

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES
IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

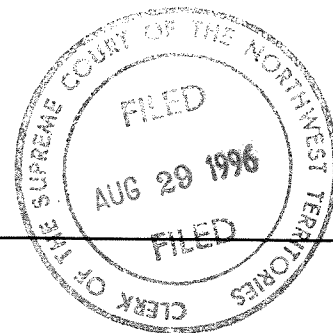
ALVIN ROSS KASONI

Transcript of Reasons for Sentence delivered by
The Honourable Madam Justice V.A. Schuler, sitting at
Yellowknife, in the Northwest Territories, on Friday,
August 16, A.D. 1996.

APPEARANCES:

Ms. B. Schmaltz:	On behalf of the Crown
Mr. A. Mahar:	On behalf of the Defence

(Charges under Section 271 of the Criminal Code)



1 THE COURT: Well, this matter comes before me
2 on a joint submission by Crown and defence for a
3 sentence of four years in jail, and -- I am sorry.
4 First of all, I should have asked you, Mr. Kaosoni, Is
5 there anything you would like to say before I sentence
6 you?

7 THE ACCUSED: (No verbal response).

8 THE COURT: Thank you. As I say, there is a
9 joint submission for four years in jail in this matter,
10 and I think it is fair to say that, generally speaking,
11 the Court is inclined to accept a joint submission
12 unless the joint submission itself is clearly
13 inappropriate; and in this case, based on what I have
14 heard, I am not inclined to the view that the
15 submission is inappropriate. I think that taking into
16 account, in particular, the young age of this offender
17 and the fact that one of the offences was committed
18 when he was only 17 years old, that this calls for
19 dealing with him differently than one would with
20 someone in their 20s or 30s.

21 With respect to the offences themselves, I will
22 simply indicate that they are three offences of what is
23 commonly known as major sexual assault. The first
24 offence, when Mr. Kaosoni was 17 years old, occurred in
25 a situation where he was at a party with the
26 complainant, it appears, or she was there too. They
27 were both intoxicated, and the accused at one point

1 threw her on a bed and had intercourse with her against
2 her will despite the fact that she was resisting and
3 screaming throughout that. That occurred sometime in
4 February or March of 1995. Then in December of 1995,
5 Mr. Kaosoni apparently entered the home of a
6 20-year-old woman, and without waking her up, proceeded
7 to have sexual intercourse with her during which she
8 did wake up. Yelled at him, he stopped and left the
9 house. He was not drinking on that occasion. On April
10 19th, 1996, the last offence that we're dealing with,
11 the accused was at a party and the complainant was also
12 there. That was an incident where she had gone to bed,
13 and while she was sleeping or passed out, the accused
14 had intercourse with her without her knowledge. She
15 woke up the next morning and realized what had
16 happened.

17 So these are very serious offences. Unfortunately
18 they're the type of offence that occurs all too often
19 and that the Court sees all too often with respect to
20 young men.

21 Considering Mr. Kaosoni's age, there is obviously
22 still, I would say, hope for rehabilitation, and
23 considering as well his background and what I have been
24 told about the difficult background that he has come
25 from, there must be hope for him that he can in some
26 way put that behind him and rearrange this life to
27 become a productive member of society. From what I

1 have heard about the things that he is good at, it
2 certainly sounds as though he has a chance or a hope of
3 doing that. So that I think, as Crown counsel quite
4 fairly said, this case is different from many that we
5 see because the prospect or the significance of the
6 potential for rehabilitation is more pronounced, I
7 would say, and therefore the principles that I do have
8 to be concerned with - general deterrence and
9 denunciation - although they are still very important,
10 they also have to be balanced with this aspect of
11 rehabilitation in a very real way in this case.

12 Taking into account the time that Mr. Kaosoni has
13 spent in custody, the fact that he waived the
14 preliminary hearing in these matters, which I am sure
15 must have been quite a relief to the complainants in
16 these matters because it saved them from having to
17 testify, and the fact that he has entered guilty pleas,
18 and by doing that I accept as indicating that he takes
19 responsibility for what happened and that he is
20 remorseful for what happened, considering all of those
21 factors, I have no hesitation in accepting the
22 recommendation for a term of incarceration for four
23 years.

24 Mr. Kaosoni, I will sentence you then to a term of
25 imprisonment of four years.

26 Now, I am going to have the warrant endorsed with
27 a recommendation, and I will hear from you, Mr. Mahar,

1 if you think there is any difficulty. But it seems to
2 me that it might be helpful to have it endorsed with a
3 recommendation that Mr. Kaosoni receive any treatment
4 that is available for sex offenders, and also that he
5 be permitted to pursue his education. I do not know
6 whether there is anything else that you think should be
7 added.

8 Now, I take it there is no dispute about the
9 Section 100 order.

10 MR. MAHAR: No.

11 THE COURT: All right. There will be a
12 Section 100 order -- it is ten years, I think. Is that
13 right?

14 MR. MAHAR: I believe so.

15 THE COURT: -- for ten years which will
16 commence on the day of your release. Well, commence
17 now and continue for ten years after your release from
18 imprisonment.

19 Does your client have any firearms?

20 MR. MAHAR: No, he doesn't.

21 THE COURT: So the order can be made then to
22 surrender any firearms, ammunition, or explosives
23 forthwith?

24 MR. MAHAR: Yes.

25 THE COURT: I will make that order. Thank
26 you. You can sit down, Mr. Kaosoni. Is there anything
27 else, Counsel, that we need to deal with on that

1 matter?

2 MR. MAHAR: No.

3 MS. SCHMALTZ: If I could just confirm one thing,
4 My Lady. I may have missed it since it was waived at
5 the preliminary -- or the preliminary was waived. Has
6 there been a Section 486 order on this case not to
7 publish the names of the complainants?

8 THE COURT: It doesn't look as though there
9 has. I do not see anything on the file. So I will
10 make that order then at this time that there will be no
11 publication of the names of the complainants or any
12 information tending to identify them.

13 MS. SCHMALTZ: Thank you, My Lady.

14 THE COURT: Thank you very much, Counsel.
15 We'll adjourn court then.

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

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Jane Romanowich
Court Reporter

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