

**PROVINCIAL COURT OF NOVA SCOTIA**

**Citation:** *R. v Aalders*, 2020 NSPC 15

**Date:** 20200128

**Registry:** Dartmouth

**Between:**

Her Majesty The Queen

v.

Brandon Aalders

**Judge:** The Honourable Judge Jean Whalen, J.P.C.

**Heard:** September 11, 2019, Dartmouth, Nova Scotia

**Decision** January 28, 2020

**Charge:** S. 5(2) of the *Controlled Drugs and Substances Act*

**Counsel:** Angela Nimmo, for the Crown  
Karen Endres, for the Defence

**By the Court:**

**Introduction:**

**I     FACTS:**

[1]   The facts are found as stated in the Crown brief and agreed to by the Defence.

The police began investigating Mr. Aalders after they received source information from a past-proven reliable source on March 20, March 27, June 5, June 6, June 19 and June 20, 2018. In March 2018, the source said that Mr. Aalders was selling large quantities of cocaine from his car, a Saturn Vue, around the Sackville area. The police checked the plate and found that it attached to a Saturn Vue registered to Brandon Aalders in Beaver Bank.

In June, the source advised police that Mr. Aalders was now driving a Volkswagen Jetta, that he smoked weed while driving, that he delivered cocaine, and that he sold in the parking lot behind the Esso on Sackville Drive. By June 19 and 20, the source advised that Mr. Aalders was still selling cocaine in grams and half grams from his house and his car, that he made deliveries around the city and that he still drove his Jetta.

Police performed surveillance on a number of occasions and confirmed that both vehicles mentioned by the source were located at his home in Lower Sackville. Police noted that the same license plate that was previously on the Saturn Vue had been transferred to the Volkswagen Jetta.

On June 13, 2018 the police observed Mr. Aalders drive his Jetta from his residence

to the parking lot behind the Esso on Sackville Drive. Again, on June 15 they located the Jetta in the parking lot behind the same Esso. They observed Mr. Aalders interacting with multiple people. The interactions appeared to be friendly.

On June 20, 2018, the source stated Mr. Aalders was still selling cocaine and police performed surveillance on Mr. Aalders while driving in his Jetta. On that day, the police detected the smell of burning marihuana and believed that Mr. Aalders was smoking marijuana while driving.

The police performed a traffic stop and arrested Mr. Aalders who was alone in his vehicle. They searched the vehicle incident to arrest and located cocaine packaged in dime bags for resale. Mr. Aalders was then arrested for possession of cocaine for the purposes of trafficking. He was advised of his *Charter* rights and the police caution. During the search of the Jetta, the following was found:

1. A plastic container containing marihuana-4.8 grams;
2. A black-handled knife (in the drivers' side door);
3. A black bag containing 16 dime bags of cocaine mixed with benzocaine-18.6 grams (hidden in alcove behind the sunglasses holder);
4. A container containing six dime bags of cocaine-6.3 grams (in console of the car);
5. Twenty-five dollars (in his wallet);
6. Cigarette case with 15 cigarettes and two rolled joints;
7. Vape pen, and marihuana paraphernalia (bud crusher, scissors); and

8. An Apple iPhone (later analyzed pursuant to a search warrant).

After speaking with legal counsel, Mr. Aalders told police the following (as set out in the ITO for the search of his home):

1. He lives in Beaver Bank, Nova Scotia with his mother and no one else lived at the residence;
2. He stays in the basement and his mother stays upstairs;
3. He has some weed in the living room-part of his bedroom;
4. Hidden in his couch he has \$170 cash;
5. He has approximately five grams of cocaine hidden under the coffee table in a pencil case;
6. There is a digital scale near the pencil case;
7. He started using cocaine in February, 2018;
8. People wanted \$120/gram and he couldn't afford to buy it so he started selling cocaine to support his habit;
9. He bought 20 grams of cocaine for \$850 and he has about five grams of cocaine left from a prior purchase;
10. He hasn't used cocaine in at least two weeks since getting a new dog;
11. The cocaine he buys is a 60/40 mix of cut/cocaine;
12. He sells cocaine for \$80-\$100 per gram;
13. He doesn't re-cut the cocaine but he weighs it and bags it himself;
14. He bags it in one gram bags and half gram bags; and
15. He tries to sell it for double of what he pays so that he can use half of what he buys.

Police, then executed a search warrant at the house Mr. Aalders shared with his mother, their cat, and his dog.

