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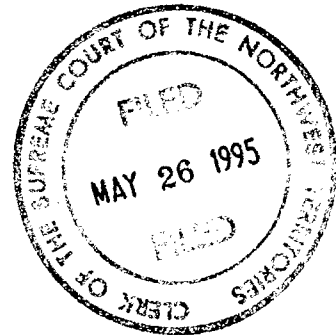
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

R K



Transcript of the Reasons for Sentence of The Honourable Mr. Justice J. Z. Vertes, at Fort Good Hope, in the Northwest Territories, on Friday, May 19th A.D., 1995.

APPEARANCES:

MR. J. A. MacDONALD: Counsel for the Crown

MR. T. BOYD: Counsel for the Accused

(CHARGED UNDER s. 271 (x2) CRIMINAL CODE OF CANADA)
 (CHARGED UNDER s. 246.1 (x2) CRIMINAL CODE OF CANADA)

1 THE COURT: R K was convicted by a jury
2 on a charge of sexual assault committed in Fort Good
3 Hope.

4 The offence involves the rape of his cousin who
5 said that she was 14 or 15 years old at the time back
6 in 1986 or 1987. The crime was only reported to the
7 police a year ago.

8 The victim was asleep at her uncle's home when the
9 accused came to her room, awoke her, and had forced
10 intercourse with her.

11 The accused was charged with three other offences
12 involving the same victim allegedly committed over the
13 years since then. He was acquitted of those charges.
14 Accordingly, I sentence only on the one incident
15 represented by the charge for which he was convicted.

16 There is no question that this crime is a major
17 sexual assault. As such, Courts of Appeal have set a
18 starting-point of three years' imprisonment, the
19 sentence submitted to me by Crown counsel as being
20 appropriate in this case. That starting-point,
21 however, as recognized by Courts of Appeal is to be
22 varied depending on the presence of aggravating or
23 mitigating circumstances. The main principles to keep
24 in mind are those of deterring others from committing
25 these types of crimes and expressing the community's
26 denunciation of this type of behaviour.

27 These types of crime cause significant ongoing

1 pain for the victims - especially if the crime is
2 committed when they are young or by people to whom
3 they normally look to for protection and support, such
4 as older relatives.

5 In this case, I was provided with a victim impact
6 statement that identifies the long-standing harm
7 suffered by the victim.

8 The unique feature of this case is that this crime
9 was committed eight or nine years ago. The lapse of
10 time does not in and of itself render inapplicable the
11 principles of general deterrence and denunciation. But
12 the passage of time may result in a different
13 consideration of aggravating and mitigating
14 circumstances.

15 The offender is now 30 years old. He is married
16 with three young children. He has not led an
17 unblemished life since this crime since he has been
18 convicted of ten criminal offences since 1989. All of
19 them appear to be relatively minor but one of them, a
20 conviction for common assault in 1989, was on the same
21 victim. But, as defence counsel points out, at the
22 time that he committed this crime for which he is now
23 to be sentenced, he was around 22 years of age and had
24 never been in trouble with the law. Therefore, I
25 think it can said that at that time his own mental
26 state lacked the level of blameworthiness that might
27 be associated with someone who has a prior record at

1 the time that he commits a crime.

2 The accused is from Colville Lake, a tiny isolated
3 community where people live in a traditional Dene way.
4 I must consider whether or not there would be a
5 disproportionate effect of a penitentiary term on this
6 man and his family coming from that background.

7 I heard that he combines skills of two cultures.
8 He is a hunter and trapper, a good provider for his
9 family. He also has been employed as the Colville
10 airport base manager and he is a trained heavy
11 equipment operator. He is apparently held in good
12 regard by members of his community.

13 I also heard, in this case and in another case
14 earlier this week, about the existence of a Community
15 Justice Committee in Colville Lake. It seems to me
16 that they represent a viable cross-section of that
17 community, being a small community as it is, and that
18 they are making sincere efforts to assist the
19 rehabilitation of offenders and the healing of
20 victims. I can only say that I hope that the
21 government recognizes these efforts by providing
22 training and resources to help them. This committee
23 apparently is willing to work with this offender.

24 No one should be mistaken. This is a serious
25 crime that calls for a severe sentence. But, in my
26 opinion, there are some special features present here
27 that justifies making an exceptional disposition.

1 Stand up, Mr. K .

2 The sentence of this Court is that you serve a
3 term of imprisonment of two years less one day. In
4 addition to that, you will be on probation for a
5 period of two years from the date of your release.

6 The terms of that probation are the usual
7 statutory terms such as keep the peace and be of good
8 behaviour and in addition to that, I will direct that
9 you be under the supervision and direction of the
10 Colville Lake Justice Committee, if there is one at
11 the time of your release and if they are prepared to
12 undertake that role, and if there is no such committee
13 or if they are not prepared to undertake that role
14 then you are to be under the supervision and direction
15 of a probation officer.

16 Under the circumstances, I decline to make a
17 Section 100 order. In addition, there will no Victim
18 Fine surcharge.

19 Now, Mr. K , I hope that you understand that
20 just because this crime was committed many years ago,
21 it is still treated just as seriously. But your
22 lawyer has said probably everything that could be said
23 on your behalf and Mrs. Gully has told me what high
24 regard people hold you in and that there is a
25 possibility, and I think a very good one, that when
26 you return to your community you can be a serious
27 leader and a responsible man. I hope that you are.

1 And I hope for that you plan for that day. You may
2 sit down.

3 Is there anything else, counsel, that we need to
4 address?

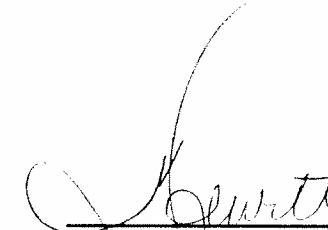
5 MR. MACDONALD: Nothing else.

6 MR. BOYD: Nothing from the defence.

7 THE COURT: Thank you very much. Thank you to our
8 interpreters and the people of Fort Good Hope. We
9 will close court.

10 (AT WHICH TIME THIS SENTENCING CONCLUDED)

11
12
13 Certified Pursuant to Practice Direction #20
14 dated December 28, 1987.

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17 Lois Hewitt,
18 Court Reporter