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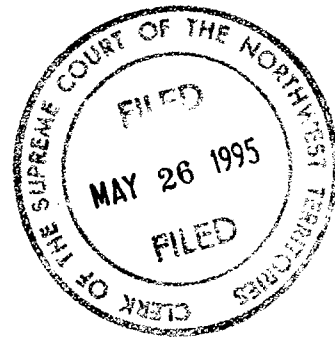
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

MARK WILLIAM KOCHON



Transcript of the Reasons for Sentence of The Honourable Mr. Justice J. Z. Vertes, at Fort Good Hope, in the Northwest Territories, on Monday, May 15th A.D., 1995.

APPEARANCES:

MR. J. A. MacDONALD:	Counsel for the Crown
MS. S. KAY:	Counsel for the Accused

(CHARGED UNDER s. 271 CRIMINAL CODE OF CANADA)

1 THE COURT: First of all, there will be an order
2 banning publication of the name of the victim in this
3 case.

4 Second, I want to thank both counsel for the
5 manner in which they resolved this case, I think it is
6 commendable, and for their submissions as well.

7 Is Mr. Joseph Kochon still here?

8 Mr. Kochon, I am going to ask you to come forward
9 and sit up a little closer if you would, please,
10 because we are in a big hall and I want to make sure
11 that you hear what I have to say because I appreciated
12 your comments very much on behalf of the Community
13 Justice Committee of Colville Lake and I want you to
14 express to them, to the Chief and to the chairman of
15 your committee, my appreciation for the letter that
16 they wrote and my encouragement for the good work that
17 they are trying to do in the community. I think it is
18 very important.

19 There will be a transcript prepared of my remarks
20 and I will see to it personally that a copy of that
21 transcript is sent to your chairman so that perhaps
22 everybody in Colville Lake can understand the sentence
23 that I am about to impose on the accused and because I
24 hope that they will see it not just for this
25 particular case but perhaps for future cases.

26 Now, as far as the accused is concerned, Mr.
27 Kochon, I am going to speak directly to you because I

1 want you to understand the reasons for the sentence
2 that I am about to impose because I think it is
3 important that you carry this with you so that you
4 don't feel it is a step back in the progress that you
5 are trying to make in your community or with your
6 family. Because I think there are alot of good things
7 that you can do from here on in.

8 You have pleaded guilty to a charge of sexual
9 assault. Under our law, that charge carries a
10 potential maximum penalty of ten years in jail so it
11 is considered to be a very serious charge. But it is
12 a wide range of sentence that is possible because
13 there are different ways that this crime can be
14 committed.

15 In your case, I heard that back in early 1994 in
16 your home community of Colville Lake, you went into
17 the home of the victim where she was sleeping. You
18 tried to molest her and even though she tried to get
19 away from you and even though her father found you and
20 kicked you out of the house, you came back again later
21 on when she was asleep and that you molested her by
22 touching her body. And that you tried to do other
23 things. Fortunately it didn't go any further than
24 that.

25 I understand that you were drunk at the time. But
26 being drunk is no excuse for acting like that. You
27 were 30 years old at the time; this young girl was

only 13.

1 I heard about how much it has hurt her and how
2 much trouble this has caused for her so that she
3 herself apparently needs to have counselling. And no
4 matter what other good things there may be in your
5 life, we can't lose sight of that victim because she
6 is suffering too and it is only because of your action
7 that she's suffering and that is why the law views
8 this type of crime very seriously. Especially when it
9 involves a younger person who deserves the protection
10 and support of everyone in the community not to be
11 taken advantage of. And I am sure that you realize
12 that.

13 Now, there are things that I have to take into
14 account in trying to determine what is an appropriate
15 sentence in this case.

16 Your lawyer and the Crown lawyer have joined in a
17 submission to me where they say that an appropriate
18 range of sentence would be six to eight months'
19 incarceration. In many similar cases like this,
20 people have been sent to jail for far longer than
21 that.

22 I have to take into account the fact that you have
23 a serious criminal record. I realize that most of the
24 charges, and each one individually, is not all that
25 serious and I understand that you were under the
26 influence of alcohol alot of the times when you got
27

1 into trouble before, but my count is that you have
2 criminal convictions between 1980 and 1994, including
3 previous convictions for assault. And when a person
4 has a background like that, it is looked at far more
5 seriously than if somebody comes before the Court for
6 the very first time and says that they did something
7 that was out of character, something that was unusual
8 for them to do. These are the things that I have to
9 consider.

10 But I also have to consider the good things that
11 were said about you.

12 I am very impressed by the fact that since this
13 crime, you have taken steps to help yourself and to
14 help your family and to help your community. I am
15 glad to hear that you have now come to realize the
16 problems that alcohol can cause both to you and your
17 family. Because when you hurt someone else, like you
18 hurt the victim in this case, you are not just hurting
19 her but you are hurting everyone in your family,
20 everyone in her family, everyone in fact in your small
21 community because this is the type of action that
22 disrupts life in the community, makes it more
23 difficult for everyone.

24 I was very impressed by the letter that the
25 Justice Committee sent to me because it shows that
26 they care about you. I heard from the witness to say
27 how they care and worry about the victim too, which is

1 also very important, and that they care and worry
2 about getting a healing process going so that everyone
3 can deal with this and go on with their lives in a
4 healthy way. And I hope that continues.

