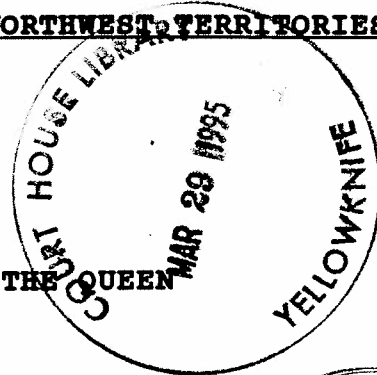


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IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

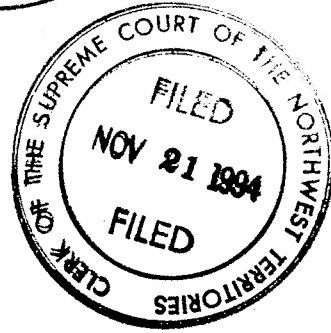
IN THE MATTER OF:

HER MAJESTY THE QUEEN



- and -

LAWRENCE SIMON



Transcript of the Reasons for Sentence delivered by the Honourable Mr. Justice J. E. Richard, sitting at Inuvik, in the Northwest Territories, on November 17, A. D. 1994.

APPEARANCES:

MS. B. SCHMALTZ

On behalf of the Crown

MS. J. LILLEGRAN

On behalf of the Defence

1 THE COURT: This morning it is my serious
2 responsibility to impose a fit and proper sentence for
3 a crime committed by Lawrence Simon.

4 Yesterday a jury of twelve men and women of this
5 community found him guilty of sexually assaulting a
6 13-year old girl in his home here in Inuvik early one
7 Saturday morning last February. Mr. Simon's victim
8 was a friend of his daughters and she was sleeping
9 overnight in Mr. Simon's home. She awoke in the
10 morning to find Mr. Simon fondling her and then he had
11 non-consensual intercourse with her.

12 Mr. Simon's crime constituted a "major sexual
13 assault" as that term is used by those involved in the
14 unpleasant task of sentencing offenders such as
15 Mr. Simon. Certain sentencing guidelines which have
16 been in place in this jurisdiction for the past seven
17 or eight years require me to impose a substantial,
18 meaningful period of incarceration for a major sexual
19 assault. Those guidelines direct that I am to use a
20 starting point of three years imprisonment, and then
21 to adjust that figure where appropriate by increasing
22 it or decreasing it in accordance with the presence or
23 absence of factors or circumstances which either
24 aggravate or mitigate the situation. Similar
25 guidelines in Alberta suggest that the starting point
26 should be four years when the victim is a child and
27 the child is sexually assaulted by a parent or some

1 other adult who is in a position of control and trust
2 with respect to the child.

3 In these cases such a substantial sentence,
4 usually a penitentiary term, is warranted in
5 furtherance of the overall objective of the criminal
6 law process, which is protection of the public, and also
7 by the principles of deterence and denunciation. Such
8 a substantial sentence is also necessary in the
9 context of the general prevalence of this very kind of
10 crime in this jurisdiction. There is hardly a week
11 that goes by that the courts of this jurisdiction are
12 not sentencing an offender, such as Lawrence Simon,
13 for this very kind of crime in one of the communities
14 of the Northwest Territories.

15 This particular offender, Lawrence Simon, is 47
16 years old. He is married with seven children and his
17 wife is expecting their eighth child. He has achieved
18 a grade twelve education, and he has received the
19 benefit of many additional courses that have been made
20 available to him in the fields of accounting, business
21 management, financial management et cetera. When he
22 has not been pursuing his studies he has, it appears,
23 maintained steady employment throughout his adult
24 life, both here in Inuvik and in his original
25 community of Fort MacPherson.

26 Also throughout his adult life, Mr. Simon has
27 unfortunately had a serious problem with the abuse of

1 alcohol. He has received the benefit of treatment
2 programmes in the past, and he says he wants to
3 participate in similar programmes during his coming
4 period of incarceration.

