

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:** )  
)  
HER MAJESTY THE QUEEN ) Geoffrey Roy and Amanda Hauk, for the  
) Public Prosecution Service of Canada  
)  
– and – )  
)  
)  
GEORGE OTTO ) Daniel Stein, for the Defendant  
Defendant )  
) **HEARD:** October 18, 2019

2019 ONSC 6446 (CanLII)

**REASONS FOR SENTENCE**

**DILUCA J.:**

- [1] George Otto is a medical doctor who has led a virtually unblemished life. He is also a drug dealer who played a key role in a fentanyl trafficking scheme that resulted in a very significant amount fentanyl being made available to drug users.
- [2] A jury of his peers found him guilty of trafficking in fentanyl. It is now my task to determine a fit and fair sentence.
- [3] I start this difficult task by acknowledging the tragic irony that pervades this case. A doctor, sworn by oath to help save lives, participated in a scheme that ultimately put many lives at risk. This tragic irony is made all the more acute when one considers that greed is the only apparent motive.
- [4] For reasons that are hard to fathom, Dr. Otto sacrificed his professional and personal existence to make easy money. Dr. Otto’s fall from grace is, in a word, staggering.

**The Scheme to Traffic Fentanyl**

- [5] In September 2015, the Sudbury Police began an investigation into Sean Holmes and others whom they believed were trafficking fentanyl in the Sudbury area. Surveillance revealed that Mr. Holmes would travel to Vaughan on a regular basis and the police were soon able to draw a connection between Mr. Holmes and Liridon Imerovik. As the investigation progressed, police learned that Liridon Imerovik was supplying fentanyl

patches to Mr. Holmes. The patches were dispensed from a pharmacy operated by Shereen El-Azarak and the prescriptions for these patches were signed by Dr. Otto.

- [6] The police were able to compile a formidable body of evidence that included text messages, surveillance, electronic patient data from both the pharmacy and from Dr. Otto's practice, data from the government operated Narcotic Monitoring System, as well as other documents including a particularly incriminating hand-written list of patients who had received fentanyl prescriptions from Dr. Otto.
- [7] Viewed cumulatively, the Crown presented an overwhelming case establishing a scheme to traffic in fentanyl involving Shereen El-Azarak, Liridon Imerovik, Sean Holmes and Dr. Otto.
- [8] I find that the scheme to traffic fentanyl pre-existed Dr. Otto's involvement. He was brought into the scheme by Shereen El-Azarak, who was using at least two other doctors to write false prescriptions.
- [9] Shereen El-Azarak worked in close concert with Liridon Imerovik who was an addict trafficker. Mr. Imerovik distributed the drugs to drug traffickers, such as Sean Holmes. It appears that many, if not most of the patients had no justifiable need for fentanyl. A few, perhaps, had a legitimate need for fentanyl, but nonetheless participated in the scheme and likely handed over some of their fentanyl to Mr. Imerovik for further distribution. The patients who were used as a vehicle to obtain the drugs were paid for their participation. One text message suggests that the patients were paid \$500 for their role in the scheme. It is unclear whether every patient was paid \$500.
- [10] Dr. Otto's role in the scheme was to write prescriptions for fentanyl. He too was paid for his role. Again, one text message suggests he was paid \$1,500 per prescription. It is unclear whether he was paid this amount in relation to every prescription.
- [11] Dr. Otto's medical charts were tendered into evidence. On a few occasions, patients came to him with a pre-existing prescription for fentanyl given by another doctor. In those cases, Dr. Otto simply continued prescribing fentanyl without applying any realistic degree of objective assessment. However, in many cases, Dr. Otto prescribed fentanyl to patients who presented with purported ailments. The medical files reveal scant, if any, justification supporting the legitimate prescription of fentanyl. In some instances, the amount of fentanyl prescribed is associated with end of life palliative care. Even accounting for the fact that the state of medical knowledge regarding the proper use of fentanyl was not as well developed in 2015 as it is today, it is inconceivable that Dr. Otto would have honestly but mistakenly or incompetently prescribed the quantities of fentanyl he did in relation to the ailments presented by the purported patients.
- [12] More importantly, the evidence at trial also established that Dr. Otto engaged in a makeshift cover-up attempt that involved retroactively creating patient records for patients

who had been prescribed fentanyl during a time period when he was suspended from the practice of medicine. Dr. Otto attempted to explain this evidence away by suggesting that the dates on the records were accurate, and that he created all the records while working at his practice on a Saturday when he would not have had staff present. On his version of events, a number of patients came in to his walk-in clinic on a Saturday and coincidentally, these were all people who were prescribed fentanyl. His evidence on this issue defies logic and is clearly an attempt to explain away a very damning piece of evidence.