Mr. Aalders occupied the basement of the home and police seized the following items from the basement:

1. A tote containing a pencil case in which they found:
  - a. Dime baggies-some with black cross logos and some with marihuana leaf logos;
  - b. A blue bag with 4.0 grams of cocaine mixed with benzocaine, and cocaine;
  - c. 11.7 gram chunk of white powder that was a mixture of cocaine, methamphetamine, caffeine and benzocaine;
  - d. Digital scale;

- e. Blue iPhone;
- f. Grey iPhone;
- 2. Notebook on table;
- 3. 2.1 grams of marihuana in mason jar on table;
- 4. Five containers with resin;
- 5. \$170 cash in couch;
- 6. Magazine (clip) with one 22-calibre bullet in bedside table drawer; and
- 7. Workers compensation letter with name and address.

The total amount of cocaine seized in relation to Mr. Aalders was 43.85 grams, (24.9 grams from Jetta and 18.9 grams from home). The value of that cocaine is \$3,504-\$4,380. Although Mr. Aalders did not have substantial amounts of cash, text messages show that he also received payment via “e-transfers”.

After his arrest, Mr. Aalders was released with a “Promise to Appear” and was not subject to any bail conditions or constraints.

From the analysis of the iPhone messages in the days prior to his arrest, he was selling cocaine by the half-gram, gram, and three-and-a-half grams (five days before Mr. Aalders’ arrest one customer requested a “*ball of pure*” to which Mr. Aalders responded “*Yeah. 340\$. I think I got it*”) Three-and-a-half grams of cocaine is commonly referred to as an “8-ball” of coke.

Not all of the cocaine analyzed contained just cocaine, or cocaine mixed with “cut” (benzocaine and/or caffeine) as Mr. Aalders believed. A sample of some of the cocaine seized contained a mixture of coke and meth (another *Schedule 1* drug).

## **II PSR (dated November 8, 2019)**

[2] Mr. Aalders is 23 years old with one sibling. His father passed away in 2005. The defendant has little recollection of their time together. His mother is employed and he shares a positive relationship with her. His brother, aged 29 has taken more of an interest in the defendant since his arrest.

[3] He resides in the same home as his mother. He had a positive upbringing, never exposed to or been a victim of abuse. He had some exposure to illicit drugs and an influential older peer group.

[4] When his father passed, there was a “shift” in his behavior. There was a lot of confusion and anger. He became “disappointed in other male family members for not taking on a more active role in his life”.

[5] Growing up Mr. Aalders said, “I was always a follower, I did stuff to fit in”. I had a good upbringing.

[6] Mr. Aalders mother says her son “struggles with trying to comprehend the traumatic loss...he has never accepted his father’s death. He chose not to attend grief counselling. She described her son as a follower who felt lost, alone and desperate to fit in. Her son struggles with low self-esteem, anxiety and depression.

[7] Mrs. Aalders say “my heart aches for him...” he is very remorseful and made the wrong decision.

[8] Mr. Aalders is single, has no children. He graduated from high school in 2014. He identified as the “class clown” as he wanted to make people laugh. The defendant said, “I did it for attention, for people to like me, to have friends”.

[9] Mr. Aalders said he was bullied in school. Due to his physical size it was all verbal. This has a significant impact on his self-esteem and ability to learn. He hid this from his mother.

[10] Mr. Aalders has full time employment for the last two and a half years. He expressed an interest in getting a trade (plumbing).

[11] Mr. Aalders has had back surgery. It continues to be problematic. He has suffered from anxiety and depression since he was 11 years old. He has experienced panic attacks, negative thoughts, sweats and over-thinking. It has also affected his appetite.

[12] He began drinking alcohol before the legal age and first used marijuana at age 14. He also used ecstasy (grade 10) and began using cocaine at 21 years. The defendant said "I liked it. I was self-medicating for anxiety and depression, and it made me happy". He used on weekends and then escalated to every day. His debt increased and he was offered opportunity to begin selling.

[13] Since the offence he has completely ceased using any illicit drugs.

[14] He sought out professional help. He had 5/6 sessions before maxing his benefits. He had other treatment through mental health services and a 10 week Anxiety Group Treatment. He's involved with a peer group who does not favour

illicit drugs. His hobbies include meditation, breathing exercises, video games and mechanical work.

