

CR 02991

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

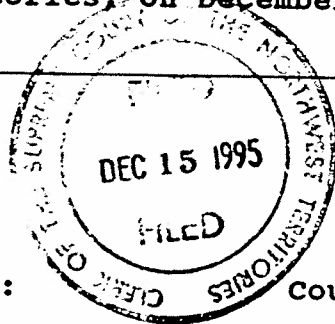
- and -

JAMES ARVALUK



Transcript of the Reasons for Sentence of the The Honourable
Mr. Justice J. E. Richard, sitting at Yellowknife in the
Northwest Territories, on December 14th, A.D., 1995.

APPEARANCES:



MS. U. ARVANETES: Counsel for the Crown

MR. V. FOLDATS: Counsel for the Defence

1 THE COURT: This man, James Arvaluk, has been
2 convicted by a jury of two crimes of sexual assault
3 and it is now my serious responsibility as presiding
4 judge to impose upon him an appropriate sentence for
5 those crimes.

6 Mr. Arvaluk is an Inuk, originally from Igloodi
7 and is now a man of 47 years of age. He has
8 accomplished much in his adult life. Although he has
9 only a grade 10 education in the formal sense, he has
10 upgraded himself with management and other courses
11 the point where he has been given over the years
12 various jobs and positions with important
13 responsibilities. In the 1970's, he was twice elected
14 president of the Inuit Tapirisat of Canada, and
15 later elected as president of the Baffin Region Inuit
16 Association. He has worked as a land claims
17 negotiator with the Tungavik Federation of Nunavut.
18 He has worked as a school teacher and as an adult
19 educator. It is to Mr. Arvaluk's credit that he has
20 over the years gained the widespread respect and
21 trust of the Inuit and other people in the
22 communities, enabling him to achieve these important
23 offices.

24 At the time he committed these crimes in February
25 of this year, he was an elected member of the
26 Legislative Assembly of the Northwest Territories
27 representing the Aivilik constituency having been

1 elected in the general election in 1991. Mr. Arvaluk
2 resigned his MLA position shortly after being charged
3 with these crimes of sexual assault.

4 This offender has a minor criminal record, a minor
5 criminal record of no particular import other than the
6 fact that I am told by his counsel that each of those
7 offences, and there are four of them on his criminal
8 record, each of those offences occurred while Mr.
9 Arvaluk was intoxicated.

10 On Saturday, February 18th of this year, Mr.
11 Arvaluk was drinking with his friends in the Gold
12 Range bar here in Yellowknife and he invited a number
13 of people to a hot tub party at his home here in
14 Yellowknife. His guests arrived after bar closing at
15 2:00 a.m. and a party continued for several hours.
16 People were drinking and having a good time. Mr.
17 Arvaluk and his guests, including the two female
18 victims, made use of the hot tub and people were in
19 and out of the hot tub in various states of undress.

20 Both of the female victims became quite
21 intoxicated during the course of the party. Mr.
22 Arvaluk was also intoxicated.

23 The first victim, Susanna Qitsualik, is a woman of
24 27 years of age, originally from Pond Inlet. In
25 February of this year, she was living here in
26 Yellowknife taking courses at Arctic College. She
27 told the jury in her testimony that after she got out

1 of the hot tub she was quite drunk and felt like she
2 was going to pass out. She says she asked Mr. Arvaluk
3 if she could pass out in his room, and he said that
4 she could. She says she then went upstairs to his
5 bedroom and passed out on the bed. She says the next
6 thing she remembers is being awakened by Mr. Arvaluk
7 being on top of her having sex with her. She says she
8 pushed him off. She pushed him off and he left the
9 bedroom. She was quite upset and called the police
10 from the bedroom. She then got dressed, went
11 downstairs, and went home in a cab. This was
12 approximately 7:00 a.m.