### **The Scope of the Scheme**

- [13] The amount of fentanyl trafficked under this scheme is significant. The data obtained from the Narcotic Monitoring System suggests that between March 2015 and January 2016, Dr. Otto prescribed over 6,000 patches of fentanyl. Looking only at the time frame captured by the indictment, Dr. Otto prescribed over 4,400 patches of fentanyl out of which over 3,800 patches were obtained from Shereen El-Azarak's pharmacy.
- [14] The defence argues that these numbers do not appropriately capture the scope of the scheme vis-à-vis Dr. Otto. In particular, the defence notes that these numbers involve prescriptions but not necessarily unlawful prescriptions. Second, the defence notes that while these numbers reflect the nature of the global scheme to traffic, there were some components of the scheme that did not directly involve Dr. Otto, including the forgery of prescriptions by Liridon Imerovik and perhaps others. The defence notes that it is possible, if not probable, that at least some of the prescriptions in Dr. Otto's name may not have been actually signed by him. Lastly, the defence notes that the core of Dr. Otto's involvement essentially centered around the time of his suspension, and that during this period he signed approximately 42 prescriptions for a total of 1,260 patches. That said, the defence acknowledges that during the time frame of the indictment, Dr. Otto's name was attached to prescriptions for over 4,000 patches.
- [15] I am satisfied beyond a reasonable doubt that during the time frame of the indictment, Dr. Otto trafficked in *approximately* 4,000 patches of fentanyl. I note that on Dr. Otto's own evidence, he had never prescribed fentanyl prior to becoming involved with Shereen El-Azarak. The scheme to traffic was up and running prior to Dr. Otto's introduction. I find that Dr. Otto began prescribing fentanyl as part of the illegal scheme and that he continued to do so until the scheme ended. Even accepting the possibility that Liridon Imerovik forged his signature on some prescriptions and that perhaps some of the prescriptions may have been legitimately used, the evidence supports a finding that Dr. Otto's direct participation in the scheme was extensive, bordering on complete. On this basis, I find that I do not need to arrive at a final or precise number of patches that were trafficked. Even assuming that Dr. Otto was not criminally liable for some of the patches, the difference in numbers would be academic.
- [16] In terms of Dr. Otto's financial stake in the operation, I make the following findings. This offence was motivated by greed. Dr. Otto lived in what might objectively be described as a

small mansion. The house was subject to a significant mortgage and had been recently re-financed. Dr. Otto also had a significant debt with the Canada Revenue Agency. Lastly, Dr. Otto was facing a practice suspension due to discipline findings made by the College of Physicians and Surgeons. It is clear that he could not support his lifestyle and rather than change his lifestyle to address his financial predicament, he participated in the trafficking scheme.

- [17] As indicated, there is a text message by Liridon Imerovik suggesting that Dr. Otto was to be paid \$1,500 to write a false prescription. I cannot find that Dr. Otto was paid \$1,500 for each prescription he wrote, but I am satisfied beyond a reasonable doubt that \$1,500 per prescription was an amount he would have anticipated for his involvement. Again, I need not determine a final or precise number for his financial compensation. I find that he would have been paid, or at least expected to be paid, a very significant amount of money in view of the quantities involved.

### **The Sentences Imposed on Others in the Scheme**

- [18] Shereen El-Azarak proceeded to trial before de Sa J. without a jury. She was convicted and on October 10, 2019, she was sentenced to 13 years in the penitentiary, see *R. v. El-Azarak*, 2019 ONSC 5845. Justice de Sa recognized Ms. El-Azarak's key role in the trafficking scheme and noted that her role as a pharmacist resulted in a severe breach of trust. He also noted that her sentence would have been higher but for her particular medical circumstances. For context, it should be noted that the Crown sought a sentence of between 11 and 14 years for Ms. El-Azarak in view of the mitigating factors present.
- [19] Liridon Imerovik entered a guilty plea before Fuerst RSJ. He was sentenced to 6 years in the penitentiary, see *R. v. Imerovik*, 2019 ONSC 1969. His sentence was mitigated significantly because of the guilty plea and because of the fact that he was a youthful addict trafficker.
- [20] I understand that Mr. Homes also pleaded guilty at an earlier stage in the proceedings. He too was an addict trafficker with a prior record. He received a sentence of 6 years and 8 months.