[15] Mr. Grady, Registered Psychologist reported Mr. Aalders self-referred and they met in December 2018. He worked with Mr. Aalders until April 2019. He described the defendant as motivated to continue treatment and has effectively applied new tools in his life. He believes the defendant has insight and his efforts are genuine.

[16] Ms. Brodersen, MA. (Doctoral Psychiatric Resident) assessed Mr. Aalders in June 2019. Initially the defendant demonstrated difficulty applying the skills gained from previous treatment. But during their (5) sessions Mr. Aalders was prompt in attendance, completed assigned work and communicated effectively. She commended Mr. Aalders for his motivation and dedication to recovery.

[17] Mr. Aalders accepted responsibility for his actions. He said to people..."I wanted people around, people to like". He said financial strain and poor decision making occurred after becoming addicted to the illicit drug.

### **III Victim Impact Statement**

[18] No individual Victim Impact statement was filed but I can say the impact of cocaine on our communities has been devastating. It has ruined people, it has

ruined families. People steal, commit robberies and home invasions to get money to buy cocaine. People have been assaulted, beaten, even killed over cocaine. “It brings human misery to many.”

#### **IV Position of Crown**

[19] The Crown is seeking a term of imprisonment of two years in accordance with the established precedent that Schedule 1 drugs trafficking offences consistently attract imprisonment in the range of two years, even for first time offenders who entered guilty pleas.

[20] In support, the Crown states at page 5 of their brief:

Mr. Alder’s offence should be categorized as “street level” cocaine trafficking via a “dial-a-dope” business that he ran from his car and his house.

This charge is very serious. Mr. Aalders was in the “*deadly business*” of trafficking cocaine. He has all the tools of the “*detestable*” trade – almost two ounces of cocaine, scale, packaging, a car, and a cell phone with text messages related to his trafficking. For decades, our Court of Appeal has justifiably used strong language – “*deadly and devastating...ravages lives*”, “*ruinous to our communities*”, “*crippling to our society*” – to describe the grave societal damage done by people engaged in the business of trafficking cocaine. As observed by Justice Scanlan in *R v. Oickle*, whether or not an offender is selling to feed an addiction or purely for profit does not alter the devastating societal damage done by such crime. Either way, the extremely serious nature of the offence remains a constant. Someone using cocaine cannot just fall into selling at the quantities Mr. Aalders possessed. Mr. Aalders was connected to mid-level traffickers and he needed to be trusted by people involved in a despicable and violent business.

The profound dangers associated with cocaine have not diminished over time. There is still an urgent need to protect the public, especially when it is compounded by the new pervasive risk of street drugs like cocaine being laced with other *Schedule 1* drugs (unbeknownst to the traffickers and/or the purchaser) including meth and opioids like fentanyl:



...As my colleague has clearly explained, fentanyl is scourge. It poses intolerable risks of accidental overdosing because it is so much more powerful than morphine. Illegally manufactured fentanyl can be particularly and unpredictably potent, even tiny amounts of fentanyl mixed into other drugs such as cocaine or heroin may be fatal; often street drugs have fentanyl cut into them, and it is practically impossible for drugs users to recognize whether the drugs they buy contain fentanyl...

Therefore, the need to protect the public has never been more present.

Denunciation, deterrence and protection of the public have been entrenched as the paramount objectives when sentencing for trafficking socially destructive drugs like cocaine.

Involvement in cocaine trafficking at any level in Nova Scotia has consistently attracted substantial periods of imprisonment, even for first offenders. In that regards, the following statement from the Supreme Court in *R. v. Lacasse* is applicable:

While it is normal for trial judges to consider sentences other than imprisonment in appropriate cases, in the instant case, as in all cases in which general or specific deterrence and denunciation must be emphasized, the courts have very few options other than imprisonment for meeting these objectives, which are essential to the maintenance of a just, peaceful and law-abiding society. [emphasis added]

In this case, Mr. Aalders made a considered and deliberate choice to traffic cocaine. Not all people that use cocaine decide to sell it, especially someone in Mr. Aalders' enviable situation. He lived in a comfortable and supportive home, he had income or benefits, and he had vehicles. This was a man who had options, he was not compromised by an abusive upbringing, and/or a severe addiction at the time of the offence. This offence was not an isolated incident, it was ongoing and premeditated. Mr. Aalders was entrenched in the street-level business of trafficking a profoundly dangerous drug and the evidence shows that he intended to continue.

