

**AMENDED ORIGINAL**

*R v Beaulieu*, 2024 NWTTC 05

T-1-CR-2023-000619

**IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES**

**IN THE MATTER OF:**

**HIS MAJESTY THE KING**

**- v -**

**RYAN BEAULIEU**

---

**Transcript of the Reasons for Judgment held before the Honourable Chief Judge R.D. Gorin, sitting in Yellowknife, in the Northwest Territories, on the 16<sup>th</sup> day of February, 2024**

---

**APPEARANCES:**

S. Frame:	Counsel for the Crown
V. Chiatoh:	Counsel for the Defence appearing as agent for C. Davison

---

Charges under s. 5(2) of the *Controlled Drugs and Substances Act*, 9(2) of the *Cannabis Act* and 60(3) of the *Corrections Act*

Amended Original June 12, 2024 to correct cover page

**INDEX**

**PAGE**

**RULINGS, REASONS**

Reason for decision

1

Decision

16

1           **(VIDEOCONFERENCE COMMENCES)**

2                               Ryan Beaulieu is charged with  
3           possessing fentanyl for the purpose of trafficking contrary to  
4           section 5(2) of the *Controlled Drugs and Substances Act*. He  
5           is also charged with possessing contraband, to wit cannabis  
6           and fentanyl contrary to section 60(3) of the *Corrections Act*.

7                               When his trial began, he pled guilty to  
8           simple possession of fentanyl contrary to section 4(1) of the  
9           *CDSA*, conceding that he had possession of fentanyl but not  
10          for the purposes of trafficking. However, the Crown did not  
11          consent to that lesser plea and therefore a trial on the full  
12          count was still necessary.

13                              Although he maintained his not guilty plea  
14          to the *Corrections Act* count, Mr. Beaulieu also concedes that  
15          all of the elements of the alleged offence are made out except  
16          that it has not been proved that he had possession of  
17          cannabis, but rather fentanyl only. The Crown concedes that  
18          there has been no proof that he possessed cannabis.

19                              For the following reasons I find him not  
20          guilty of possession of fentanyl for the purposes of trafficking  
21          but guilty of the lesser and included offence of simple  
22          possession of fentanyl. I also find him guilty of possession of  
23          contraband, to wit fentanyl contrary to section 60(3) of the  
24          *Corrections Act*, and I am going to propose that that charge be  
25          amended to conform with the evidence so that the words  
26          “cannabis and” are omitted.

27                              The charges arose from April the 3rd of

1 last year when Mr. Beaulieu was being admitted into the  
2 Yellowknife correctional centre. During the intake procedure,  
3 he was discovered to have secreted 20 grams of a mixture of  
4 fentanyl, bromofentanyl, which is an analogue of fentanyl, and  
5 cutting agents in his rectum in an attempt to get the drugs into  
6 NSCC.

7 The drugs were detected as a result of a newly installed  
8 scanner at NSCC that allowed staff to see objects within the  
9 body of an inmate being admitted.

10 Sergeant Boechler of the RCMP was  
11 qualified as an expert in the area of production, trafficking,  
12 illegal possession of fentanyl and its analogues, and its  
13 consumption, dangerousness, terminology, packaging, pricing  
14 and distribution. He testified that it was his opinion that the  
15 fentanyl was possessed for the purposes of trafficking.

16 In support of his opinion, he cited the  
17 amount of fentanyl, which he described as being “massive,”  
18 and the manner in which it had been secreted. Mr. Beaulieu,  
19 on the other hand, testified that he is a long-time opiate addict  
20 and that he was attempting to bring in the fentanyl for personal  
21 use in order to avoid withdrawal and its associated pain and  
22 discomfort.

23 This is a case where the approach set out  
24 by the Supreme Court of Canada in *D.W.* applies; that is, if I  
25 believe Mr. Beaulieu when he says he did not possess the  
26 illegal substance for the purposes of trafficking, I must find him  
27 not guilty of the full offence charged. Secondly, if I do not

1 believe him but his evidence leaves me with a reasonable  
2 doubt on that point, I must find him not guilty. Thirdly, even if I  
3 do not believe him to the extent that his evidence leaves me  
4 with a reasonable doubt, I must examine the whole of the  
5 remaining evidence that I accept and determine whether or not  
6 that evidence has proved the guilt of the accused beyond a  
7 reasonable doubt. If not, I must find him not guilty. It is only if I  
8 reject Mr. Beaulieu's to the extent that it does not raise a doubt  
9 that he possessed the fentanyl for the purpose of trafficking  
10 and am satisfied on the basis of the remaining evidence that  
11 intent to traffick has been established beyond a reasonable  
12 doubt that I can find him guilty as charged.