### **Dr. Otto's Personal Circumstances**

- [21] Dr. Otto is currently 61 years of age. He was born in Uganda and came to Canada in the early 1980's. He left Uganda due to internal political strife that placed his life and safety at risk.
- [22] Once in Canada, Dr. Otto completed his studies at McMaster University, Faculty of Medicine. Following his internships, he opened a community based medical practice and walk-in clinic. His practice provided valuable medical services to immigrant and blue-collar patients. Over the years he built an extensive practice, and apart from an issue stemming from improperly authorized special diet forms for certain patients receiving

government assistance, he had an unblemished run as a doctor. That said, the improper authorization of special diet forms resulted in a discipline proceeding before the College of Physicians and Surgeons, which culminated in a 60-day suspension that was served during the course of the trafficking scheme.

- [23] Dr. Otto is married and has four children, three of whom live at home. The two youngest are in elementary school.
- [24] Two letters in support were filed at the sentencing hearing. These letters confirm that Dr. Otto is involved with his church and is held in very high regard for donating time and money to those in need of assistance.
- [25] At the time of these offences, Dr. Otto was suffering from financial pressures. Those financial pressures have worsened since his arrest and prosecution.
- [26] There is no doubt that his conviction and incarceration will have significant impact on him personally and on his family. It is almost certain that he will never practice medicine again.
- [27] When Dr. Otto was invited to address the court, he asked for leniency in view of his background and family situation.

### **The Position of the Parties**

- [28] The Crown seeks a sentence of 15 years in the penitentiary. In its view, this case involves an egregious breach of trust by a doctor. The motivation for committing the offence was greed and apart from Dr. Otto's background, there is nothing by way of mitigation present.
- [29] The Crown acknowledges that Dr. Otto was brought into the scheme by Ms. El-Azarak who had already commenced trafficking activities with other doctors. In this sense, she was the prime mover behind the scheme. That said, the scheme could not operate without a person like Dr. Otto.
- [30] Lastly, the Crown advises that the position it took in relation to Ms. El-Azarak (11 to 14 years' incarceration), was informed by the presence of mitigating factors not present in Dr. Otto's case.
- [31] The defence argues that Dr. Otto's degree of involvement is not as great as suggested by the Crown. In terms of culpability, the defence argues that Dr. Otto should be viewed as being closer to Liridon Imerovik's level of participation and moral blameworthiness.
- [32] Ultimately, the defence suggests a sentence in the range of 6 to 8 years.

### **Principles of Sentencing**

- [33] The objectives of sentencing long recognized at common law have been codified in Section 718 of the *Criminal Code*. They are: the protection of society and the maintenance of a

just, peaceful and safe society through the denunciation of unlawful conduct; deterrence, both general and specific; the separation of the offender from society where necessary; rehabilitation; reparation for harm done to the victims or the community; and promotion of a sense of responsibility in offenders and acknowledgement of the harm done.

- [34] Section 718.1 provides that the fundamental principle of sentencing is that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. Section 718.2 provides that a sentence should be increased or decreased to account for any aggravating and mitigating circumstances. It also requires that a sentence be similar to those imposed on similar offenders in similar circumstances.
- [35] Section 10(1) of the *Controlled Drugs and Substances Act* also provides that the fundamental purpose of sentencing in drug cases 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 offenders, and acknowledging the harm done to victims and to the community.
- [36] In terms of fentanyl offences, I am prepared to take judicial notice of the fact that an opioid crisis exists and that opioid use has resulted in many deaths over recent years, see *R. v. Olvedi*, 2018 ONSC 6330. While I accept that our state of knowledge about the harms of opioids has increased dramatically in recent years, the general dangers of a drug like fentanyl were known when these offences were committed in 2015 and 2016.
- [37] There is no question that fentanyl is an especially dangerous drug, see *R. v. Loor*, 2017 ONCA 696, at paras. 33-39. As such, general deterrence and denunciation are paramount sentencing factors, see *R. v. Lu*, 2016 ONCA 479.
- [38] In terms of the range of sentence, I am guided by the following cases: *R. v. Godreau*, 2016 ONSC 6318, *R. v. Sinclair*, 2016 ONCA 683, *R. v. Baks*, 2015 ONCA 560, *R. v. Lu*, 2016 ONSC 292, *R. v. Yu*, unreported decision of McMahon J. dated September 21, 2017, *R. v. Patel*, unreported decision of Graham J. dated September 19, 2017, and *R. v. Shaheen*, 2018 ONCJ 150.
- [39] These cases establish a rough range of 6 to 14 years, though as always the sentencing process is a highly individualized exercise that requires the exercise of judicial discretion in order to arrive at a just and appropriate sentence in each case, see *R. v. Lacasse*, 2015 SCC 64.