The absence of violence or weapon charges does not mitigate the gravity of Mr. Aalders offence: *"The mere fact that an aggravating circumstance is not shown to be present does not justify the inference of a conclusion to the offender's advantage. The absence of an aggravating factor cannot transform itself into a mitigating factor. At best, that absence is a neutral factor at sentencing."* Although he wasn't charged with possessing a weapon, the knife in his vehicle driver-door can reasonably be perceived as having been there for protection. It is also troubling that a magazine clip with a 22-calibre bullet was found in his bedside table. The Crown submits that these facts are aggravating.

## **V Position of Defence**

[21] Defence counsel referring to *R v. Chase*, 2018 NSA 36, and *R v. Rushton*, 2017 NSPC 2, is seeking a sentence at the lower end of the range of sentencing for this offence and in particular a suspended sentence, probation for (3) years or in the alternative 90 days intermittent plus 3 years probation, citing the defendant's lack of record, youthfulness, addiction issues, mental health issues, efforts at rehabilitation, community and family support, absence of aggravating factors, cooperation with police and his confession.

[22] Defence counsel reviewed Mr. Aalders Pre-Sentence Report, outlined his family history, education and employment, as well as his struggles with anxiety, depression and grief.

[23] Counsel acknowledged that Mr. Aalders is not disputing what he said to the police, but he was scared and minimized his drug use because he just wanted to go home.

[24] Ms. Endres emphasized that Mr. Aalders self referred and has taken steps to address his mental health issues. He is employed full time and put into practice what he is learning from counselling.

[25] In Mr. Aalders letter to the court he expressed remorse and apologized for his actions. He has stopped taking drugs and sought professional help. He has set

goals for himself and does not plan to do anything like this again. He has family support and he wants the opportunity to show everyone he can go forward and change. Mr. Aalders also said openly that he was sorry.

## **VI The Law**

[26] In *R. v. Russell*, 2019 NSSC 353, Justice M. Lynch stated at paragraph 16:

[16] With regard to the caselaw, the Nova Scotia Court of Appeal has been consistent in saying that the primary considerations for sentences involving trafficking or possession for the purposes of trafficking in Schedule 1 substances are deterrence and denunciation and that was reiterated in the *R. v. Oickle*, 2015 NSCA 87.

[17] Protection of the public is the ultimate objective in sentencing (*R. v. Bratzer*, 2001 NSCA 87).

[18] The Nova Scotia Court of Appeal has also emphasized that sentencing is an individualized process depending on the factors present with respect to the circumstances of the offence and the offender. Also, trafficking in Schedule 1 offences will frequently attract a period of federal incarceration, however, a sentence of federal incarceration is not mandatory and only to be avoided by exceptional circumstances. (*R. v. Scott*, 2013 NSCA 28)

[19] Nova Scotia courts have also reiterated that a sentence of less than two years of imprisonment is rare as noted by Justice Warner in *R. v. Forward*, 2017 NSSC 190.

[20] Proportionality is central to the sentencing process (*R. v. Solowan*, 2008 SCC 62). That means that a sentence not exceed what is just and appropriate given the moral blameworthiness of the offender and the gravity of the offence and it has to be balanced with the need to ensure that offenders are held responsible for their actions and that the sentence properly reflects and condemns their role in the offence and the harm they caused. “The two perspectives on proportionality thus converge in a sentence that both speaks out against the offence and punishes the offender no more than is necessary” (*R. v. Nasogaluak*, 2010 SCC 6 para. 42).

[21] The Supreme Court of Canada in *R. v. Lacasse*, 2015 SCC 64:

[58] There will always be situations that call for a sentence outside a particular range: although ensuring parity in sentencing is in itself a

desirable objective, the fact that each crime is committed in unique circumstances by an offender with a unique profile cannot be disregarded. The determination of a just and appropriate sentence is a highly individualized exercise that goes beyond a purely mathematical calculation. It involves a variety of factors that are difficult to define with precision. This is why it may happen that a sentence that, on its face, falls outside a particular range, and that may never have been imposed in the past for a similar crime, is not demonstrably unfit. Once again, everything depends on the gravity of the offence, the offender's degree of responsibility and the specific circumstances of each case. LeBel J. commented as follows on this subject:

A judge can order a sentence outside that range as long as it is in accordance with the principles and objectives of sentencing. Thus, a sentence falling outside the regular range of appropriate sentences is not necessarily unfit. Regard must be had to all the circumstance of the offence and the offender, and to the needs of the community in which the offence occurred. (*Nasogaluak*, at para. 44)

[22] In *R.v. Rushton*, 2017 NSPC 2, Judge Buckle acknowledged that a sentence less than a federal penitentiary sentence was rare for trafficking cocaine but in the circumstances she was dealing with she imposed a suspended sentence with three year of probation. In that case, the person being sentenced was a young adult, an addict, who had taken extraordinary steps toward rehabilitation and turning his life around. Judge Buckle notes in that case that the caselaw showed that sentences at the lower end of the range usually have one or more of the following- addictions, youth, limited or no record, relatively small amount of drugs, some hope of rehabilitation and an absence of aggravating factors.

