

CR 03017

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

MICHAEL BELL

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Transcript of the Reasons for Sentence delivered by the Honourable Mr. Justice J. E. Richard, sitting at Yellowknife in the Northwest Territories, on June 24, A.D., 1996.

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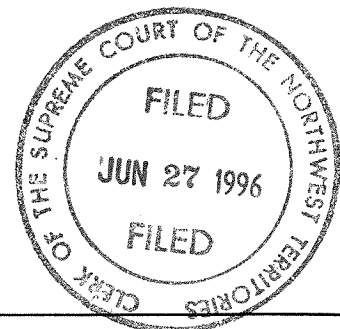
APPEARANCES:

MR. A. REGEL

On behalf of the Crown

MR. R. GORIN

On behalf of the Defence



1 THE COURT: This afternoon it is my serious  
2 responsibility to impose an appropriate sentence upon  
3 an otherwise pleasant young man for a serious crime  
4 that he has committed, a serious crime of violence in  
5 which I am satisfied he was clearly acting out of  
6 character.

7 This young man, Michael Bell, is now 27 years of  
8 age and grew up in Edmonton, Alberta. I am told that  
9 he left home at the age of 18, and in his early adult  
10 years there were some problems, mainly communication  
11 problems, between he and his parents. In those years  
12 he lived outside of his parent's home, at times alone,  
13 at times with his aunt and uncle, while he continued  
14 with his education and was engaged in sporadic  
15 employment. At times he has had emotional problems,  
16 has experienced bouts of severe depression, and at one  
17 point admitted himself to a psychiatric ward. In  
18 recent years he has received regular counselling or  
19 therapy from a psychiatrist and he is also currently  
20 on a form of medication for his depression and other  
21 health concerns.

22 Mr. Bell is a Baptist by faith and has devoted  
23 a great deal of his young life to church activities.  
24 He has taken religious studies, and he has told the  
25 Court that he has completed almost three years towards  
26 a degree in religious education. Although he does not  
27 have a history of steady employment, he has worked at

1 various jobs including part time work as a youth  
2 pastor.

3 Mr. Bell and the victim in this case first met  
4 when both were in their teens, he was 18 and she was  
5 15. They met at a Baptist youth camp and dated for  
6 about three months. Although their dating  
7 relationship ended, Mr. Bell kept in touch with the  
8 victim and with her family over the next few years.  
9 In the early summer of 1992, Mr. Bell, then 23 years  
10 of age, by happenstance met the victim's parents in  
11 Banff, Alberta and learned that the victim herself was  
12 in Yellowknife for the summer. He then decided,  
13 almost impulsively, to pay her a surprise visit and  
14 then drove from Banff to Yellowknife for that purpose.

15 When Mr. Bell came to Yellowknife, the victim was  
16 living in a one-bedroom apartment which she shared  
17 with a girlfriend. She and her girlfriend welcomed  
18 Mr. Bell around midnight. They allowed him to shower  
19 there and they gave him some sandwiches, and then the  
20 three of them chatted and socialized for a few hours.  
21 After the victim's girlfriend went to bed, Mr. Bell  
22 and the victim were left alone on the living room  
23 couch where they talked some more. Mr. Bell was  
24 interested in sexual intimacy, his young friend was  
25 not. What followed can fairly be described as an  
26 incident of date rape. Mr. Bell forced himself upon  
27 his friend and had sexual intercourse with her without

1 her consent. In his own testimony he acknowledged  
2 that his friend said no to him, but that he proceeded  
3 anyway to do what he wanted to do.

4 While the jury had before it two versions of  
5 sexual activity, I am satisfied that intercourse  
6 occurred as the victim said. In any event, I view  
7 either version as constituting a major sexual assault.  
8 Mr. Bell stayed in his friend's apartment for three or  
9 four days prior to returning south to Alberta. The  
10 victim says that on the morning following the incident  
11 Mr. Bell apologized to her. Thereafter, during his  
12 visit, she tried to make sure that she was not alone  
13 or left alone with him at any time.