13 Crown counsel points out that steps 1  
14 and 2 are not to be carried out in silos; that is, all of the  
15 evidence other than the testimony of Mr. Beaulieu, including  
16 that of Sergeant Boechler, should be considered when I  
17 determine whether or not I believe Mr. Beaulieu, or his  
18 evidence leaves me in reasonable doubt. He is certainly  
19 correct in that regard.

20 However, the converse is also true.  
21 Weaknesses in the evidence the Crown is relying on can, in  
22 conjunction with the evidence of the accused, lead the Court  
23 to the conclusion that it believes the accused or is ultimately  
24 left with a reasonable doubt by his evidence. Once again, the  
25 evidence of the accused is not to be considered in isolation.

26 As I have said, Sergeant Boechler based  
27 his opinion on the amount of the drugs and the fact that

1 Mr. Beaulieu had secreted the drugs in his rectum. I will first  
2 deal with the second factor he referred to.

3 Sergeant Boechler testified that in all  
4 cases where he had heard of drugs being secreted in such a  
5 fashion, it had been for the purposes of crossing a border or  
6 getting drugs into a prison. He said that he had never heard of  
7 that technique – not being used for the purposes of trafficking.  
8 However, that does not mean that it is impossible or even  
9 unlikely that such possession is not for the purposes of  
10 trafficking where the drugs are being smuggled into a prison.

11 Based on Mr. Beaulieu's evidence, he  
12 has been a long-time user of opiates and had been "dope sick"  
13 in the past. He described the symptoms of what that term  
14 meant to him and what his experience had been. He was an  
15 addict at the time he committed the offence and during the  
16 relevant time frame had at times been observed to be under  
17 the influence while he was in the custody of the police in police  
18 cells prior to being taken to NSCC. He also appeared to be  
19 feeling the effects of opiates to some extent during and around  
20 the time he was at NSCC on the date charged.

21 Sergeant Boechler gave evidence of a  
22 10-to-1 markup between prices for fentanyl in prison,  
23 compared to usual street prices. I appreciate that that could  
24 be a very strong motivation for someone to go to the rather  
25 extreme extent of putting fentanyl in their rectum.

26 However, a similarly strong if not stronger  
27 motivation would exist for someone who had been extremely ill

1 as a result of withdrawal and wished to avoid that experience.  
2 Mr. Beaulieu said that at the time he was taken into custody,  
3 he was at his father's residence. He had recently purchased  
4 the drugs, and he'd put them in his underwear prior to being  
5 taken into police custody as he knew he would not be  
6 searched there.

7 After spending several days in police  
8 custody in various locations, he put the drugs in his rectum  
9 shortly before being transported to NSCC. He did so because  
10 he knew that the searches in that facility would be more  
11 thorough and more intrusive. He said that in the past he had  
12 become dope sick after being admitted into NSCC. He readily  
13 admitted that he had smuggled drugs into NSCC in a like  
14 fashion on the previous occasion he had been incarcerated  
15 there. This was prior to the installation of the scanner that I  
16 have referred to. He also said that he had become dope sick  
17 on that prior occasion. This appears very possible since it is  
18 possible he used up the drugs he had had with him on that  
19 prior occasion and then became dope sick. The questions  
20 that were posed to him about that prior occasion were quite  
21 scant.

22 At the end of the day, I do not find the  
23 fact that the drugs were secreted in the manner they were to  
24 be evidence that is particularly strong in refuting Mr. Beaulieu's  
25 testimony that he had the drugs for personal use. The  
26 evidence of Sergeant Boechler that I find to be considerably  
27 stronger is his testimony that the amount of the opiates,





1 would have lasted him for 66 days. I do not find it  
2 unbelievable that he would have had that amount on his  
3 person for personal use, given the circumstances. This is  
4 even more so when one considers his statement that although  
5 he had previously brought fentanyl into NSCC, he had  
6 ultimately become dope sick and had suffered the extreme  
7 discomfort that he described in his testimony as being typical  
8 for him.

9 I have no hesitation in accepting  
10 Mr. Praught's submission that one can possess illegal drugs  
11 for both the purpose of trafficking and personal consumption at  
12 the same time. I have no doubt that this is often the case with  
13 severe addicts. That said, why would Mr. Beaulieu sell the  
14 drugs if he was to ultimately become sick for lack of them? It  
15 may be that there is a great profit margin while in prison, but if  
16 one is selling and then buying in the same market, it would be  
17 a wash. In fact, it would be even more problematic for the  
18 addict if the availability were limited.

19 Another difficulty is that we do not know  
20 the concentration or potency of the fentanyl in question. The  
21 Certificate of Analyst noted that among other things, fentanyl,  
22 bromofentanyl and cutting agents were found in the substance  
23 seized from Mr. Beaulieu. The problem is that I do not know  
24 how much cutting agent was in the substance. The certificate  
25 and evidence are silent in this respect. I do not know the  
26 potency of the fentanyl.

