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CR 03122

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

ERNEST PAUL SANGRIS

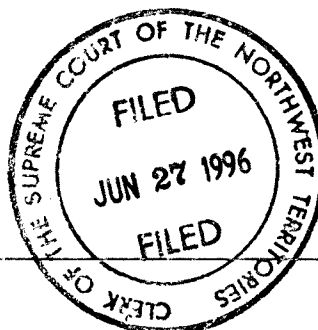
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Reasons for Sentence held before The Honourable Madam Justice V.A. Schuler, sitting at Yellowknife in the Northwest Territories, on Friday, June 21, A.D., 1996.

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APPEARANCES:

MS. L. CHARBONNEAU:           On behalf of The Crown  
MR. C. REHN:                    On behalf of The Accused



1 THE COURT: All right. Thank you. Well, I  
2 now have the duty of sentencing Ernest Paul Sangris for  
3 the sexual assault for which he was convicted by the  
4 jury. Sentencing someone is always a very difficult  
5 thing to do.

6 It has often been said that the main purpose of  
7 the criminal law, including sentencing, is the  
8 protection of the public. The public, of course,  
9 includes people like Elizabeth Fatt, women who may be  
10 alone in their homes sleeping or passed out or  
11 whatever.

12 It is very important for the Court to indicate to  
13 the accused and to other people that society and the  
14 community repudiate or reject the behaviour for which  
15 Mr. Sangris has been convicted. In other words, it is  
16 to be made very clear that this behaviour is not  
17 acceptable.

18 The sentence that is to be imposed must be such  
19 that it will deter or discourage Mr. Sangris from ever  
20 acting in this way again and also discourage other  
21 young men from going into the home of a woman and  
22 attacking her for their own selfish sexual  
23 gratification.

24 I also have to keep in mind the objective of  
25 rehabilitating Mr. Sangris into a law-abiding citizen  
26 who does not do things like this because that is the  
27 best protection that the public can have.

1           I must consider the circumstances, the personal  
2 background of Mr. Sangris, and I am told and I note  
3 from the presentence report that he is 24 years old,  
4 that he has grown up and lived all his life in Dettah  
5 in a traditional lifestyle.

6           The presentence report reviews his family  
7 circumstances, and I will not repeat them except to say  
8 that there is a family background of alcohol abuse and  
9 violence. For a time, Mr. Sangris lived in a more  
10 structured environment with an uncle but apparently, he  
11 had some difficulty coping there. He has work  
12 experience which is fairly limited and has, for the  
13 most part, pursued commercial fishing with his father.

14           Mr. Sangris has a lengthy criminal record going  
15 back to 1988. I see that the 1988 and '89 convictions  
16 are in youth court. The record is mostly property  
17 related but I note that in 1991, he was convicted of  
18 assault and received a fine of \$500. In 1993, he was  
19 convicted of sexual assault and received a jail  
20 sentence of 18 months and probation for six months. In  
21 1995, he was convicted of assault and received a jail  
22 sentence of 70 days, and he was on release from that  
23 jail term when he committed the offence that he is now  
24 being sentenced for in December of 1995.

25           As I said, Mr. Sangris has been convicted by the  
26 jury of sexual assault. The facts of the case are what  
27 under the old law I think would have amounted to an

1 attempted rape. The complainant who is 52 years old  
2 was at home. She had fallen asleep watching  
3 television. She said that Mr. Sangris came into the  
4 house, grabbed her by the shirt, pushed her to the  
5 floor, and was attempting to have intercourse with  
6 her.

7 Her niece Ms. Betsina happened to be  
8 coming to the house at that time and heard Ms. Fatt  
9 yelling and screaming for help, and she kicked in the  
10 back door and went into the room and found Mr. Sangris  
11 standing up pulling up his pants.

12 At that time, he made an apology of sorts.  
13 Ms. Betsina testified that he said "I'm sorry. I  
14 didn't mean to. I didn't do nothing."

15 It is clearly a very serious offence, and it is  
16 what is known or has been termed in the cases as a  
17 major sexual assault.

18 The aggravating factors are that the complainant  
19 was in her own home. She was asleep on the couch. She  
20 was entitled to feel that she was safe and secure  
21 there, and Mr. Sangris simply barged in and attacked  
22 her. That is a very aggravating factor.

23 There was also, I note, some force used or  
24 violence used apart from the sexual assault in that he  
25 pushed her to the ground.

26 I was able to observe Ms. Fatt during the trial,  
27 and I agree with the Crown's description of her as

1           having an appearance of frailty. I also recall that  
2           she said in her evidence that she had known Mr. Sangris  
3           since his birth, and I note from the presentence report  
4           that he considers her to be an elder in the community.  
5           Those are all aggravating factors.

6           I do note for the record that from the evidence at  
7           trial, there was no evidence that Mr. Sangris was  
8           drunk. There was some evidence that he may have been  
9           drinking.

10          I take into account that he has spent almost six  
11          months on remand for this offence, and I give him  
12          credit for that time, what we commonly know as "hard  
13          time." In my view, the credit should be approximately  
14          one year.