14 After Mr. Bell left the victim says she put the  
15 incident out of her mind for the next few years. In  
16 July 1994, a short time after she got married, the  
17 details of the incident came back to her following an  
18 argument that she had with her new husband. She  
19 started to take counselling to deal with this  
20 unpleasant memory, and also with some other matters,  
21 and then she decided to report this incident to the  
22 police. It was my impression, as I observed the  
23 victim during her trial testimony, that she was not in  
24 any way being vindictive and that she did not enjoy  
25 having to testify against her former friend Mr. Bell  
26 in these formal surroundings; but that it was  
27 necessary for her own emotional or mental health to

1 deal with this assault and to put it behind her and  
2 get on with her life. At this time it is the Court's  
3 sincere hope that she will be able to do that. In her  
4 victim impact statement, filed as Exhibit S-2, she  
5 details some of the emotional and psychological strain  
6 that she has endured from this rape and the ensuing  
7 court proceedings, and also the difficulties that  
8 these matters have caused her in her relationships  
9 with her husband, and with her friends and  
10 acquaintances.

11 As to an appropriate sentence for Michael Bell  
12 for the crime that he has committed, I first of all  
13 acknowledge that the starting point sentence for this  
14 category of crime is three years imprisonment in a  
15 Federal penitentiary. Without in any way meaning to  
16 diminish Crown counsel's submission in this regard, I  
17 do not find that there are any particularly  
18 aggravating circumstances here that would cause the  
19 Court to increase that starting point sentence.

20 There are, in my view, some mitigating  
21 circumstances. Michael Bell not only has no record of  
22 criminal activity prior to this event, or subsequent  
23 to this event, I am satisfied that he acted out of  
24 character in forcing himself sexually on his young  
25 friend. He apologized for his behaviour at an early  
26 opportunity, and I am going to ignore for the moment  
27 that during his trial testimony he denied making that

1 apology. While he has not uttered any express words  
2 of remorse, it was my observation of him during the  
3 trial that he does wish that he had not done what he  
4 did do to his friend that night. And I am satisfied  
5 that he did certainly at that time care for this young  
6 woman a great deal.

7 Mr. Bell has one month of pre-disposition to his  
8 credit. But I do not consider that to be a  
9 significant factor in the determination of sentence  
10 today. The paramount consideration in sentencing all  
11 criminals, including first offenders such as Michael  
12 Bell, is the protection of the public, and the  
13 protection of the public includes protecting  
14 vulnerable young women from date rape. The sentence  
15 that is imposed in a case like this one must be a  
16 meaningful sentence in the sense that it will tend to  
17 deter other young men from behaving in a similar way  
18 with a woman, whether that woman is a stranger or a  
19 girlfriend. In that way the sentence will lead to the  
20 protection of those vulnerable members of society. For  
21 Michael Bell this means that it is necessary to send  
22 him to prison for a substantial period of  
23 incarceration.

24 Please stand, Mr. Bell. Mr. Bell, for the crime  
25 that you have committed, sexual assault contrary to  
26 Section 271 of the Criminal Code of Canada, it is the  
27 sentence of this Court that you be imprisoned for a

1 period of two and a half years. In addition, as I am  
2 required by law to do so, there will be an order,  
3 pursuant to Section 100 of the Criminal Code of  
4 Canada, prohibiting you from having in your possession  
5 any firearms, ammunition or explosive substances  
6 commencing on today's date and expiring on a date ten  
7 years after your release from your term of  
8 imprisonment. Any such items in your possession at  
9 this time must be surrendered to a police officer or  
10 otherwise disposed of within 30 days from today's  
11 date. Insofar as your personal circumstances are such  
12 as they are, that is, the fact that you are going to  
13 be incarcerated for the next period of time, there  
14 will be no victim fine surcharge. You may sit down  
15 now, sir. Anything further on this case, counsel?

16 MR. REGEL: Not from me, My Lord.

17 MR. GORIN: No, sir.

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

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Loretta Mott,  
Court Reporter

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