

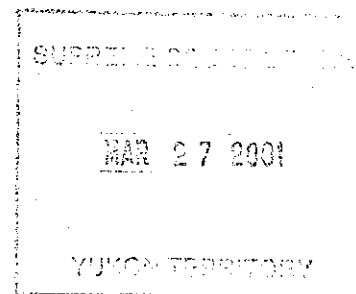
IN THE SUPREME COURT OF THE YUKON TERRITORY

BETWEEN:

HER MAJESTY THE QUEEN

AND:

PEGGY LORAIN HANIFAN



KEVIN DROLET

For the Crown

SCOTT NIBLOCK

For the Defence

**MEMORANDUM OF SENTENCE
DELIVERED FROM THE BENCH**

[1] McINTYRE J. (Oral): The accused has pleaded guilty to a charge of theft of monies over a period of time, between the 1st of February of 1998 and the 9th of June of 1999. She was the head cashier of Shoppers Drug Mart, here in Whitehorse, and during that time stole \$2,400. She was caught on the 9th of June of 1999, on videotape, was confronted and, as I understand it, has confessed to this matter.

[2] Looking at the circumstances, both aggravating and mitigating, first of all, as an aggravating circumstance, you were the head cashier at Shoppers Drug Mart. That is a position of trust, and Mr. Pasloski invested in you trust. He believed in you and trusted in you, and trusted you to look after the affairs of Shoppers Drug Mart, not to steal from him or Shoppers Drug Mart.

[3] Theft by a person in a position of trust is a very significant matter. It calls for deterrence so that you do not engage in this kind of activity again, but also general deterrence so that others of like mind do not do this kind of activity. Employers have to depend on their employees. They trust them and that trust must be well-founded, so it is a very significant aggravating circumstance that you were in a position of trust.

[4] On the mitigating side, I accept that there was an immediate offer of a guilty plea. I have heard from you what appears to me to be a genuine expression of remorse. I understand that, as I say, there was a confession with respect to this.

[5] When I balance those aggravating and mitigating circumstances, I consider first of all, that a jail term must be imposed. This is, as I say, theft by a person in a position of trust, so I must impose a sentence of imprisonment, but pursuant to the provisions of the *Criminal Code* and the conditional sentence provisions, I am prepared to have that sentence served in the community.

[6] I note, as well, that there is a joint submission by the Crown and your counsel on your behalf; I have to tell you that that is a significant factor that I take into account in assessing the sentence, so that, having decided that there must be a period of imprisonment, I look to the *Criminal Code* and I look to the circumstances that have been put before me, and with your absence of record and from the fact that, I understand, you are now gainfully employed, plus seeking and accepting help with respect to your addictive problems or addictive personality, I am satisfied that serving the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purposes and principles of sentencing, set out in s. 718 to s. 718.2 of the *Criminal Code*.

[7] So this will be a conditional sentence that I impose on you. You will serve a term of imprisonment for nine months, to be served under a conditional sentence order. You will make restitution in the amount of \$2,400. That restitution order, by the way, is not part of the conditional sentence order, per se, but a restitution order under s. 738 of the *Criminal Code*. The \$2,400 is to be paid within 36 months at a rate of not less than \$50 per month.

[8] In addition, you will keep the peace and be of good behaviour and appear before the Court when required to do so. You will report to a conditional sentence supervisor by tomorrow, and thereafter you will report when required by the supervisor and in the manner directed by the supervisor. You will remain within the jurisdiction of this court, that is to say the Yukon Territory, unless

written permission to go outside the jurisdiction is obtained from the conditional sentence supervisor or the Court. You will keep the conditional sentence supervisor notified of your address. You will notify, in advance, of any change of name or address. You will keep the conditional sentence supervisor notified of your employment and any change of employment or occupation and, in addition, you will provide to the conditional sentence supervisor the employment schedule.

[9] As well, you will abstain absolutely from the consumption of alcohol during this nine-month period. You will also abstain from the possession or consumption of any controlled substances, other than pursuant to a medical prescription. You will provide urine samples to the conditional sentence supervisor, as requested by the conditional sentence supervisor.

[10] You will remain at home every day from 9:00 p.m. to 6:00 a.m., except for the purposes of employment in accordance with your work schedule or with the written permission of the conditional sentence supervisor, and this term will start tomorrow; it will be effective tomorrow.

[11] You will obtain treatment and counselling with respect to substance abuse, as directed by your conditional sentence supervisor.

[12] I believe those are all the terms that are suggested. Is that correct, Mr. Drolet?

[13] MR. DROLET: Yes, thank you.

[14] THE COURT: Thank you. Is it customary to impose a victim fine surcharge in the Yukon with respect to conditional sentences?

[15] MR. DROLET: Yes, it is.

[16] THE COURT: And is there a set amount?

[17] MR. NIBLOCK: Fifty dollars.

[18] THE COURT: Thank you. There will be a victim fine surcharge in the amount of \$50. How long do you need to pay that?

[19] MR. NIBLOCK: Seven days, My Lord.

[20] THE COURT: Thank you. You will have seven days to pay that. Is there anything else that we can deal with on this matter then?

[21] THE CLERK: Just for the record, is the restitution to be paid to Darrell Pasloski Pharmacy Limited?

[22] THE COURT: Yes, thank you very much. That's the name of the company and I did not articulate that, but that is the complainant and that is to whom the restitution order should be made payable.

[23] MR. NIBLOCK: Yes.

[24] THE COURT: Thank you very much. Is there anything else then?

[25] MR. NIBLOCK: No, thank you, My Lord.

[26] THE COURT: Ms. Hanifan, I hope that this has been a culminating event for you and that your life is turned around, as you have represented to me that it has. This was a very significant matter and is a significant matter, and you have been ably represented by your counsel and fairly treated by the Crown --

[27] THE ACCUSED: Yes.

[28] THE COURT: -- and I hope that you can get a benefit from this.

[29] THE ACCUSED: Thank you.

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[30] THE COURT:

We will adjourn.

McIntyre

McINTYRE J.