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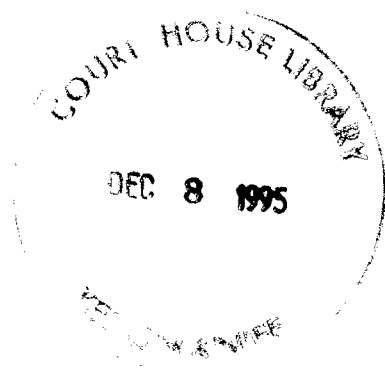
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

G . M . K



Transcript of Oral Reasons for Sentence of The Honourable
Mr. Justice J.Z. Vertes, in Pelly Bay, in the Northwest
Territories, on the 5th day of October, A.D., 1995.

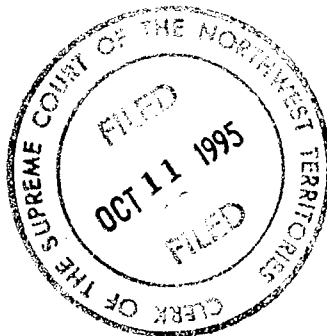
APPEARANCES:

Ms. S. Bour:

For the Crown

Mr. P. Bolo:

For the Accused



1 THE COURT: Good morning, counsel, we will have
2 simultaneous interpretation and I will deliver my
3 Reasons for Sentence.

4 G K , a life-long resident of Pelly Bay,
5 has admitted that over the course of many years he
6 sexually abused many young girls in this community.
7 For that he must be punished; punished for what he did
8 in the past, punished so he never does it again,
9 punished so everyone will know that this type of
10 behavior will be dealt with severely, punished so that
11 the children of Pelly Bay, indeed everyone in Pelly
12 Bay, will feel safe and protected.

13 The offender, G K ., has entered guilty
14 pleas to 23 charges contained in a 23-count
15 indictment. These charges range in time from 1969 to
16 1989. They cover approximately 56 separate incidents
17 of sexual abuse. There are 17 charges of gross
18 indecency, four charges of indecent assault, one
19 charge of sexual assault, and one of sexual touching
20 of a young person. There are 21 different victims
21 here. The victims were all young girls, most between
22 the ages of 5 and 10, although a few were as old as 13
23 or 14. In all instances there was a close connection
24 between the victim and the accused. He was either
25 related to them, or he was their teacher, or they were
26 friends of his own children. In all instances,
27 instead of protecting and nurturing these children as

1 he should have, he took advantage of them for his own
2 sexual gratification. This was a gross breach of
3 trust.

4 The acts covered by the charges encompass a wide
5 variety of conduct. Two charges relate to sexual
6 intercourse, once with his own sister when she was
7 between 8 and 10 years old and he was between 18 and
8 20, and once with one of his students when she was 9
9 or 10 and he was around 20 years old. Another charge
10 relates to two instances of sexual touching and one of
11 digital penetration of another one of his students
12 when she was around 6 years old. Another charge
13 relates to numerous instances where the offender would
14 have his 11 to 12-year-old niece masturbate him.
15 Numerous charges relate to repeated incidents of his
16 touching a victim in a sexual manner, or him getting
17 the victim to touch his penis. There are also several
18 charges relating to instances where the offender would
19 expose his penis to a young girl and then masturbate
20 in her presence.

21 All of these offences took place either in the
22 school where the offender worked or in his home
23 (sometimes when his own children were at home). He
24 told many of his victims not to tell anyone about the
25 incidents and he threatened a few of them. In some
26 instances he manipulated or bribed the victims.

27 There was no evidence that the offender was under

1 the influence of alcohol or drugs. The acts were not
2 totally spontaneous, some of them required planning,
3 but most appear to have been crimes committed in
4 moments of opportunity. None of the acts were
5 accompanied by extraneous violence.

6 Both counsel are to be complimented for the good
7 work put in to resolving this case and for their
8 excellent submissions.

