

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- V -

TIMOTHY VORNBROCK

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Transcript of the Oral Reasons for Sentence of The  
Honourable Justice C.S. Brooker, sitting in Yellowknife, in  
the Northwest Territories, on the 22nd day of June, A.D.  
1998.

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APPEARANCES:

Mr. M. Scrivens:

Counsel for the Crown

Mr. T. Boyd:

Counsel for the Defence

1 THE COURT: The case of Timothy Vornbrock. Mr.  
2 Vornbrock has pled guilty to and been convicted of  
3 three counts of attempts to obtain for consideration  
4 the sexual services of individuals under the age of 18  
5 years contrary to Section 212(4) of the Criminal Code.  
6 He's also pled guilty to and been convicted of one  
7 count of sexual assault under Section 271 of the  
8 Criminal Code and he has pled guilty to and been  
9 convicted of one count of trafficking in cocaine  
10 contrary to the provisions of Section 4(1) of the  
11 Narcotic Control Act.

12 I have listened to the facts as read in by the  
13 Crown and admitted to by the defence. I note in  
14 particular that the sexual assault, the circumstances,  
15 are not circumstances which, in the past at least, have  
16 been described as a major sexual assault.

17 The sexual assault as described by the Crown  
18 relates to sexual touching outside of the clothing of  
19 the complainant without force or threats, although the  
20 complainant eventually left the scene when the accused  
21 persisted.

22 I note, as well, that the matter of trafficking in  
23 cocaine was not a commercial venture as such, it was  
24 essentially a giving of cocaine to the individuals  
25 concerned.

26 In these circumstances the Court has a number of  
27 factors to look at as mandated by the provisions of the

1 Criminal Code as well as the common-law generally, and  
2 specifically factors such as denunciation, general and  
3 specific deterrence, protection of the public and  
4 rehabilitation come to mind.

5 In this case, in my opinion, given the nature of  
6 the offences, denunciation and general and specific  
7 deterrence are the paramount factors.

8 Parliament has enacted Section 212(4) in order to  
9 curb or stamp out the attempts to procure the  
10 involvement of persons under age 18 in prostitution,  
11 the selling of sexual services for favors.

12 I have looked at, and indeed I'm obliged to  
13 consider, the mitigating factors and aggravating  
14 factors in determining what is an appropriate sentence  
15 in this matter.

16 By way of aggravating factors, I am cognizant of  
17 the youth, that is to say the age of the complainants,  
18 not only the fact that they are under aged 18 but how  
19 far under age 18 they are, and I have considered the  
20 involvement of drugs, specifically cocaine, in at least  
21 some of these events.

22 By way of mitigating factors, I note that the  
23 offender has waived the preliminary inquiry to which he  
24 was entitled and he has pled guilty to these offences.  
25 The result of those, particularly the guilty plea, in  
26 my view it shows the accused offender has accepted  
27 responsibility for his actions.

1 I note, as well, that the complainants or at least  
2 a number of the complainants live in a variety of  
3 provinces and thus they have been spared the  
4 inconvenience and the Crown the expense of bringing  
5 them to Yellowknife for both preliminary inquiry and  
6 trial and, more importantly, by virtue of the accused  
7 having waived the preliminary inquiry and having  
8 entered a guilty plea, the complainants have been  
9 spared the ordeal of testifying in this matter.

10 The accused is aged 39. He has one previous  
11 conviction for an unrelated matter. He has a number of  
12 letters of support which have been marked as exhibits  
13 in the sentencing which indicate that he does have  
14 another side to him, a positive side.

15 In weighing these various circumstances and  
16 factors, I have concluded that the two years less a  
17 day, which is the joint submission, is in my view at  
18 the very lowest end of the range for these convictions,  
19 and particularly for the Section 212(4) convictions and  
20 the narcotic offence.

21 I am mindful that the counsel for the Crown,  
22 joined in with by counsel for the defence, have made a  
23 joint submission that the sentence should be two years  
24 less a day and that there be a period of probation  
25 following incarceration and I am mindful of and direct  
26 myself that a Court should not depart from a joint  
27 submission except where it is grossly disproportionate

1 to the range of sentence that would otherwise fit the  
2 crime or that would fit the crimes.

3 As I have said, the two years less a day is, in my  
4 view, at the lowest end of the range for what has  
5 transpired here.

6 Mr. Vornbrock, would you stand please? Given the  
7 joint submission of the Crown and the defence and  
8 having regard to what I have just stated, I have  
9 decided to accept the joint submission. Even though it  
10 is on the low end, it is within the range. It is not,  
11 in my view, grossly disproportionate to the range and I  
12 sentence you to a term of imprisonment of two years  
13 less a day.

14 I'd also direct a probation order for a period of  
15 two years which period of probation will follow your  
16 incarceration. The statutory conditions of the  
17 probation order will be that you keep the peace and be  
18 of good behavior. That you appear before the Court  
19 when required to do so by the Court. That you will  
20 notify the Court or the probation officer in advance of  
21 any change of name, address, or employment. That  
22 you'll report to a probation officer as and when  
23 required. That you'll refrain from the consumption of  
24 drugs except in accordance with a medical  
25 prescription. That you will refrain from having  
26 contact with T I , S T , H  
27 p a b l e k e a t I , S J or C W .

1 I further direct that a copy of the probation  
2 order be given to you, and I direct that the clerk or  
3 her designate provide an explanation of the substance  
4 of Section 732.2(3) and (5) as well as section 733.1 of  
5 the Criminal Code which relate to, amongst other  
6 things, the penalties or consequences of a breach of a  
7 probation order. Anything else?

8 MR. SCRIVENS: Nothing further from the Crown.

9 THE COURT: What about the victim fine surcharge?  
10 Is he able to pay a victim fine surcharge?

11 THE ACCUSED: I have totally no money. I've got 23  
12 cents.

13 THE COURT: All right, the victim fine surcharge  
14 will be waived on the basis of economic hardship.

15 MR. BOYD: My Lord, two points the defence would  
16 refer to are first there is the remaining six charges  
17 on the indictment. I understand my friend may have an  
18 application with respect to those?

19 MR. SCRIVENS: I thank my friend. The Crown will be  
20 directing a stay of proceedings on those remaining  
21 counts.

22 THE COURT: You're doing that now?

23 MR. SCRIVENS: Yes.

24 MR. BOYD: And also, Sir, the recognizance  
25 involved a component of \$2,000 cash bail. I understand  
26 that was put up by Mr. Vornbrock's father in Calgary  
27 and it's been explained to me that his father would be

1 in need of that money as quickly as possible.

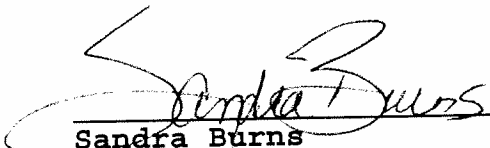
2 So just by operation of the recognizance itself, I  
3 wonder if there could be a direction that the Clerk pay  
4 the money out to the surety as soon as it's legally  
5 possible under the Code.

6 THE COURT: Well doesn't that happen as a matter of  
7 law now that he's been sentenced?

8 MR. BOYD: Yes, it should.

9 THE COURT: Thank you very much counsel for your  
10 submissions, they were very helpful.

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

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17 Sandra Burns  
18 Court Reporter  
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