you dearly and want to support you, and also for your daughter who is still at such a young age and for whom you can be a considerable role model and example of real rehabilitation. So I very, very much wish you the best of luck as you go forward with this new challenge in your life, sir.

THE ACCUSED: Thank you.

THE COURT: I also want to thank both counsel for your very able assistance and submissions and for your help that you provided to me on this matter. Thank you.

THE ACCUSED: Thank you.

D. PRAUGHT: Thank you, Your Honour.

THE COURT: Are there any questions, counsel?

J. HALE: Your Honour, I think there is something I should address so that it's clear. There is two points, but they are related. I'm asking that the order be transferred to the Province of Alberta, and related to that, if you were to look at section 742.3(1)(d) of the *Code*?

THE COURT: 742?

J. HALE: Point 3(1)(d), it lists the mandatory conditions.

THE COURT: Yes.

J. HALE: So (d), a mandatory condition is to remain

within the jurisdiction of the court. So one of the conditions that we have provided as an agreed upon condition is really an exception to (d), we're asking that the condition be tweaked or reworded so Mr. Abdula is required to remain within the Province of Alberta as opposed to within the jurisdiction of the court, which would be the Northwest Territories.

THE COURT: Right. I observed a case recently that was in this court that Justice Charbonneau was hearing in which the offender was permitted to serve her CSO in a facility in Edmonton but with the supervision occurring and communications occurring through NWT officials because of the detail of the plan that had been worked out for this particular offender. It was quite a unique situation. And in doing so, I realize that it is unusual, in that case, the supervision was hoped to be largely done by NWT officials, as I recall. But I had assumed that once this order was made, it simply could be transferred to Alberta. Is there a specific order that is required in order to make that happen?

D. PRAUGHT: I don't believe so, Your Honour. The Crown contacted Probation Services prior to finalizing the agreement with defence counsel for this joint recommendation, and we were told by Probation Services that as long as there is a condition that requires him to report specifically to the Yellowknife probation office, which there was, that was the first

condition to call by a certain time that number, they will oversee the order until it's transferred to Alberta, which can take place very quickly, and they suggest can probably be in place within days. So from my discussion with Probation Services, I don't think anything further is required, but that is the extent of my look into the issue, as it were.

THE COURT: If it assists, when I was observing this file that Justice Charbonneau was involved in, it appeared to me that a transfer to another jurisdiction was something that could occur quite readily. In the particular case Justice Charbonneau was involved in, we didn't want that transfer to occur because we wanted the NWT to maintain oversight over this offender who was an Indigenous offender from a small community in the north. And the plan that was developed for that particular offender was tailored to her own mental health needs, and so we wanted to keep the NWT involved.

From the initial review and discussions I had around that case, it did seem to me that it was harder to avoid a transfer than to effect a transfer, if that makes sense.

D. PRAUGHT: Yes.

THE COURT: Any comments, Mr. Hale, or thoughts about that?

J. HALE: That does make sense, and I think the difference in Mr. Abdula's case is that he really has no roots in Yellowknife.

THE COURT: Yes.

J. HALE: It sounds like the gentleman that you're referring to had roots and was going to be serving the sentence in prison and then may have been released -- because he was going to Edmonton, so I'm assuming.

THE COURT: No, it was a mental health facility.

J. HALE: I see, I see.

THE COURT: And our desire at that point was to ensure that the contact and connections were maintained with the NWT, where it appears evident on these facts Mr. Abdula's connections are largely, if not exclusively, all in Alberta.

J. HALE: Correct.

THE COURT: And that it would be appropriate to have them administer. For example, in that case, if there was a breach of the CSO, it was ordered that there be notice given to the NWT Supreme Court so that we could deal with, if possible, that particular offender. In this case, if there was a breach of the CSO, I would simply assume that it would be dealt with through the Alberta courts.

J. HALE: All right. I accept what Mr. Praught is saying. Here in Ontario -- I'm in Ottawa right now -- there are routinely orders made for the transfer of probation orders and conditional sentence orders even within Ontario from Ottawa to Toronto, for example, and/or Ontario across the river to Quebec, but I'm perfectly content to leave that up to Probation Services. The other issue, though, is the wording of that mandatory condition which would be in conflict with the condition we have agreed on, so I think we can reword. And again, we do that here in Ottawa all the time where people are back and forth to the Province of Quebec which is five minutes away. For that mandatory condition to remain within the jurisdiction of the court is reworded to specify, either adding another province or territory or changing it to the province or territory of residence.

THE COURT: Right.

J. HALE: Because if we leave in that mandatory condition, plus have the condition at the beginning, he has got conflicting conditions.