9 The offender, of course, is to be given credit for
10 his plea of guilty. It indicates remorse and an
11 acceptance of responsibility on his part. It also has
12 saved the victims from having to testify again about
13 these crimes. Furthermore, it has saved the
14 administration of justice a great deal of time and
15 expense in bringing these matters to a conclusion.

16 The effect on the victims has been severe. I was
17 provided with victim impact statements from 13 of
18 them. They all speak about the lasting emotional hurt
19 from this man's acts. Many of them feel that because
20 he was a teacher, they did not want to continue their
21 schooling and now face a harder life. Two of them
22 have attempted suicide in the past. Many of them have
23 had problems in their own relationships now that they
24 are adults.

25 In one case, the offender's actions have had a
26 cross-generational effect. He abused not only one
27 particular victim, but years later he also abused that

1 victim's child.

2 So what made G K do these things? By all
3 accounts he was a good man, a good worker, someone who
4 helped others in the community. His wife, even now,
5 says he was always a good father to their own
6 children.

7 The offender is 39 years old. He was raised here
8 in Pelly Bay by his grandparents who taught him many
9 of the traditional skills of the Inuit. He was
10 married in 1974. He and his wife have five children;
11 three sons of their own and two adopted daughters.
12 There was no evidence before me of abuse of these
13 children.

14 At the age of 14 the offender became a teacher's
15 assistant in the local school. He apparently taught
16 Inuktitut to the younger children. He did that for
17 nine years. He then took further education and for
18 the past 14 years has worked as the senior
19 "observer-communicator" at the Pelly Bay airport.

20 The offences cover a time period when Mr. K
21 was between 14 and 33 years of age. For those
22 offences when Mr. K would have been a young
23 offender, he and his counsel cooperated with the
24 prosecution by consenting to have him raised to this
25 court so all matters could be disposed of at one time.
26 In addition, some of the other charges were dealt with
27 by a waiver of the preliminary hearing by the accused.

1 Defence counsel presented to me a lengthy report
2 from Dr. R. Lang, a forensic psychologist, who
3 assessed the offender for a period of three days at
4 his Edmonton clinic. Crown counsel questioned Dr.
5 Lang's methodology and conclusions and presented two
6 letters from other practitioners raising questions
7 about Dr. Lang's report.

8 I am not a psychiatrist and I must admit that most
9 of these reports are not very helpful in determining
10 either why Mr. K acted in the way he did for so
11 long, or whether there is any danger of him doing so
12 again in the future. The Crown's practitioners did
13 not assess the offender directly. Dr. Lang, on the
14 other hand, bases many of his conclusions on only the
15 information given to him by the offender.

16 What I can conclude from these reports is this.
17 The offender, when he was younger, could not control
18 his impulses and got sexual gratification from
19 exposing himself to young girls. As he got older, he
20 continued his sexual interest in young girls and would
21 turn to them at times when he felt his marriage was
22 not providing sufficient intimacy. None of this
23 excuses what he did because I am satisfied that
24 throughout his life he knew that what he was doing was
25 wrong both morally and legally.

26 One of the Crown's consultants, Dr. P.I. Collins,
27 a forensic psychiatrist in Toronto, gave the opinion

1 that given the time span, the number of victims, and
2 the absence of alcohol use or other disinhibiting
3 symptoms, the offender's conduct is consistent with
4 that of a heterosexual pedophile; that is, someone
5 whose primary sexual focus is young girls. If that is
6 so, then the prognosis is indeed poor since the
7 literature recognizes pedophilia as essentially an
8 incurable life-long condition. But, as defence
9 counsel submitted, there is no conclusive evidence
10 before me that the offender is a pedophile.

11 Mr. K said to Dr. Lang that he is now able
12 to control his impulses and is now disgusted with
13 himself for what he did. But we have only his words
14 on that. On the other hand, I am convinced that he is
15 genuinely sorry for what he did. Whether he will ever
16 do this again unfortunately only time will tell. There
17 is no evidence of this type of behavior over the past
18 six years. Hopefully over time, and with further help
19 during his incarceration, the offender will be truly
20 over his impulses by the time he returns home. But
21 while there is no conclusive evidence that the
22 offender is cured, there are indicators that show that
23 his activities were concentrated in years when he was
24 younger. As I noted before, the last offence occurred
25 at least six years ago and only four of the charges
26 relate to incidents occurring in the last ten years.