5 Mr. Simon is not a first offender; he has a record
6 of prior criminal behaviour. He has seven drinking
7 and driving convictions and has been to jail on five
8 separate occasions as a result of that kind of
9 criminal conduct. Also in 1976 he was convicted for
10 common assault and assessed a \$50 fine. More
11 recently, in April of 1992, he was convicted of the
12 sexual assault of a young girl and sentenced to
13 60-days imprisonment. I am told that the
14 circumstances of that crime were very similar to his
15 present crime inasmuch as his victim was a girl of
16 12 or 13 years of age and was sleeping at his home as
17 a visitor, and he fondled her while he was intoxicated.
18 At the time of his present offence Lawrence Simon was
19 intoxicated from alcohol consumption.

20 The Court has not been provided with any
21 particular information regarding the ongoing effect of
22 this assault on the young victim. However, it is fair
23 to assume that this girl was traumatized by the events
24 and may well suffer ongoing trauma in her personal and
25 social life as she reaches her adult years and beyond.

26 One aggravating factor, or important factor
27 present here is that the young victim had been invited

1 into Mr. Simon's home by members of the Simon family,
2 and in that atmosphere or environment the victim and
3 her family, and this community of Inuvik, were
4 entitled to expect that she was safe there - safe from
5 the criminal hands of any molester or rapist. That
6 young victim was entitled to trust Mr. Simon, the head
7 of the household, the father of her girlfriends, to
8 trust that he would surely not molest her or rape her.
9 However, Mr. Simon failed her. He failed her family,
10 he failed his own family. He failed this community by
11 breaching that trust that had been legitimately placed
12 in him. It was a serious breach of that trust. It is
13 a sad day in the life of a small community when young
14 girls cannot have sleepovers at their girlfriend's
15 home without having to guard against sexual attacks by
16 their girlfriend's father.

17 I find that there are no mitigating factors to the
18 crime that has been committed here. Until the
19 sentencing hearing this morning, there was no remorse
20 displayed by Lawrence Simon, a 47-year old family man
21 with daughters of the same age as this victim. Until
22 this morning, in fact, he did not accept
23 responsibility for what he did even after hearing the
24 difficult testimony of the young victim and after
25 seeing the compelling forensic evidence marshalled
26 against him.

27 He now says that he is sorry for the grief that he

1 has caused to his own family and to others. It is
2 regrettable that it is only now after the jury's
3 verdict that he finds the courage and the strength
4 within himself to say these things. But it may mean
5 that he is prepared to participate in rehabilitating
6 himself so that he is a sober, law-abiding citizen on
7 the day that he is released from prison; one can only
8 hope so.

9 Would you please stand now, Mr. Simon. Mr. Simon,
10 for the crime that you have committed - the sexual
11 assault of S A V - it is the sentence
12 of this Court that you serve a term of imprisonment of
13 four and one-half years. In addition, as I am
14 required by law to do so, I hereby order pursuant to
15 Section 100 of the Criminal Code that you are
16 prohibited from having in your possession any firearm,
17 or ammunition or explosive substance for a period of
18 time commencing on today's date and expiring on a date
19 ten years after your release from your term of
20 imprisonment. Any such items in your possession at
21 this time shall be disposed of by turning them over to
22 the police, or otherwise disposed of within one month
23 from today's date.

24 In view of the fact that you will be imprisoned
25 for the next period of time, I decline to impose any
26 victim fine surcharge. I will have the clerk of the
27 court endorse the warrant of committal that takes you

1 to jail with this Court's recommendations: One, that
2 you be allowed to serve your term of imprisonment at a
3 facility within the Northwest Territories; and two,
4 that during your incarceration you will be given every
5 opportunity to receive counselling and treatment that
6 are designed for people with problems of alcohol abuse
7 and with problems of the sexual abuse of children.

8 You may sit down now, Mr. Simon.

9 (AT WHICH TIME THIS MATTER WAS CONCLUDED)

10
11 Certified Pursuant to Practice Direction #20
12 dated December 28, 1987.

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15 Loretta Mott
16 Court Reporter
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