THE COURT: I wonder if we can take Condition 4 and say, once you have obtained the approval of your conditional sentence supervisor, you must then reside at all times in the Edmonton address. Or once the conditional sentence order has been transferred to Alberta, you must then reside at all times at apartment 227, 5515 7th Avenue. Perhaps the latter might be better.

D. PRAUGHT: Yeah, we would probably have to change the dates down the line with respect to when he has to be at the residence, and I think we tried to structure the conditions such that Mr. Abdula would not have to stay in Yellowknife once he is released because -- Mr. Hale perhaps can speak to this, but I don't know if he has a place to stay in Yellowknife, and the thought was he would be travelling directly to Edmonton. But perhaps it could be amended to read report to Probation Services in Yellowknife by as early as this afternoon -- I don't know if Mr. Abdula has the ability to contact them today or perhaps tomorrow afternoon -- and then as Your Honour suggests, and then following permission of the transfer attend to the residence perhaps instead of this Friday, maybe next Friday or next Monday or something like that.

THE COURT: So I am going to suggest that it be “you must report to a conditional sentence supervisor no later than Wednesday, August 16th at 4:00 p.m.,” so that gives a day for that to occur, and then once you have the wording, once the conditional sentence is transferred or what is --

D. PRAUGHT: Well, I have to be frank here, Your Honour, I didn't really look or consider this issue in depth. I didn't know Mr. Hale was going to raise this issue. I will say I don't think the court has the authority to amend, as it were, the mandatory conditions.

THE COURT: No, we do not.

D. PRAUGHT: They are just that; mandatory. I suspect this is not an issue, to be frank, so I am a little leery of weighing into it -- wading into it, I should say. But to alleviate Mr. Hale's concerns, perhaps we could do as we've suggested and say once the Probation Services has transferred, although, as I say, that may take a couple of days. When I say that it usually only takes a couple of days, I don't want to be taken as stating it will definitely be done within that time period.

So this may open up more problems than it alleviates, but I wish I could provide more helpful information to Your Honour, but I just didn't consider this issue. I didn't know this was going to be raised.

THE COURT: I know there is probably a workaround. I am wondering if we can take a brief break and if maybe you could confirm with Probation Services just the actual mechanics of transferring the sentence or the order to Alberta, and then we can work from there.

D. PRAUGHT: Absolutely.

THE COURT: And I will go back and see. I do not believe the decision that Justice Charbonneau did is yet on CanLII, but I have seen a transcript of it and I will review it because she definitely did consider that issue about the conflict between a term requiring the accused in that instance to reside in a specific facility and the mandatory term of residing in the NWT. So why don't we just perhaps briefly take a ten minute break, see if we can consider the issue separately, and then come back and we will try to come up with a solution that works in practice.

D. PRAUGHT: Yes, thank you, Your Honour.

THE COURT: Okay. Thank you very much.

**(PROCEEDINGS ADJOURNED FOR BRIEF RECESS)**

**(PROCEEDINGS RECONVENED)**

THE COURT: Thank you, counsel. Sorry for the delay. Mr. Praught.

D. PRAUGHT: Yes, Your Honour. I took the opportunity to take a closer look at the section that Mr. Hale cited, and I think as lawyers are sometimes want to do, we may have over-complicated things. I think the answer may lie in that section itself. It does say that unless there is permission of the court, and I would submit the order itself not only provides that permission, but in fact orders Mr. Abdula to go to the other jurisdiction. So I don't think there is an issue.

I can also add that I did speak to Probation Services. I spoke to Ms. Mills, the Manager of Probation Services, and she said that what happens is that when an order like this is received, the jurisdiction that the individual is going to will be asked to supervise the conditions on a courtesy basis which Alberta apparently is very good at doing and agreeing to do quite quickly. But the official transfer of jurisdiction, as it will, can take several months, and Ms. Mills said in her experience it can take upwards of six months before it's officially transferred.

But if the court agrees with the Crown's interpretation of (d), I don't think that is anything more than just some helpful information perhaps going forward. So I don't think we need to amend anything is the short version.

THE COURT: Okay. Thank you very much. I took the liberty of looking at the other court file which is actually now up on CanLII to which I referred, and in that instance, the matter was resolved with the written approval of the conditional sentence supervisor that then allowed the individual in question on that file to reside in Alberta. So possible wording might be “with the written approval of the conditional sentence supervisor, that individual may reside at X place in Alberta.” But I take your point about the wording. I wonder if paragraph 4 speaks for itself. Mr. Hale, your thoughts?

J. HALE: I do tend to agree with Mr. Praught. It is -- I am used to it being done differently here in Ontario where they will actually tweak the wording of that mandatory provision, but I think it's clear. I can't imagine the police charging Mr. Abdula fleeing in Alberta when he has a condition to reside in Alberta. That would defy common sense. So I think the fact that there is a condition of his conditional sentence order that requires him to be in Alberta on house arrest, residing with his parents, I think that certainly amounts to permission. He is ordered to be there, so I think we can --

THE COURT: Sorry, Mr. Hale, you are cutting out a little bit. I am not sure if it is communications here in the north, but could you just repeat the last few sentences?

