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T-1-CR-2002001297

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

KA CHAI "JACKY" CHING



Transcript of the Oral Reasons for Sentence of The
Honourable Judge R.M. Bourassa, sitting in Yellowknife, in
the Northwest Territories, on the 30th day of May, A.D.
2002.

APPEARANCES:

Mr. P. Falvo:

Counsel for the Crown

Mr. C. Rehn:

Counsel for the Defence

1 THE COURT: The accused has pleaded guilty to two
2 charges of breach of undertaking wherein the Crown
3 has proceeded by indictment and a charge of
4 trafficking in cocaine.

5 The sentencing of any offender involves a
6 balancing of various principles, of course, within a
7 range that is determined by reference to the law and
8 to what other courts in this jurisdiction and other
9 jurisdictions have done.

10 I'm sure I don't have to spend a long time going
11 over the effect that the trafficking of cocaine has
12 in the community, that's been said by every judge
13 from Vancouver to Halifax. I can only add that in
14 this community, as small as it is and with the
15 significant alcohol problems, that many offenders
16 have to deal with, the presence of cocaine can only
17 makes things worse. It's exploiting the weaknesses
18 of the people and, of course, the motive is pure
19 profit, there is so much money to be made.

20 In any event, the Court of Appeal, the Supreme
21 Court have stated time and time again that these
22 offences will not be tolerated and deterrent
23 sentences will be imposed, and the Territorial Court
24 certainly applies the same principles.

25 The accused, at the time of the trafficking,
26 admitted he was part of a group. Do we dare say
27 "gang"? I don't know. But anyway, part of a group,

1 organized and protected. He effected his sale as a
2 passenger in the car with a dedicated driver, and a
3 third person present for support, if I can call it
4 that.

5 The accused was available and obviously known to
6 the police because he was identified by the police
7 and arrangements were made to buy the cocaine from
8 him.

9 Highly aggravating, in my respectful view, of
10 course is that we're talking about trafficking in
11 cocaine. But equally highly aggravating is the fact
12 that, at the time of this trafficking, he was
13 awaiting trial on another charge of trafficking,
14 possession for the purposes of trafficking. And
15 regardless of how that charge was ultimately disposed
16 of, it boggles the mind that -- well, it clearly
17 shows how important the trafficking is to the
18 accused. Awaiting trial on a charge of trafficking
19 and he's involved in trafficking yet again. The
20 deterrent effect of law appears to be nonexistent
21 with respect to this individual. And his undertaking
22 equally.

23 It's unfortunate that the accused has squandered
24 his opportunity for a new life in this country with
25 all the benefits and opportunities that are available
26 for the sake of quick and fast money through
27 trafficking of cocaine.

1 I take into account the guilty plea, however,
2 one has to recognize that the accused was essentially
3 caught red-handed.

4 I take into account the remand time, however, I
5 have to take into account the circumstances why he's
6 in custody, and I don't think I have all the facts
7 before me but clearly, the fact that he's in custody
8 is related to his breach of undertaking and it may or
9 may not be related to the fact that he left the
10 country for two years, or a year and a half. In any
11 event, part of the reason why he's in custody is his
12 own responsibility. While certainly I can take the
13 remand time into account, and I do, it has to reflect
14 the reason why he's in custody.

15 It's just astounding that someone facing a
16 charge of trafficking would just go out and keep
17 trafficking and that, in my view, has to be
18 recognized in sentencing and I propose to do that by
19 consecutive sentences.

20 I'm talking into account totality, the fact that
21 the accused has no prior criminal record in trying to
22 balance the circumstances that I have before me as
23 well as the needs of the offender and the
24 circumstances of the crime generally. Stand up, Mr.
25 Ching. Is there anything you wish to say?

26 THE ACCUSED: No.

1 THE COURT: On the charge of trafficking there
2 will be a term of imprisonment of one year. On the
3 charge of breach of your undertaking, six months
4 consecutive. Is that everything for this morning,
5 Mr. Falvo?

6 MR. FALVO: Yes, Sir.

7 THE COURT: Thank you, Mr. Rehn.

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9 **Certified correct to the best of my skill
10 and ability (Subject to Editing by Presiding
11 Judge).**

12 
13 **Sandra Burns R.P.R., C.R.R.
14 Court Reporter**