13 The second victim, Anna Koonoo, is a woman of 34
14 years of age, also from Pond Inlet. In February of
15 this year, she was in Yellowknife and was working at
16 the Legislative Assembly as an assistant to Mr.
17 Arvaluk and three other MLA's. She says that after
18 she left the hot tub, Mr. Arvaluk offered her a
19 blanket or a sleeping bag. She says that she then
20 went into the living room and passed out on the living
21 room floor. She says the next thing she remembers is
22 being awakened by Mr. Arvaluk being on top of her
23 having sex with her. She says she pushed him away and
24 told him she had to go to the bathroom. She says she
25 went to the bathroom to collect her thoughts and to
26 try and understand what had happened. She says she
27 became angry. She then got her clothes, got dressed

1 and took a cab home. This was approximately 8:45 a.m.

2 Those then are the circumstances of Mr. Arvaluk's
3 crimes. Each of these crimes can be categorized as a
4 "major sexual assault" as that term has come to be known
5 in this jurisdiction. Previous decisions of this
6 court and of the Court of Appeal clearly indicate that
7 the starting point sentence for each of these offences
8 is a three year penitentiary term. The reason that
9 the court treats this kind of offence seriously and
10 with some rigidity in sentencing is because of the
11 important principles of deterrence and denunciation.

12 However, the court must also be mindful of another
13 aspect which is sometimes termed totality, and ensure
14 that the combined effect of the two sentences is not
15 so harsh as to crush or destroy any future prospect of
16 this offender rehabilitating himself into a law
17 abiding member of society.

18 It is a serious aggravating circumstance here that
19 in each case James Arvaluk took advantage of the
20 vulnerability of an unconscious woman for his own
21 selfish sexual pleasure. Each of these women was a
22 long time acquaintance of Mr. Arvaluk. One of them
23 was his employee at the time. Each of these women was
24 entitled to expect that she was safe from attack while
25 sleeping or passed out in his home. In doing what he
26 did, he breached that special caring trust that
27 friends have in each other. In doing what he did he

1 showed contempt for them as human beings entitled to
2 respect.

3 Neither of his victims suffered any physical
4 injury, but one cannot underestimate or understate the
5 psychological or emotional harm inflicted by this
6 offender on these two victims. I am told that each of
7 them had difficulty sleeping at night after this
8 event. Each sought counselling with a trusted family
9 member. Ms. Koonoo experienced real difficulty in
10 continuing with her work at the Legislature given the
11 circumstances and is now living again in Pond Inlet.

12 Mr. Arvaluk now faces a substantial term of
13 incarceration as that is what the law requires, that
14 is what the rules of our society require. I do not
15 enjoy sending people to jail, especially someone like
16 James Arvaluk who has generally been a productive and
17 contributing member of society throughout his life;
18 however, the law and my conscience, compel me to do
19 so.

20 I do not propose to make the Section 100 firearms
21 prohibition order. In my view, Mr. Arvaluk's personal
22 circumstances as outlined by his counsel and the
23 circumstances of his crimes on this occasion are such
24 that I am satisfied that this case comes within the
25 exception provided for in subsection 1.1 of Section
26 100 of the Criminal Code.

27 Would you please stand now, Mr. Arvaluk. Mr.

1 Arvaluk, for the crime that you have committed in
2 count number 1, the sexual assault of Susanna
3 Qitsualik, it is the sentence of this court that you
4 serve a term of imprisonment of two and a half years.
5 On count 2, for the sexual assault of Anna Koonoo,
6 that you serve a term of imprisonment of two and a
7 half years consecutive to the term on count 1.

8 There will be no Section 100 firearms prohibition
9 order. There will be no \$35 victim fine surcharge.
10 And I will have the clerk of the court endorse the
11 warrant of committal that takes you to jail with this
12 court's recommendation that you be given every
13 consideration for serving your time at a facility in
14 the Northwest Territories. You may sit down now, sir.
15 Anything further on this case, counsel?


16 MS. ARVANETES: No, sir.

17 MR. FOLDATS: No, My Lord.

18 THE COURT: Close court.

19
20 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)
21

22
23 Certified Pursuant to Practice Direction #20
24 dated December 28, 1987.
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Laurie Ann Young
Court Reporter