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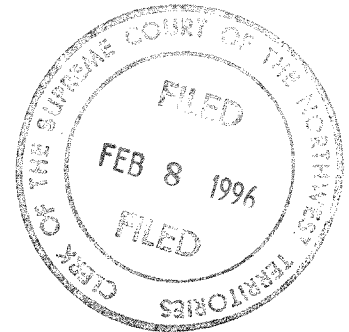
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- V -

JEAN JACQUES MAYER



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Transcript of the Oral Reasons for Sentence of The Honourable Mr. Justice J. Z. Vertes, sitting in Yellowknife in the Northwest Territories, on the 6th day of February, A.D. 1996.

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APPEARANCES:

MR. A. REGEL:	Counsel for the Crown
MR. P. BOLO:	Counsel for the Defence

1 THE COURT: Jean Jacques Mayer has been convicted  
2 by a jury on a charge of sexual assault which was  
3 committed here in Yellowknife some time during the  
4 summer months of 1986. The facts revealed that  
5 Mr. Mayer came to Yellowknife seeking employment. He  
6 made arrangements to stay with his brother and his  
7 family who had been living in Yellowknife for quite  
8 some time.

9 The evidence of the victim, who was at that  
10 time the 13 year old nephew of the accused, was that  
11 one day the accused asked him to accompany him to a  
12 store and along the way the accused grabbed him, forced  
13 him into the bushes, and sodomized him.

14 The evidence revealed that shortly thereafter,  
15 within a day or so, the accused left Yellowknife.  
16 According to the victim's parents he disappeared from  
17 their home and they had no idea where he went, and  
18 there was no contact from him until after these  
19 allegations arose. The charge was investigated when  
20 the victim finally felt sufficiently capable to  
21 disclose this incident some time in 1993.

22 There was obvious emotional trauma suffered by  
23 the victim in this case. That was apparent even now  
24 when he was testifying some almost 10 years after the  
25 fact. It was obvious to me as well that there was  
26 emotional trauma suffered by the victim's parents. And  
27 I have no doubt this is something that will live with

1           that family for a long time to come.

2                       The accused maintained his innocence at trial  
3           which is, of course, his right, and continues to  
4           maintain his innocence now after the verdict.

5                       The accused is 47 years of age. He has a  
6           varied work history, but I am told he has been on some  
7           sort of disability pension for the past few years.  
8           During the trial and during sentencing, there were  
9           references made to the fact that the accused himself  
10          was sexually abused as a young child by his own  
11          father. There were references made to how the accused  
12          confronted his father about this when he became older,  
13          and how he attacked his father resulting in the fact  
14          that his father was in a coma and hospitalized for some  
15          14 years up until his death. For that the accused was  
16          charged and convicted of the offence of wounding in  
17          1979 and sentenced to serve 18 months in jail.

18                      He has other criminal convictions on his  
19          record, most of them quite dated, although I note that  
20          in 1981 he was also convicted of assault causing bodily  
21          harm and served an additional nine months in jail. So  
22          it is not as if crimes of violence are unknown to the  
23          accused's background.

24                      Of course, the evidence as to the sexual abuse  
25          of the accused came only from the accused's own mouth.  
26          It was not something that was contested. In fact, the  
27          clear impression I got during the course of the trial

1 and at sentencing was that Crown counsel accepts what  
2 the accused says about his personal history. If it is  
3 true, then I am sorry for the accused. He himself said  
4 at the trial that if what the victim said happened to  
5 him really happened, then he, the accused, feels sorry  
6 for the victim as well.

7 The jury has concluded that it was the accused  
8 who perpetrated this terrible act on his nephew. The  
9 fact that the accused himself was a victim of childhood  
10 abuse is something that causes me a great deal of  
11 difficulty because, on the one hand, the accused  
12 himself should know better than anyone else the deep  
13 hurt that such action on the part of an adult causes to  
14 a child. On the other hand we also know that in many  
15 instances those who abuse children were themselves the  
16 victims of abuse. It is a very complicated  
17 psychological dynamic, but it is something that is  
18 beyond the parameters of this case to explore in any  
19 meaningful way.

20 I mention all this because it was something  
21 that came out and was mentioned during the course of  
22 the trial and on sentencing. And I want to say to the  
23 accused that the finding of the jury is one of course  
24 that I accept. Whether he accepts it in time is  
25 something he'll have to deal with.