27 I have gone over all of this in such detail

1 because I want to emphasize how much each case has to
2 be decided on the basis of its own facts. There is no
3 precise formula for sentencing in any given case.
4 There are, however, certain general principles that
5 apply in all cases.

6 The principal goal of sentencing is the protection
7 of the public. A courtroom is not a healing center. I
8 cannot heal the victims nor cure the offender. As the
9 judge, I can only impose what I think is the
10 appropriate punishment for these crimes. And my
11 principal aim is the protection of those people in the
12 community who do not commit crimes.

13 In every case we hope to accomplish several
14 things. First, we want to get across to the offender
15 that what he did was wrong, and to deter him from ever
16 doing it again. Second, we want to set an example so
17 that other people know that they should not do these
18 things and that if they do, they too will be punished
19 for it. Third, we want to at least give the offender
20 an opportunity of rehabilitation. Fourth, we want to
21 express, on behalf of this and every other community,
22 how bad these crimes are and that decent people
23 everywhere condemn them. These things we call
24 deterrence, rehabilitation, and denunciation. If we
25 do all these things, then the public will be
26 protected. The offender is removed from the community
27 for awhile, and hopefully when he comes back he will

1 be a different person, a law-abiding person, one who
2 will not harm anyone ever again.

3 There are some principles that apply as well to
4 cases like this involving the sexual abuse of
5 children. The following paraphrases some of the
6 comments in the case of R. v. Stoner (1993), 15 C.R.
7 (4th) 324 (Alta. C.A.).

8 When a man has assaulted a child for his sexual
9 gratification, then it is very common to find that the
10 child has suffered long-lasting emotional harm. The
11 effects of sexual abuse on a child are often
12 devastating. Moreover, when the offender stands in a
13 family relationship with the child, or in a position
14 of authority such as a teacher, he has a moral duty to
15 protect the child from harm. He is in a position of
16 trust. A sexual assault upon a child constitutes a
17 serious breach of that duty and a shameful violation
18 of that trust. A sexual assault on a child is the
19 abuse of power by an adult over that child. And young
20 children are especially helpless to protect themselves
21 in such situations.

22 Courts across Canada, recognizing the seriousness
23 of these offences, have said that except in unusual
24 circumstances, a penitentiary sentence will be imposed
25 in all cases of sexual abuse by adults who are in
26 positions of trust. In fact many courts have adopted
27 a starting point of four to five years imprisonment

1 for a major sexual assault on a child committed by a
2 person in a position of trust.

3 The fact that these offences occurred many years
4 ago does not diminish the need for severe sentences.
5 As noted in the case of R. v. Spence (1993), 78 C.C.C.
6 (3rd) 451 (Alta. C.A.), the passage of time in and of
7 itself does not lessen the importance of deterring and
8 denouncing these types of crimes.

9 We are now more aware than ever of the fact that
10 sexual abuse of children is a plague afflicting
11 communities all across Canada. We know more so than
12 ever before of the terrible long-lasting harm that is
13 caused by these crimes. In this case, both counsel
14 recognize that deterrence and denunciation are the
15 overriding factors that I must consider in coming to
16 my sentence.

17 Crown counsel has suggested a sentence of ten
18 years. Defence counsel has suggested a range of six
19 to eight years. The difference may seem slight, but
20 for anyone who has not been in jail, as the offender
21 has not, even a small time can make a big difference.
22 I thank counsel for their submissions and their
23 suggestions. They provide much assistance.