5 But I find that after thinking about it that I
6 have no alternative but to send you to jail at least
7 for a short period of time. And I do this for three
8 reasons:

9 One, because you have to know and you have to
10 understand that if you ever hurt anyone else again in
11 the future that you are going to be taken away from
12 your community and your family for a very long time.
13 And I am sure that you do realize that and understand
14 that.

15 The other reason why I do so is because other
16 people have to understand that these types of crimes
17 will be dealt with very seriously so that they never
18 do the same thing again. Because I am sure that you
19 will agree that no other young girl in your community
20 should ever be hurt again the way that this victim
21 was. So it has to be a message to others as well that
22 they should never do what you did.

23 And the third reason is simply because I can only
24 speak on behalf of everyone and say that this type of
25 crime is very serious and it has to be denounced. Do
26 you know what I mean by that?

27 THE ACCUSED: (nods in the affirmative).

1 THE COURT: I have to send a message that says
2 that living in our society, in every community,
3 whether it is a smaller community like yours or a
4 larger community, whether it is a native community or
5 whether it's a white community, doesn't make any
6 difference, that this type of crime has to be stamped
7 out. Has to stop. And nobody in society, whoever
8 they are, condones this type of action especially when
9 you consider the difference of ages and the young age
10 of this victim.

11 But I also think that I can keep the time in
12 prison to the shortest time possible in accordance
13 with your lawyer's submissions and combine that with a
14 period of time where you will be on probation, where I
15 will put some conditions on it and where I will look
16 to the assistance of the Community Justice Committee
17 to work with, to continue working, with you.

18 Because you are going to be out of jail in a short
19 time. It is not going to be a long period of time.
20 With parole, with time off, you will be released
21 before the end of your sentence and when you go back
22 to your community, I am going to have you on a
23 probation order where you are going to have to work
24 with the people in the local Justice Committee. And
25 perhaps this will be an opportunity for the local
26 Justice Committee to try and see how effective their
27 methods are. And also to see how well you can come

1 back and contribute to your community again.

2 So I don't want anybody to think, and I don't want
3 you to think, that because I have to send you to jail
4 for this crime that that should mean that all of your
5 good work, that all of your good effort should stop.
6 In fact, it should be what pushes you to make sure
7 that you continue to do good things from now on.
8 Because I think by now you realize that you never want
9 to go back to jail again. And after the sentence, I
10 hope that you never do.

11 And after this sentence, I hope that you and the
12 people in Colville Lake and the people in the
13 Community Justice Committee will work together, not
14 just to make sure that things go right for you from
15 now on, but so that you too can be part of that
16 community again and maybe even help other people
17 understand why this type of action, why these types of
18 crimes, have to be stopped. Maybe you too can take an
19 active part in teaching others in your community about
20 the dangers of alcohol abuse and the importance of
21 having a strong family life and a strong personal
22 life.

23 So that's why I don't want you to think, and I
24 don't want anybody in your community to think, that I
25 didn't listen carefully to what was said about you.
26 But I also want you to understand why I have no choice
27 but to send you to jail for this serious crime.

1 Stand up please, Mr. Kochon.

2 I sentence you to serve six months in jail. In
3 addition to that, you will be on probation for a
4 period of one year. The terms of that probation are
5 that you are to keep the peace and be of good
6 behaviour; that you are to participate in any programs
7 as directed by the Community Justice Committee of
8 Colville Lake; that you are to abstain absolutely from
9 the consumption of alcohol or any other intoxicating
10 liquors; that you are to stay away from the residence
11 of Georgina Oudzi; and that during your probation
12 period, you are to perform 200 hours of community
13 service work under the direction of the Community
14 Justice Committee. Do you understand that, sir?

15 THE ACCUSED: (nods in the affirmative).

16 THE COURT: Now, I want to say to you, sincerely,
17 that I hope you will not see this as a step back but
18 that you will take the time to plan for the steps that
19 you will take in the future. You have already taken
20 the first steps by recognizing what you need to do to
21 overcome your past problems. Now think about what you
22 will do in the future for yourself and your family and
23 the community. Don't give up on that. Because you
24 are still a young man and there are still many good
25 things that you can do and you can still become a very
26 strong member of your community, and I hope that you
27 will pursue that. You can have a seat.

1 Under the circumstances, having regard to what has
2 been told to me, I decline to make an order under
3 Section 100 of the Criminal Code.

4 THE COURT: Is there anything further, counsel?

5 MR. MACDONALD: No, sir.

6 MS. KAY: No, sir.

7 THE COURT: In addition, there will be no Victim
8 Fine surcharge under the circumstances.

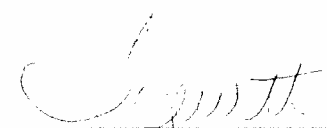
9 MR. MACDONALD: Sir, Crown will file a formal stay in
10 regard to Count 1.

11 THE COURT: Thank you very much. The other
12 charge, Mr. Kochon, has been stayed by the Crown so
13 that should dispose of everything with respect to your
14 case.

15 Thank you, counsel, we will adjourn until 9:30
16 tomorrow morning.

17 (AT WHICH TIME THIS SENTENCING CONCLUDED)

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

20
21
22 
23 _____
24 Lois Hewitt,
25 Court Reporter
26
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