

CR 02742
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IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

J I



Reasons for Sentence held before The Honourable Mr.
Justice J.D. O'Flynn, sitting at Iqaluit, in the
Northwest Territories, on October 21, A.D., 1995.

APPEARANCES:

MS. U. ARVANETES:	On behalf of the Crown
MR. D. BRICE-BENNETT:	On behalf of the Accused

1 THE COURT: I am dealing with the sentence of Her
2 Majesty the Queen and J I and in
3 particular, Count 2 which states between August 15th,
4 1980, and January the 3rd, '83, at or near the hamlet
5 of Clyde River did commit rape upon the person of
6 N I ; and Count 3, on or between January 4th,
7 '83, and December 31st, '90, again at the hamlet of
8 Clyde River did commit a series of sexual assaults
9 upon N I ; and I am also dealing with Count 5
10 which is that on or between November 8th, '81, and
11 January 3rd, '83, again at Clyde River, the accused
12 did rape the person of N I ; and finally,
13 Count 6, on or between the 4th of January, '83, and
14 February the 5th, '94, did commit a series of sexual
15 assaults on N I . The accused was found
16 guilty on those four counts after a trial.

17 General principles of sentencing are as follows:
18 one, the protection of the public; two, punishment of
19 the offender, and society through the Courts must show
20 condemnation for particular types of crime. The only
21 way in which Courts can show this is by the sentence
22 they pass and certainly, society expects the Courts to
23 deal with violence; three, the key effect of the
24 punishment not only on the offender but others who
25 might be tempted to commit such an offence; and four,
26 the reformation and rehabilitation of the offender
27 because this is the best protection the public has for

1 their future so far as the accused is concerned.
2 However, much emphasis will be placed on each of those
3 principles and again on many of the circumstances and
4 will obviously vary from case to case.

5 The most important question for the forms of
6 punishment is, what is likely to result in the accused
7 not being in trouble again? The paramount question
8 then is, what should this offender receive for these
9 offences committed in the circumstances under which
10 they were committed?

11 In cases of sexual assault, sexual abuse, the
12 general deterrence and denunciation are of paramount
13 importance. In this case, the aggravating factors are
14 one, they were serious sexual assaults, intercourse,
15 over a lengthy period, the one complainant from '80 to
16 '90, a ten-year period, and she was 14 to 24. The
17 other complainant from '81 to '94, 12 years, and her
18 age would be 14 to 26; two, involved two
19 stepdaughters; three, it commenced when the victims
20 were 14, a young age; four, the frequency of the
21 sexual assaults. They were numerous sexual assaults;
22 five, I conclude that there was physical violence and
23 threats of violence involved. I think I would say
24 that if I recall, it is really collateral violence as
25 well; and six, I conclude there was a child born to
26 one of the stepdaughters, one of the victims when she
27 was 16 as a result of sexual intercourse with the

1 accused. In other words, the pregnancy was as a
2 result of the sexual assault.

3 The accused violated the trust of a stepfather, a
4 grave breach of trust that he abused his power and
5 trust and there was a parent-child relationship and
6 the effect on the victim, particularly N I ,
7 in her letter which she filed as Exhibit 1.

8 The accused has no criminal record and is a first
9 offender. His age is 46. I believe he was born in
10 1948. He is a hunter by vocation. His stepdaughters
11 are now 29 and 27. The offender is a unilingual Inuk.
12 As I have said, I believe he is, from the evidence,
13 supporting his family and certainly is a hunter.

14 In speaking to the Court, I can say he accepts the
15 decision and is not angry. Obviously his wife is
16 supportive in the fact that she testified in his
17 support.

18 I have considered the case of W.B.S., 1992, 73
19 Canadian Criminal Cases, third series, 530, I believe
20 it is. In addition to Regina v. W.B.S. is Regina v.
21 M.P. which sets out some principles in child abuse
22 cases, a range to consider. I have considered
23 carefully the Crown's submissions as to the length of
24 appropriate sentence which is seven to ten years and
25 the defence's submissions of three to five. I have
26 considered carefully all the circumstances under which
27 these offences were committed.

1 Would you stand up? On the charges relating to
2 N I , Counts 2 and 3, I think it an
3 appropriate sentence, and I impose a sentence of five
4 years on each count. These sentences will run
5 concurrently.

6 On charges related to N I , Counts 5 and
7 6, I impose a sentence of five years on each count.
8 These sentences will run concurrently with each other
9 and concurrent to the sentence imposed on Counts 2 and
10 3. In considering the totality principle which I have
11 considered, the total sentence is five years in a
12 penitentiary.

13 There were no firearms used in the commission of
14 the offence, and I am satisfied he is a hunter and
15 that I think also that the Crown is not objecting to
16 the firearms. I conclude that firearms are required
17 to sustain his family. Therefore, it is not
18 appropriate for a Section 100 order to be made and
19 therefore, I do not make one.

20 There will no victims of crime surcharge. I think
21 that would be inappropriate.

22 I will also direct under the circumstances the
23 Clerk of the Court to endorse the warrant of committal
24 with this Court's strong recommendation that you be
25 allowed to serve your sentence in the Baffin
26 Correctional Centre.

27 Is there anything further?

1 MR. BRICE-BENNETT: No, My Lord.

2 MS. ARVANETES: No, My Lord.

3 THE COURT: All right.

4 THE CLERK: All rise. Court is adjourned.

5 **AT WHICH TIME THIS SENTENCING HEARING WAS CONCLUDED**

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

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Tara McCrae, CSR(A), Court Reporter

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