15          I have been given by Crown counsel in her  
16          submissions the circumstances of the 1993 sexual  
17          assault, and the similarities between that sexual  
18          assault and the one that I am now sentencing  
19          Mr. Sangris for are striking and they are very  
20          troublesome because in both cases, we have Mr. Sangris  
21          going into the home of a woman and attacking her,  
22          taking advantage of her or attempting to take advantage  
23          of her while she is sleeping.

24          From my own observations as a judge in this Court,  
25          this type of behaviour is a significant problem in  
26          terms of the frequency with which we have to deal with  
27          it.

1           There is an element of escalation in Mr. Sangris'  
2 record. By that, I mean that he has progressed, if  
3 that is the right word, from property offences to  
4 violence against people and, in particular, to sexual  
5 assault.

6           Mr. Rehn referred to Mr. Sangris as having a sort  
7 of Jekyll and Hyde problem in terms of drinking, and I  
8 agree that this is yet another tragic case of someone  
9 who seems to be a good person when they are sober but  
10 does terrible things when they are drinking. I would  
11 just quote from the presentence report on page 4 where  
12 Helen Tobie, a friend of Mr. Sangris, is quoted or is  
13 stated to have told the person who did the presentence  
14 report that: Ms. Tobie feels that Mr. Sangris is a  
15 good worker when he is sober but when he drinks, he  
16 goes crazy; and unfortunately, that seems to be the  
17 situation with so many young men who come before this  
18 Court.

19           I note that Mr. Sangris was at one time, when he  
20 was serving a sentence, in an alcohol program. His  
21 counsel has indicated that he did not really want to be  
22 there and that being the case, it is not surprising  
23 that he did not get anything out of it as he indicated  
24 to the person who prepared the presentence report.

25           Mr. Sangris, according to the report, blames  
26 alcohol for this offence. Mr. Sangris, you have to  
27 realize that you cannot blame alcohol for the offence.

1 You are the one who decides whether or not you are  
2 going to drink, and that is where you have to start  
3 when you are looking at why did this happen. You have  
4 to look at yourself and the fact that you decided to  
5 drink instead of blaming it on the alcohol.

6 Mr. Sangris is 24 years old as I have indicated.  
7 He is still a young man. I am not prepared to say that  
8 at that age that he is past rehabilitation, but he is  
9 certainly getting to the point where there may be  
10 serious concerns about that and in particular, I say  
11 that because of the escalation of the record and the  
12 concern that this is the second time that Mr. Sangris  
13 has committed this type of offence.

14 Having considered all of the circumstances  
15 including the remand time -- Mr. Sangris, would you  
16 stand up, please. The sentence of this Court is that  
17 you will serve a term of imprisonment of four years.

18 Now, I have considered Section 741.2 of the  
19 Criminal Code, and I note under that section the report  
20 of the Goulet case, G-O-U-L-E-T, from the Ontario Court  
21 of Appeal which indicates that the section should only  
22 be invoked as an exceptional measure where the Crown  
23 has satisfied the Court on clear evidence that an  
24 increase in the period of parole ineligibility is  
25 required and that there should be an articulable reason  
26 for invoking the section.

27 I have considered the section. I have considered

1           also the fact that Mr. Sangris is 24 years old, as I  
2           have said, and I am not satisfied that it would be  
3           appropriate for me to set the period of parole  
4           ineligibility, so that will be left to the Parole Board  
5           to deal with.

6           I have also considered whether there should be a  
7           Section 100 Order. You can sit down now, Mr. Sangris.  
8           I note in that regard that Mr. Sangris has not been  
9           convicted of any offences involving weapons and that  
10          the offence before the Court did not involve a weapon.  
11          Considering his traditional lifestyle and where he  
12          lives, I decline to impose a Section 100 Order.

13          There will be no Victims of Crime surcharge in the  
14          circumstances.

15          Mr. Sangris, the sentence that I have just imposed  
16          is a long one. There is no doubt about that. I only  
17          hope that you will use that time to get some help and  
18          to try to change your life. You have a child now, and  
19          you should think of your child when you are considering  
20          how much effort you are going to put into trying to  
21          change things.

22          I would propose but, Mr. Rehn, I will ask you  
23          first just in case there is anything you want to say  
24          about it. I would propose endorsing the warrant to  
25          indicate that the Court recommends that Mr. Sangris  
26          serve his time in the Northwest Territories.

27          MR. REHN:   I would agree, My Lady. I



1 apologize for not having raised that earlier.

2 THE COURT: No, that is fine. All right. The  
3 warrant will be endorsed then with that recommendation  
4 and also with the recommendation that Mr. Sangris  
5 receive counselling as a sex offender. Is there  
6 anything further, Counsel?

7 MS. CHARBONNEAU: No, My Lady.

8 MR. REHN: No, My Lady.

9 THE COURT: All right. Thank you very much,  
10 Counsel, for your submissions, and we will close  
11 court.

12 THE CLERK: Order, all rise. Court stands  
13 adjourned.

14 **ADJOURNED GENERALLY**

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

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Tara McCrae

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Tara McCrae, CSR(A), Court Reporter

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