27 Similarly, I do not know how much of the

1 substance was bromofentanyl. I heard evidence that  
2 bromofentanyl is a designer analogue of fentanyl, that is, an  
3 analogue developed for the purposes of trafficking. Sergeant  
4 Boechler testified that bromofentanyl is a relatively new arrival  
5 on the trafficking scene. Other analogues vary considerably in  
6 terms of their potency when compared to fentanyl. For  
7 example, Constable Boechler testified that one analogue  
8 called "alfentanil" has approximately the same potency as  
9 morphine, which is 100 times less potent than fentanyl. On  
10 the other hand, carfentanil is 10,000 times more potent than  
11 morphine is.

12 Due to a dearth of information on  
13 bromofentanyl's potency -- Sergeant Boechler was not able to  
14 provide any evidence in that regard -- I do not have conclusive  
15 evidence of how potent the drugs that Mr. Beaulieu had were.  
16 I have nothing to refute Mr. Beaulieu's evidence on that topic,  
17 which was that those drugs were of poor quality or potency.

18 In explaining why a heavy user would not  
19 simply buy a large quantity of drugs, Sergeant Boechler stated  
20 that drug users purchase drugs as they need them; they do  
21 not typically have more money to front. He drew the analogy  
22 to his frequent use of granola bars. He said that he eats them,  
23 but he would not buy them in a very large quantity -- for  
24 example, a skid of them -- because of the storage costs --  
25 something that I note would not be a factor with the amount of  
26 fentanyl Mr. Beaulieu had. Sergeant Boechler stated that  
27 although he might get a deal if he buys more granola bars, he

1 still buys in smaller quantities.

2 He also said that because users typically  
3 do not have the money necessary to buy larger amounts; they  
4 typically buy at 1 gram, which is still a pretty substantial  
5 amount. I accept that.

6 Mr. Beaulieu said that he had brought in  
7 the fentanyl sometime before his arrest by placing a mail order  
8 from Peace River. He said that he did so because of the lack  
9 of availability of fentanyl in Hay River. Sergeant Boechler, on  
10 the other hand, said that based on what he had heard,  
11 fentanyl, although not as easy to obtain in the lower mainland  
12 of British Columbia, was easier to obtain in Hay River than in  
13 Yellowknife.

14 Under all of the circumstances, I find  
15 Sergeant Boechler's testimony concerning the amount of  
16 fentanyl Mr. Beaulieu had on him and the consistency of that  
17 amount with the intention to traffick in it to be persuasive.  
18 However, taking into account the amount of drugs that were  
19 found and the quality of the evidence concerning their  
20 potency, I find that this evidence does not weigh against that  
21 of Mr. Beaulieu to the extent that I am able to say that the  
22 element of intention to traffic has been proven beyond a  
23 reasonable doubt.

24 Mr. Beaulieu's evidence certainly had its  
25 weaknesses. It also had its strengths. In terms of its  
26 strengths, there was his apparent frankness. He admitted to  
27 lying and stealing from friends in order to get the money to

1 support his habit. While this admission certainly is something  
2 that could impact adversely on his credibility -- that is, the fact  
3 that he admitted to something so unsavoury as an indicator  
4 that he was being untruthful -- he admitted it just the same. It  
5 is not something that would have been discovered to be  
6 untrue -- without his testimony. Similarly, he admitted stealing  
7 a skidoo and selling it in High Level to get money and cocaine.

8 After he testified that he had been dope  
9 sick the last time he was incarcerated at NSCC in 2022, prior  
10 to the scanner having been installed, I asked whether he had  
11 smuggled in drugs on that occasion. He immediately admitted  
12 that he had. This is also something that I think reflects  
13 positively on his truthfulness. There was no way of knowing  
14 whether or not he had done so, and yet he admitted that he  
15 had without any hesitation. He admitted living the life of a drug  
16 trafficker. He was lying; he was stealing. On an earlier  
17 occasion when incarcerated, he had smuggled drugs into  
18 NSCC.

19 At the end of the day, I do not find that his  
20 admission to having lied and stolen necessarily detracts from  
21 his credibility. He said that he was eating the substance he  
22 had on him immediately prior to being taken to NSCC when he  
23 was in police custody. He said that because he was eating it,  
24 the impact it had on him was lessened. The fact that that  
25 would happen was corroborated by the evidence of Sergeant  
26 Boechler. I accept Mr. Beaulieu's evidence that he had  
27 developed a strong tolerance to opiates. He began using

1 heroin in jail, according to his testimony, back in 2015.