[23] Most recently in *R.v. Chase*, 2018 NSA 36, the Court of Appeal upheld a 90-day intermittent sentence followed by three years of probation. The Court noted that sentences outside the normal range do not mean an unfit sentence. Again, that was a situation where Mr. Chase had completely turned his life around. He had full-time employment, a stable relationship, was expecting a child and had letters attesting to his progress. The Crown was seeking two years and the Defence was seeking a suspended sentence. Parity is secondary to proportionality and proportionality links the accused to the crime in comparing sentences for similar offences in similar circumstances that is grounded in justice and fairness (para. 23). It was noted that the sentencing judge was impressed by the remarkable changes made by the appellant. The Court noted that Chase took full responsibility and was genuinely remorseful. They noted in *Chase* that deterrence and denunciation will continue to be the primary objectives and that convictions will normally attract a federal prison term. However, that does not mean that in an appropriate case, depending upon the particular circumstances of the offence and the offender, a lesser sentence cannot be imposed (para. 48).

[27] Later at paragraph 24 she outlines the Principles of Sentencing:

[24] I have to consider the principles of sentencing which are in s. 10 of the *Controlled Drugs and Substances Act* as well as ss. 718, 718.2 of the *Criminal Code of Canada*.

[25] The purpose of sentencing in s. 718 is to protect society and to contribute to the respect for the law and maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the objectives outlined.

[26] The Nova Scotia Court of Appeal has said that the primary objectives for an offence involving trafficking or possession for the purposes of trafficking in this type of substance is denunciation and deterrence, however I can not lose sight of rehabilitation.

[27] Section 10 of the *Controlled Drugs and Substances Act* provides that a fundamental purpose of any sentence is to contribute to the respect for the law and the maintenance of a just, peaceful and safe society while encouraging rehabilitation and treatment in appropriate circumstances of an offender and acknowledging the harm to victims and to the community.

[28] The sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender (s. 718.1).

[29] The sentence must be similar to sentences given for similar offences in similar circumstances to similar offenders. I must consider the aggravating and mitigating factors relating to the offence and the offender and consecutive sentences should not make the combined sentence unduly harsh or long. The offender should not be deprived of liberty if less restrictive sanctions may be appropriate, and all available sanctions other than imprisonment that are reasonable in the circumstances should be considered.

[30] Those principles have to be balanced in determining an appropriate and just sentence for [Mr. Aalders]

## **VII Mitigating Factors**

1) Youthful offender-23 years

2) No record

3) Letters of support from his brother, employer, family and friends

who all describe him in positive terms, that he is remorseful, that

death of father had negative impact; that he made a bad choice, a mistake

- 4) Letters from Dr.'s and Psychologist outlining steps Mr. Aalders has taken to address his grief, anxiety and depression
- 5) No outstanding charges
- 6) Returned to full time employment
- 7) Change of plea to guilty on day of trial

## **VIII Aggravating Factors**

- 1) I find Mr. Aalders was not driven by an addiction but because he had no money, had nothing "can't live off WCB..." did it to make extra money to support what I do, or make a couple bucks".
- 2) Cocaine scheduled 1 drug, 43 grams, some cut with meth.
- 3) Categorized as "street level" cocaine trafficker

## **IX Discussion**

[28] As part of the Crown submission the Court viewed Mr. Aalders' statement given to the police. Ms. Endres says he was scared and minimized his drug use, he

just wanted to go home. However, what I saw was someone who did not appear to be scared or nervous. He was talkative, and cooperative with the police.

[29] He admitted to smoking “shatter” because it was cheaper. He increased from a joint to 2-3 grams per day because of his anxiety. He was also on prescribed medication for same. And Dr. Lecky wrote he never abused his medication and coped well with his back pain and back function. When asked if he used coke, he replied “I have on weekends if drinking the only time I really do it”.

