

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

LESLIE MEMOGANA

Transcript of the Oral Reasons for Sentence of The Honourable Mr. Justice J.E. Richard, sitting in Holman, in the Northwest Territories, on the 23rd day of January, A.D. 1996.

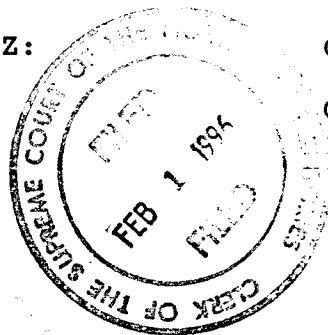
APPEARANCES:

MS. B. SCHMALTZ:

Counsel for the Crown

MR. A. MAHAR:

Counsel for the Defence



1 THE COURT: Mr. Leslie Memogana has pleaded
2 guilty to an offence of sexual assault contrary to
3 Section 271 of the Criminal Code, the offence occurring
4 here in the community of Holman in November of 1994.

5 The offence of sexual assault covers a wide range
6 of criminal activity from a minor fondling to a violent
7 and brutal rape. Because of the wide range of criminal
8 activity covered by this offence, the law provides a
9 wide range of possible punishments from a suspended
10 sentence to a maximum of ten years imprisonment in a
11 Federal penitentiary in southern Canada.

12 In determining the appropriate sentence for each
13 crime of sexual assault, the Court is required to take
14 into account the particular facts and circumstances of
15 the crime and also the personal background and
16 individual circumstances of the offender who is being
17 sentenced. In deciding the appropriate sentence in
18 each case, the Court also must keep in mind certain
19 important principles such as the need to deter or
20 discourage other young men in the community from
21 committing similar crimes in the future. The sentence
22 imposed by the Court must be one which will reflect the
23 community's denunciation or condemnation of this kind
24 of behavior as being behavior that is unacceptable to
25 the members of the community. The whole purpose of the
26 criminal justice system, including the sentence that is
27 imposed in each and every case, is the protection of

1 the members of the public, the protection of the
2 members of the community including vulnerable young
3 women.

4 Mr. Memogana's crime is a serious one and the
5 sentence to be imposed must reflect that level of
6 seriousness.

7 While he was in an intoxicated state he forced
8 himself sexually on a 14-year-old girl. His rape of
9 the young victim was accompanied by threats and by some
10 physical violence.

11 The victim was a friend of Mr. Memogana's
12 girlfriend and she did not report the rape until a week
13 after the event out of fear of Mr. Memogana.

14 The offender is a man who is now 24 years of age.
15 I am told that he grew up here in Holman and in
16 Coppermine and that he comes from a large extended
17 family. He has a Grade 9 education in the formal sense
18 and has had sporadic employment through his adult years
19 mainly as a laborer in the construction field. He has
20 a criminal record which includes six convictions for
21 assault and he has been sent to jail on at least three
22 previous occasions, at one time for a period of seven
23 months.

24 I am told that Mr. Memogana has little memory of
25 the circumstances surrounding his commission of his
26 crime because of his intoxication but he advises,
27 through his counsel, that he is now prepared to accept

1 the victim's statement of what he did to her that
2 night.

3 His guilty plea is presented only at the 11th hour
4 after a jury panel had been summoned to try the charge
5 of sexual assault at Mr. Memogana's request. In any
6 event, the Court does take note of the fact that the
7 young victim will be spared the additional trauma of
8 testifying again about her ordeal because of
9 Mr. Memogana now accepting responsibility for his
10 behavior.

11 In all of the circumstances, I see no reason to
12 depart from the usual sentence which is imposed in
13 cases of this nature. Regretfully there continues to
14 be many cases of this nature that come before the
15 courts in communities of the Northwest Territories and,
16 in each case almost without exception, the offender is
17 in an intoxicated state and the offender, as here,
18 treats the victim in a way that shows a complete
19 disregard for the personal feelings and integrity of
20 the victim who is invariably an acquaintance of the
21 offender.

22 The important principles of deterrence and
23 denunciation require that a meaningful period of
24 incarceration be imposed on Leslie Memogana. It is
25 also required, in my view, in order to achieve the
26 overall objective of the criminal law which is the
27 protection to the members of the community.

1 Would you please stand now, Mr. Memogana?

2 Mr. Memogana, for the crime that you have committed,
3 the sexual assault of Janine Olifie contrary to Section
4 271 of the Criminal Code, it is the sentence of this
5 Court that you serve a term of imprisonment of three
6 years. And, in addition as I am required to do so by
7 law, I hereby order pursuant to Section 100 of the
8 Criminal Code that you are prohibited from having in
9 your possession any firearm or ammunition or explosive
10 substance for a period of time commencing on today's
11 date and expiring on a date ten years after your
12 release from your sentence. Any such item in your
13 possession at this time will be surrendered to a police
14 officer or otherwise disposed of within 30 days of
15 today's date.

16 In the circumstances, I decline to impose the \$35
17 victim fine surcharge and I will have the Clerk of the
18 Court endorse the Warrant of Committal that takes you
19 to jail with this Court's recommendations that you be
20 given every opportunity to serve your sentence at a
21 facility within the Northwest Territories and also that
22 you be given every opportunity to receive educational
23 courses and professional psychiatric counselling.

24 You may sit down now.


25 MR. MAHAR: Thank you, Sir.

26 THE COURT: Now, counsel, is there anything
27 further on this case?

1 MR. MAHAR: No, Sir.
2 MS. SCHMALTZ: Nothing from the Crown, Sir.
3 THE COURT: Fine then, we'll close court.

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6 Certified Pursuant to Practice Direction
#20 dated December 28, 1987

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10 Sandra Burns
Court Reporter

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