2 His behaviour and consumption of drugs  
3 while in custody were apparent on the evidence of those who  
4 observed him. He testified that the symptoms associated with  
5 being dope sick can last several weeks. Sergeant Boechler's  
6 evidence was that dope sickness can last several days.

7 Although Sergeant Boechler and Mr. Beaulieu's evidence  
8 differed somewhat in this respect and in terms of the actual  
9 symptoms of dope sickness, I do not discount Mr. Beaulieu's  
10 evidence in this regard. He said that he secreted the drugs in  
11 the manner that he did in order to get them into jail so that he  
12 would not get dope sick. Given the higher security that applied  
13 during the intake procedure that he was aware of and based  
14 on his prior experience, it would have made sense for him to  
15 do that.

16 In terms of the weaknesses in his  
17 evidence, there was the fact that he called the drug he had on  
18 him "heroin" when he spoke to the ambulance attendant on his  
19 way from NSCC to the hospital after being discovered. On the  
20 other hand, fentanyl and heroin are similar drugs in that they  
21 are both opiates. While I think that an experienced user such  
22 as Mr. Beaulieu would have known the difference between the  
23 two, as a result of their appearance, I do not think that much  
24 hinges on the difference in terminology. I do not have a strong  
25 basis to find that he would have had a motive to lie on the  
26 point. His evidence as to what happened while undergoing  
27 intake at NSCC was in some ways quite different from the

1 other evidence that was presented in this case. However, I  
2 accept that due to his consumption of narcotics, his memory of  
3 what had occurred may be hazy.

4 I think it is noteworthy that he said that  
5 when originally obtaining the drugs that were seized, he  
6 ordered them by phone from someone in Peace River and  
7 sent them the purchase amount by email. Presumably, this  
8 would have been done through a bank account, yet there was  
9 no record of that transaction presented to the Court. It is true  
10 that we have no evidence contradicting the transaction, but  
11 without the Crown knowing Mr. Beaulieu's testimony in  
12 advance, that evidence would have been uniquely in the ability  
13 of Mr. Beaulieu to obtain. His testimony concerning how he  
14 obtained that money in the first place seemed to possibly be  
15 evolving during his testimony. Having said that, it was never  
16 truly inconsistent. He was asked how he got it and what he  
17 had stolen. He admitted to stealing a skidoo. He was asked  
18 where he sold it. He said in High Level. He was asked how  
19 he got it there. He said he drove it. He later said that he  
20 drove it there with a truck.

21 As noted by Mr. Praught, there was one  
22 point in Mr. Beaulieu's testimony when he paused and smiled  
23 prior to responding to a question; however, I do not know that  
24 this was something particularly noteworthy or damaging to his  
25 credibility. It may have simply been a nervous response prior  
26 to giving an answer that reflected poorly on him.

27 It is true that in his testimony he would

1 answer questions using the words “I guess” or “I don't know.”  
2 There were certainly a number of times when he testified that  
3 his memory was a blur. Mr. Praught said that Mr. Beaulieu's  
4 evidence lacked detail and consistently fell back into the fog of  
5 drug use. This may to some extent be true, but it also fits into  
6 his narrative of using drugs at the time and being a drug  
7 addict.

8 Mr. Praught pointed out that Mr. Beaulieu  
9 was crying and distraught when the drugs were discovered  
10 during the intake process at NSCC. It may well be that  
11 Mr. Beaulieu was crying because he knew that he was facing  
12 a long prison term as a result of being caught red-handed with  
13 possession of fentanyl for the purposes of trafficking.  
14 However, he may also have been crying because of the  
15 prospect of now having to go through the ordeal of withdrawal.  
16 I note that his testimony of methadone and other similar drugs  
17 being unavailable at NSCC was never contradicted. The only  
18 treatment available at NSCC according to Mr. Beaulieu was  
19 following withdrawal. He would have known this from his  
20 previous periods of incarceration at NSCC, that he described.  
21 His emotional state may also have been the result of facing  
22 criminal charges other than PPT, such as simple possession,  
23 which under the circumstances could significantly increase his  
24 period of incarceration.

25 I certainly agree with Mr. Praught when  
26 he states that someone in possession of an illegal drug can  
27 have both the intention to use it and sell it to others. The two





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**(PROCEEDINGS ADJOURNED TO 1:30 PM, MARCH 1,  
2024, YELLOWKNIFE)**

**CERTIFICATE OF TRANSCRIPT**

Veritext Legal Solutions, Canada, 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 edits  
have been applied to this transcript.

Dated at the City of Toronto, in the Province of Ontario, this  
27<sup>th</sup> day of May, 2024.

*Veritext Legal Solutions, Canada*

\_\_\_\_\_  
Veritext Legal Solutions, Canada