[30] When asked if he was an addict, he replied “I guess I’m lucky, I don’t have an addictive personality”.

[31] His use increased to 2-3 times a week because of stuff he was going through. Then by the end of February he didn’t do it for awhile, and only if drinking and it was there.

[32] When asked if he craved it, he said no. He did not have any in the past week.

[33] When asked how he got into selling he replied because he had nothing, can’t live off WCB, I was broke, so you make extra money to support what I do or make a couple of bucks. He sold to a few friends.

[34] In *R. v. Morrison*, 2019 NSPC 28, J. Ross states at paragraph 18:

[18] Schedule 1 drugs present health risks to user who purchase the product on the street. This can bring harm to a users family and create negative impacts in [our community].

[35] Mr. Aalders said he sold to friends and even if that's true (AND I reviewed text messages which clearly show Mr. Aalders texting with 3 people about the purchase of drugs) "there is no assurance that they kept the substance to themselves for personal use".

[36] Mr. Aalders did not test the cocaine and relied on "his guy" who told him it was cut with benzo. Some of this cocaine had "meth" in it.

[37] Further, *R v. Morrison* in paragraph 18, J. Ross states:

[18] Further dissemination would spread the risk inherent in drug abuse to a wider circle and compound the foregoing effects. It is not possible for traffickers to circumscribe the resulting harm, however convinced they are by the rationalizations they use to justify their behavior.

[38] In citing *R v. Chase* and *R v. Rushton* Defence counsel says Mr. Aalders has features of both cases;

- (a) Addiction
- (b) Youthful offender
- (c) No record



- (d) Small amount of drug
- (e) Rehabilitation efforts
- (f) No aggravating features from CDSA

[39] While I find most of these features are present, based on all the information before me I do not find he had an “addiction” to cocaine nor was it a small amount. In *R v. Rushton*- 6 grams and *R v. Chase* was 6 grams. Here it was 43.8 grams.

## **X Disposition**

[40] I accept that Mr. Aalders understands the extent of his wrongdoing and is truly remorseful for his actions. Mr. Aalders has no prior criminal record. Aside from this one aspect of his life- trafficking in cocaine to a number of people for a number of months- Mr. Aalders has made a positive contribution to society in that he has worked fulltime. I am reminded of words of J. Ross in *R v. Morrison* in paragraph 34:

[34] Calls for leniency are completely understandable in such a case but must be tempered by an awareness of the destructive effects of hard drugs. Many of the people wracked by drug abuse are just as worthy and capable as [Mr. Aalders.] They too have (or had) jobs and families. Drug abuse has the potential to ruin lives, destroy families, and damage the community. It can turn healthy people into sick and needy people. It can turn an honest person into a habitual liar. A user's life goals shrink to one short-sighted objective- to get that next 'bump'. The hard and important problems of life are cast aside in favour of the easy quick fix.

[35]“It is my conclusion that a term of imprisonment is called for in this case. There are strong mitigating factors which decrease the length of sentence which would otherwise be appropriate- two years. However, this is a case where the tendency towards mercy must be tempered by recognition of the harmful effect of the accused’s behavior. The significant amount of cocaine seized, the daily involvement of the accused in purchasing and further distributing a dangerous Schedule 1 drug in the community- these call out for something more than a suspended sentence, and something more than 90 days. At par. 25 of *Swaine* (above) Justice Chipman quotes these words with approval: “The trafficker is a retailer of poison. Cocaine destroys life and breeds crime.”

[41] Denunciation of this conduct and deterrence to other similarly inclined require me to impose nothing less than a jail sentence of 12 months. Given the principle of restraint, it will be nothing more. Mr. Aalders is sentenced to a 12 month period of incarceration in a provincial institution. This will be followed by 12 months of probation on terms which include statutory clauses, report within 2 days which include abstention from alcohol and illicit drugs, counselling for alcohol use, mental health counselling if deemed necessary by the probation service, and a requirement not to associate with anyone who is known to have a record under the **CDSA** except incidental to employment or counselling or any immediate family members.

## **XII Ancillary Orders**

There will be a S. 109 ban for 10 years on firearms, prohibited and restricted firearms and weapons for life, a S. 487.051 DNA order (secondary designated

offence), and a Forfeiture of the drugs and illegal drug trafficking property. There is no victim fine surcharge.

Jean Whalen, JPC