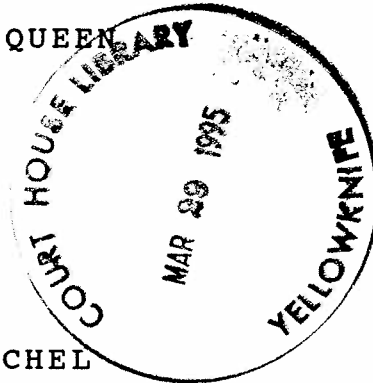
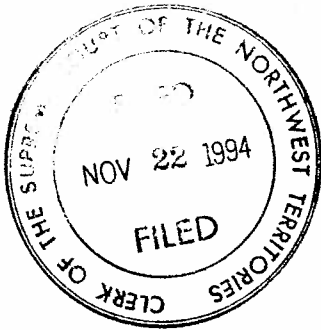


IN THE SUPREME COURT
OF THE NORTHWEST TERRITORIES

HER MAJESTY THE QUEEN

- and -

JAMES SHANE MICHEL



Transcript of Sentencing given by The Honourable
Mr. Justice J.E. Richard, at Hay River, Northwest
Territories, on the 8th day of November A.D. 1994

APPEARANCES:

L. Rose, Esq.,	Appeared for the Crown
S.L. Cooper, Esq.,	Appeared for the Defence
Cheryl Mendryk, Ms.,	Court Reporter

(Charged under Section 271 of the Criminal Code)

1 THE COURT: James Shane Michel is before
2 the Court for sentencing following his plea of
3 guilty to sexually assaulting a 13-year old girl
4 at Louise Falls outside of Hay River in the fall
5 of 1992.

6 The circumstances of this crime provided to
7 the Court are that the offender offered to take
8 the victim and her girlfriend for a drive to
9 Enterprise. After the girls were in his vehicle
10 he went to the liquor store here in Hay River and
11 purchased a bottle of rum. He offered rum to the
12 victim who apparently had two drinks. During the
13 return trip from Enterprise, the offender stopped
14 at Louise Falls. While there, the victim's
15 girlfriend left the vehicle, and during her
16 absence, the offender engaged in sexual
17 intercourse with the young victim. The offender
18 through his counsel this morning admitted that the
19 intercourse was non-consensual. The offender was
20 himself 21 years of age at the time.

21 Mr. Michel is now 24 years of age and lives
22 here in Hay River with his parents. He has a
23 Grade 9 education and he has been able to maintain
24 employment in recent months and years. At the
25 time of committing this offence, the offender had
26 no criminal record. In the summer of 1994 he was
27 convicted twice for common assault and assessed

Gabe's

1 fines on both of those occasions.

2 Apparently there was a delay of one year or
3 more before the young victim reported this assault
4 to the authorities. Subsequent to the charge
5 being laid, the offender assaulted the young
6 victim in May of this year, and that assault led
7 to one of the convictions in the summer of '94
8 that I've referred to.

9 As to the effect of this crime on the victim,
10 I have not been provided with any specific
11 details, other than the fact that the victim was
12 apparently distressed, and understandably so, at
13 the time of testifying at the preliminary
14 inquiry.

15 The crime of sexual assault is considered by
16 our society to be a serious offence. In fact, the
17 parliament of Canada has prescribed the maximum
18 penalty of ten years imprisonment in a federal
19 penitentiary in southern Canada for this crime.
20 The type of sexual assault committed by this
21 offender has come to be known as a "major sexual
22 assault," and the Northwest Territories Court of
23 Appeal and this Court have adopted a starting
24 point sentence of three years imprisonment for
25 major sexual assault, even for a first offender.
26 The starting point sentence is then adjusted up or
27 down, depending on the presence or absence of

Gabe's

1 aggravating and/or mitigating factors.

2 In the present case I see no particular
3 aggravating or mitigating factors which are of
4 such significance as would cause me to alter the
5 usual sentence imposed for a crime of this
6 nature. I acknowledge that this young man has
7 pleaded guilty to the charge, but that plea only
8 came after the jury was selected and the jury was
9 about to hear the Crown evidence. Although his
10 plea signals that he indeed today accepts
11 responsibility for his conduct, the mitigating
12 aspect of that plea must be put in the context of
13 the May, 1994 subsequent assault on the victim and
14 the late hour of his change of plea. Although I
15 do not enjoy sending a healthy young man to jail
16 for a significant period of time, the principles
17 of general deterrence and denunciation and my
18 conscience requires me to do so in this case.

19 Please stand, Mr. Michel. Mr. Michel, for
20 the crime that you have committed, the sexual
21 assault of M W , contrary to Section 271
22 of the Criminal Code, it is the sentence of this
23 Court that you be imprisoned for a period of three
24 years; and in addition, as I'm required by law to
25 do so, I hereby order, pursuant to Section 100 of
26 the Criminal Code, that you are prohibited from
27 having in your possession any firearm or

Gabe's

1 ammunition or explosive substance for a period of
2 time commencing on today's date and expiring on a
3 date ten years after you are released from this
4 term of imprisonment. Any such item in your
5 possession at this time shall be turned over to a
6 police officer or otherwise disposed of within one
7 month of today's date. In view of the fact that
8 you will be incarcerated for the next little
9 while, I decline to impose any victim fine
10 surcharge, and I'm going to have the Clerk of the
11 Court endorse the warrant of committal that takes
12 you to jail with this Court's recommendation that
13 you be permitted to serve your term of
14 imprisonment at the South MacKenzie Correctional
15 Centre or another facility in the Northwest
16 Territories. You may sit down.

17 Anything further on this case, gentlemen?

18 MR. ROSE: Nothing from the Crown, My
19 Lord.

20 MR. COOPER: Nothing, My Lord.

21 THE COURT: Fine, then we'll adjourn
22 court until 4:30.

23 (SENTENCING HEARING CONCLUDED)
24 -----
25
26
27

1 I, Cheryl Mendryk, C.S.R.(A), hereby certify
 2 that I attended the above Sentencing Hearing and
 3 took faithful and accurate shorthand notes and the
 4 foregoing is a true and accurate transcript of my
 5 shorthand notes to the best of my skill and
 6 ability.

7 Dated at the City of Calgary, Province of
 8 Alberta, this 8th day of November, A.D. 1994.

9
 10
 11 Cheryl Mendryk
 12 Cheryl Mendryk, Ms.
 13 Court Reporter.