### **Mitigating Circumstances**

- [40] Dr. Otto has no criminal record and has led an essentially unblemished life. I accept that he dedicated his professional career to providing medical care to an immigrant and working class community.
- [41] I also accept that Dr. Otto is likely never to commit another criminal offence. He has strong prospects for rehabilitation, despite the fact that the offence was motivated by greed.

- [42] In terms of the level of participation, there is no issue that the scheme could not happen without Dr. Otto's participation. However, I accept that Shereen El-Azarak was the prime mover and instigator of the scheme. The evidence suggests she had other doctors involved in providing prescriptions, and that she brought Dr. Otto into a scheme that was already up and running. As such, I place Dr. Otto's degree of involvement as being somewhat less than Ms. El-Azarak's.
- [43] I also accept that this conviction will almost invariably end Dr. Otto's professional career. It will have a significant impact on his family and particularly his youngest children. In this sense, there are significant consequences on Dr. Otto beyond the period of incarceration.

### **Aggravating Factors**

- [44] Dr. Otto was a licensed medical professional who abused his standing as a doctor to commit these offences. This case involves a severe and manifest breach of the public's trust.
- [45] The nature of the drug is aggravating as is the scope of the scheme. This is not a case where a doctor turned a blind eye to help out an addict on one or two occasions. This is a case where a doctor participated in a commercial enterprise to traffic in large quantities of a dangerous narcotic. He also engaged in a futile attempt to falsify medical records to cover up his involvement in the scheme.
- [46] The offence was motivated purely by greed. Dr. Otto was in a financial bind. He solved his financial problems, at least in the short term, by selling prescriptions for a very dangerous drug.
- [47] Lastly, even accepting that the state of knowledge about the dangers of fentanyl have evolved in recent years, I reject any suggestion that Dr. Otto would not have known that fentanyl was dangerous in 2015 and 2016. He was a licensed medical doctor. He knew this was an opioid. He was selling prescriptions for large amounts of money. At best, he might not have appreciated just *how* dangerous the drug was, but he would have clearly understood that as an opioid, fentanyl had both addictive and potentially lethal qualities. To be blunt, he was not selling prescriptions for aspirin.

### **The Appropriate Sentence**

- [48] Sentencing Dr. Otto is a difficult task. The offence committed presents an ignominious end to an otherwise successful and productive medical career. The fact that the offence was motivated by greed makes it all the more difficult to reconcile, especially in view of Dr. Otto's personal antecedents.
- [49] The offence involved a sophisticated, commercial size scheme that required Dr. Otto's participation in order to succeed. It involved a very significant amount of fentanyl. The offence involved an exceptionally high degree of moral blameworthiness.

- [50] In terms of parity, I place Dr. Otto's degree of involvement as second to Shereen El-Azarak. While she was the principal of the scheme, he was deeply involved for a lengthy period of time. He abused his position as a medical doctor in order to participate. He was not an addict trafficker. I am not prepared to find that his involvement was more in line with that of Mr. Imerovik or Mr. Holmes.
- [51] When I consider all of the applicable sentencing principles, and particularly general deterrence and denunciation, and consider the sentences imposed on Dr. Otto's co-accused, I come to the conclusion that a sentence of 12 years' incarceration is warranted in the circumstances.
- [52] In my view, this is a sentence that acknowledges a modestly different degree of culpability between him and Ms. El-Azarak and also the fact that her sentence was arrived at, in part, due to her mitigating medical circumstances. It is also a sentence that sends a crystal-clear denunciatory message to other persons who might be inclined to commit similar offences.
- [53] Dr. Otto, please stand. I sentence you to 12 years in prison. I also impose the following ancillary orders: a weapons prohibition order for 10 years, a DNA order and a Victim Fine Surcharge.

---

Justice J. Di Luca

**Release Date:** November 14, 2019

**CITATION:** R. v. Otto, 2019 ONSC 6446

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

HER MAJESTY THE QUEEN

**– and –**

GEORGE OTTO

Defendant

---

**REASONS FOR SENTENCE**

---

Justice J. Di Luca

**Released:** November 14, 2019