J. HALE: All right. I think that the condition that we've added, I think Condition 8 on the conditions we have submitted to the court, I think that gives the court's permission to be outside the jurisdiction.

THE COURT: Yes.

J. HALE: So I'm content that we leave things as they are.

THE COURT: All right. All right. I agree, and I had not fully appreciated Condition 8 when read in conjunction with Condition 4 makes it very clear what the intention of the court is in this regard, and I know that Mr. Abdula, his normal residence is Alberta, and it really is an instance where we want to return him to his normal residence.

Just practically, counsel, I am looking at the dates for his travel and how counsel envisions this happening so that Mr. Abdula is back home as soon as possible. Given the conditions in the NWT right now, I understand air travel may be difficult to arrange. Has there been any exploration of that?

D. PRAUGHT: No, we were advised by Mr. Hale early on that Mr. Abdula was anxious to resolve the matter as quickly as possible and --

THE COURT: Get out.

D. PRAUGHT: -- we really left it to Mr. Abdula and Mr. Hale to arrange the transport that would be required to get back to Alberta. If they believe they need more time at this point, there is certainly no issue with amending it to accommodate him.

THE COURT: Well, I am primarily worried about Mr. Abdula being here in Yellowknife and whether he has a backup plan. Mr. Hale or Mr. Abdula, have you looked at flight arrangements to get you to Edmonton?

THE ACCUSED: I was told the facility here deals with that.

J. HALE: That's what I'm told as well, Your Honour. I wrote to courts travel. I wasn't sure who made the arrangements exactly, but I was told by the court that the institution makes the arrangements. Once it is confirmed that Mr. Abdula is no longer detained, he is not serving a custodial sentence, that they [indiscernible - background noise] quite quickly. It would likely involve putting him up in a hotel overnight and getting a flight.

THE COURT: All right. And is that your understanding, Mr. Praught?

D. PRAUGHT: I wasn't aware of that, Your Honour. What I may suggest is that we amend the condition that requires him to be in Alberta at a certain time by adding the caveat unless you have the written permission of your conditional sentence supervisor, then if he cannot make arrangements for whatever reason, he can contact Probation Services, and that would have to happen before the weekend probably and they could say, okay, we can extend that to whatever date they think is reasonable given the circumstances.

THE COURT: Mr. Hale, your thoughts?

J. HALE: That makes sense.

THE COURT: All right. I am informed that airline tickets south are becoming increasingly difficult.

J. HALE: Yes, yes.

THE COURT: And quite expensive.

J. HALE: Yes, as people leave the territory unfortunately.

THE COURT: Yes. All right. Then clause 4 shall then be “you must reside at all times at number 227, 5515 7th Avenue Southwest, Edmonton, Alberta, arriving no later than 4:00 p.m. on Friday, August 18th, 2023, or such other later time as your conditional sentence supervisor may authorize in writing.” And that way, if for any reason -- Mr. Abdula, I hope you get back to Edmonton as quickly as you can, but if for any reason you are unable to get a flight, for example, until Saturday or Sunday, this order would allow that to still be accommodated. I do hope that you are able to get a flight earlier than that, but the situation is somewhat in flux in terms of availability of transport in and out of the Northwest Territories.

So with that amendment then to paragraph 4, the CSO conditions are ordered by the court, and I know that counsel have passed on to the clerk the text of those conditions with the two changes that we discussed yesterday, adding in the name of Mr. Abdula's parents and adding the balcony to paragraph 6 of the written text that I was provided with yesterday. So we have those two prior changes included that were discussed yesterday and then we will have this third change to paragraph 4, allowing the conditional sentence supervisor to change the time for Mr. Abdula to arrive in Edmonton should circumstances dictate as long as that change is done in writing.

So is there anything further that counsel can think of? I think, Mr. Hale, you said you had one point or two points, or I was not quite sure.

J. HALE: No, I have said them both. They were connected to each other.

THE COURT: All right. Okay. Thank you very much for raising that point, Mr. Hale. It was a good discussion. And Mr. Praught, thank you very much for your phone calls on behalf of your client. And again, Mr. Abdula, I hope that you are able to head back to your family soon and I wish you the best of luck.

THE ACCUSED: Thank you.

THE COURT: Thank you again, counsel. Court is adjourned.

J. HALE: Thank you, Your Honour.

**(PROCEEDINGS CONCLUDED)**

**CERTIFICATE OF TRANSCRIPT**

Veritext Legal Solutions, 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 6th day of October, 2023.

Veritext Legal Solutions, Canada

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Veritext Legal Solutions, Canada