24 In my opinion, considering the number of charges,
25 the length of time, the number of victims, the breach
26 of trust, and what can only be described as the
27 predatory abuse of young helpless children, I think

1 the total sentence in this case could be well in
2 excess of ten years. Certainly if each charge were to
3 be given a sentence separately that is fit to that
4 charge, the total sentence would be in excess of ten
5 years. But I must consider the case on a global
6 perspective and determine what is the just and
7 appropriate total sentence. I have concluded that it
8 is one of nine years. I base this on the following
9 mitigating factors:

- 10 1) the guilty plea;
- 11 2) the offender's cooperation in bringing
12 all matters to a resolution at one time;
- 13 3) the absence of any similar conduct for
14 the past six years;
- 15 4) the fact that this is a first offence
16 for the offender, one that will require
17 him to be incarcerated for a long time,
18 far away from his family, his home, and
19 his own society;
- 20 5) the stigma and effect of these convictions
21 on the offender, his family, and his future;
22 and,
- 23 6) what I take to be a genuine sign of
24 remorse on his part.

25 I want to make it clear that I am not simply
26 splitting the difference between the Crown and defence
27 submissions. Were it not for these mitigating

1 factors, I would have been inclined to impose a
2 sentence of over ten years. I do, however, give
3 significant credit to the factors I noted and I hope
4 that my sentence is one that will encourage Mr.
5 K to work to rehabilitate himself by the time
6 of his release.

7 My sentence is arrived at by imposing the
8 following sentences on the specific counts of the
9 indictment.

10 On Count 1, that is a major sexual assault
11 consisting of sexual intercourse with his sister,
12 while the starting point would ordinarily be four to
13 five years, I recognize that the charge is one of
14 gross indecency which carried a maximum penalty of
15 only five years at the time. This lower maximum
16 lowers the starting point threshold as indicated in R.
17 v. W.N. (1995), 162 A.R. 230 (C.A.). On this count,
18 that is Count 1, I impose a sentence of three years
19 imprisonment.

20 On Count 18, this also being a major sexual
21 assault consisting of sexual intercourse with his
22 student, I impose a sentence of three years to be
23 served consecutively.

24 On Count 9, this being close to the major assault
25 category, involving his 6-year-old student, consisting
26 of two incidents where he had her touch him sexually
27 and one incident of digital penetration, I impose a

1 sentence of two years to be served consecutively.

2 On count 3, this being a series of approximately
3 ten incidents where the offender had his 11 or
4 12-year-old niece touch him sexually, I impose a
5 sentence of one year to be served consecutively.

6 On all other counts consisting of incidents of
7 sexual touching and indecent exposure, I impose a
8 sentence on each count of one year to be served
9 concurrently to the other offences.

10 I will have the Warrant of Committal endorsed with
11 my recommendation that Mr. K be assessed as
12 soon as possible for his suitability for specific
13 treatment programs within the Federal correctional
14 system.

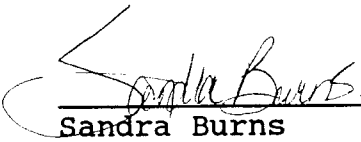
15 Under the circumstances, I decline to impose a
16 Section 100 order. There will be no victim of crime
17 fine surcharge.

18 Will you stand up, Mr. K ? Mr. K ,
19 the total sentence I have imposed on you is one of
20 nine years imprisonment. I realize that seems like an
21 extremely long period of time. In reality, you will
22 probably be released quite a bit before that time on
23 parole. I hope, for your sake and for the sake of
24 your family, that you will spend the next few years
25 thinking and planning on how you will put back
26 together your life and your family's life, just as I
27 am sure the victims of your crimes have had to think

1 for many years how they will put back their lives. And
2 I honestly hope that the healing process, whatever it
3 may be, can start now for you and for your victims and
4 that the community here will help not only you, but
5 all of the victims of these crimes, and try and make
6 sure that it never happens again, not only by you or
7 by anyone else in this community. You may sit down.

8 I want to thank both counsel once again for their
9 excellent work. I want to thank especially Mr.
10 Kakkianian from the local Justice Committee for his
11 comments yesterday, they were quite helpful. I want
12 to thank our interpreters and everyone for their
13 cooperation. We'll close court.

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15
16 Certified Pursuant to Practice Direction #20
17 dated December 28, 1987.

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19 _____
20 Sandra Burns
21 Court Reporter
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