26 The objectives of sentencing and the  
27 principles of sentencing are, of course, well known.

1           They apply in all criminal cases. With any sentence we  
2           hope to achieve deterrence both of others and of this  
3           accused. We hope to achieve and signify society's  
4           denunciation of criminal activity. We hope to achieve  
5           the rehabilitation of the offender, and this is all  
6           with the aim, of course, of the protection of the  
7           public.

8                         In this particular case, we have a significant  
9           lapse of time from the time of the offence. Almost 10  
10          years have gone by since this offence was committed.  
11          Counsel recognize that this offence is what has been  
12          termed a major sexual assault. Crown counsel argues  
13          that the circumstances are aggravated by the familial  
14          relationship between the offender and the victim. He  
15          was the victim's uncle. There is indeed a breach of  
16          trust in that context, but it is not a true breach of  
17          trust because there is nothing in the evidence to  
18          suggest some strong or ongoing ties between the accused  
19          and the victim's family prior to this offence. But  
20          nevertheless, as an older relative, the victim was  
21          entitled to look to the offender for support, help and  
22          encouragement and all the offender did was take  
23          advantage of him. So that is a very significant  
24          aggravating factor.

25                         Crown counsel has suggested that an  
26          appropriate sentence would be five years in the  
27          penitentiary. Certainly the sentencing guidelines that

1 are used throughout the country would justify such a  
2 sentence.

3 But I do have to take into account certain  
4 factors. First there is the lapse of time. As counsel  
5 know, many cases have recently talked about the effect  
6 of the lapse of time on sentencing. Generally  
7 speaking, the principles of sentencing are not affected  
8 by the lapse of time. Where, as in this case, a  
9 significant period of time has elapsed, the principles  
10 of deterrence and denunciation are just as important.  
11 The only time when the lapse of time becomes a  
12 significant factor, is where there is evidence of the  
13 accused having led an exemplary life since the offence,  
14 and where in the intervening years one can say that  
15 there has been rehabilitation and the accused has shown  
16 remorse for his conduct from the past.

17 To some extent, I think it can be said that  
18 the accused has led a normal life since the offence.  
19 At least there is no evidence of any repetitive conduct  
20 on the part of the accused of this nature. Those  
21 offences that the accused was convicted of since 1986  
22 consist of what appear to be drinking and driving  
23 related offences, totally unrelated to this type of an  
24 offence.

25 But I must consider the other objectives of  
26 sentencing. Deterrence and denunciation are just as  
27 relevant now as they were 10 years ago. A sentence of

1 four or five years is certainly within the parameters  
2 of sentences being imposed for this type of offence.  
3 So it seems to me that in order to give voice to  
4 society's condemnation of this type of crime, to give  
5 voice to the deterrent effect of severe sentences for  
6 this type of violent crime, to give voice to the  
7 principles of avoiding disparity in sentencing and of  
8 maintaining the public's confidence in the  
9 administration of justice, I have no alternative but to  
10 impose what is certainly a severe sentence.

11 But I do take into account the fact that this  
12 was one incident, one incident of which there is no  
13 evidence of any repetitive conduct or any other similar  
14 conduct. I do take into account what has been told to  
15 me about the personal background and history of the  
16 offender, and that does to some extent temper my  
17 approach.

18 Stand up, Mr. Mayer. I hereby sentence you to  
19 serve a term of imprisonment of four years. You may  
20 sit down. There will be no victim of crime fine  
21 surcharge in the circumstances. Is there anything else  
22 we need to address, Counsel?

23 MR. REGEL: Just one thing, My Lord. I didn't  
24 mention it in my initial submissions. However when I  
25 sat down, I believe it was Section 98 at the time  
26 provided for a mandatory five year weapon prohibition  
27 in the circumstances.

1 THE COURT: Mr. Bolo, any comments?

2 MR. BOLO: No, sir.

3 THE COURT: All right. There will be a mandatory  
4 five year order in accordance with the terms of the  
5 section as it then existed. You can draw up a formal  
6 order, Mr. Regel in due course.

7 MR. REGEL: I will, My Lord.

8 THE COURT: Thank you, Counsel. We will close  
9 court.

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

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Laurie Ann Young  
Court Reporter

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