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IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

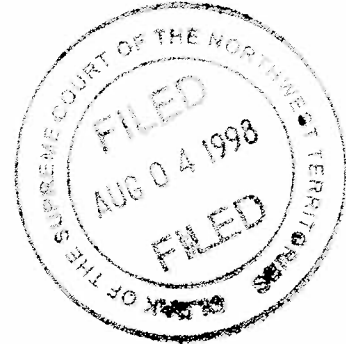
IN THE MATTER OF:



HER MAJESTY THE QUEEN

- v -

DANIEL AALUK



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Transcript of the Reasons for Sentence  
held before The Honourable Justice V. A. Schuler,  
sitting in Yellowknife, in the Northwest Territories,  
on Thursday, the 30th day of July, A.D., 1998.

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APPEARANCES:

Ms. D. Robinson: Counsel for the Crown  
Mr. L. Stang: Counsel for the Defence

THIS TRANSCRIPT HAS BEEN ALTERED TO PROTECT THE IDENTITY OF THE  
COMPLAINANTS, PURSUANT TO THE DIRECTION OF THE PRESIDING JUDGE.

**Ban on Publication of Complainant / Witness  
Pursuant to Section 486 of the Criminal Code**

1 THE COURT: With respect to Mr. Aaluk, first  
2 of all, in terms of the facts, having considered them  
3 certainly when one looks at the many variations of  
4 sexual assault that the Court unfortunately sees, these  
5 offences I would say are not at the higher end of the  
6 scale of such offences, but all sexual assaults are  
7 serious so I do not mean to say in any way that these  
8 are not serious offences in themselves.

9 Two of the cases, two of the counts in the  
10 Indictment involve sexual assaults on children. In one  
11 case, the victim was 13 years old and in the other  
12 case, he was between the ages of 11 and 13, so that is  
13 certainly an aggravating factor. Also, with respect to  
14 the victim in Count 2, he was asleep and awoke to find  
15 that the accused was committing a sexual assault on him  
16 on two occasions, so that certainly is aggravating as  
17 well. On Count 3 on at least one of the instances, the  
18 accused apparently got the complainant intoxicated, so  
19 that is an aggravating factor. I note as well that  
20 both Counts 2 and 3 involve two incidents each, two  
21 separate incidents each; that Counts 1 and 3 involve  
22 telling the victim not to tell anyone what had happened  
23 and that Count 2 also involved a telephone call after  
24 charges were laid. I think that the best way to  
25 describe the telephone call was to say that it  
26 certainly was an attempt to dissuade the complainant  
27 from testifying.

1 Now, I take into account as well with respect to  
2 Count 2 that the accused was in his teens at the time  
3 and was what would have been described as a young  
4 person. The accused is now 28 years old.

5 Clearly, he comes from a background in which he  
6 has encountered quite a bit of difficulty. There is an  
7 indication of a lot of alcohol abuse and as he  
8 indicated to the Court, he himself was a victim of  
9 sexual abuse by an older male when he was 8 years old.  
10 These cases that involve what I would call a cycle of  
11 abuse, in other words, a young person being abused and  
12 then himself or herself turning to being an abuser of  
13 others, these are always very difficult and sad cases  
14 and certainly there are a lot of complicated  
15 psychological factors involved, and I think Mr. Aaluk  
16 probably referred to that in his own way when he said  
17 that when he was committing the offences, he in a sense  
18 put himself in the place or wanted to see how his own  
19 abuser would have felt; but, of course, there are also  
20 people who are abused who do not turn into abusers  
21 later in life, so there certainly is an element of  
22 choice in these things, and Mr. Aaluk has to, in  
23 whatever way he can and with whatever help he can,  
24 overcome the inclination to commit offences of this  
25 nature, and I use that term because obviously from the  
26 record, there is a problem. He has more than once been  
27 convicted of sexually assaulting others.

1 The criminal record stretches back over the last  
2 eight years and includes related offences: In 1991, a  
3 sexual assault, and in 1996, a sexual assault, both of  
4 which I am told were also on male victims. As well as  
5 those offences, there are two assaults on the record  
6 and two assaults with a weapon.

7 Now, Mr. Aaluk has been punished for the offences  
8 on his record, and I am not going to repunish him or  
9 add extra punishment for those offences in the sentence  
10 that I impose today. The sentence I impose today is  
11 for the offences that are before the Court today, the  
12 three counts in the Indictment. Those offences are, in  
13 the sense of timing, interwoven just before and then  
14 within the same time frame as the offences on his  
15 record.

16 Now, I take into account that Mr. Aaluk has  
17 pleaded guilty to these offences and that although the  
18 victims had to testify at the preliminary inquiry, he  
19 has therefore saved them any further trauma of  
20 testifying and of awaiting the court proceedings. Of  
21 course, in cases of this nature, I think it is fair to  
22 say there is always, I am sure, an element of concern  
23 on the part of the victims in terms of whether they  
24 will be believed or not, so Mr. Aaluk has saved the  
25 victims from having to worry about those things, and he  
26 is entitled to substantial credit for that. The fact  
27 that he has entered guilty pleas is also a sign of

1 remorse and also from what Mr. Aaluk said here in court  
2 today, I accept that he is truly remorseful and that he  
3 has, in fact, offered an apology to the victims in  
4 terms of what he indicated today.

5 I also take into account the remand time which is  
6 five to five and a half months and for the usual  
7 reasons, I would credit that as approximately ten  
8 months.

9 Now, the documentation that was provided to me  
10 included a letter from Mr. Aaluk's classification  
11 officer at the Yellowknife Correctional Centre and also  
12 a report from a psychologist and just briefly to  
13 comment on those documents, the letter from the  
14 classification officer indicates that while in custody  
15 which, as I understand it, Mr. Aaluk has now been since  
16 October of 1995 on various charges serving time and  
17 also on remand, he has completed a number of programs.  
18 Those are set out in the letter. They include life  
19 skills, anger management, and the sexual offender  
20 relapse program, and others as well. Mr. King, the  
21 classification officer, indicates that Mr. Aaluk has  
22 done well in most areas and has participated to the  
23 best of his ability.

24 The psychological report, as I understand it, was  
25 done while Mr. Aaluk was serving the sentences for his  
26 convictions in September of 1996, and that report  
27 refers specifically to his participation in the sex

1 offender relapse prevention program. It does highlight  
2 some concerns about lack of determination and what the  
3 report says is a moderate to high risk for  
4 reoffending. It also indicates that Mr. Aaluk has  
5 shown some understanding of his own behaviour and some  
6 appreciation for how he has hurt others, so I think it  
7 is fair to say that Mr. Aaluk has made an effort. He  
8 has taken the programs. He has made some effort to  
9 deal with his problems, and I read those reports in  
10 that light.

11 As I said, he has been incarcerated now since  
12 October of 1995 continuously serving sentences and also  
13 on remand, and I think it is appropriate that I take  
14 that into account when considering the totality of any  
15 sentence that is imposed today as well as the totality  
16 of the three sentences in effect or the sentences for  
17 the three counts which I am sentencing him for.

18 Having said that, however, I do note that the  
19 offences, if one looks back to 1995, the offences that  
20 he has been incarcerated now for for this quite lengthy  
21 period are all serious offences. If one starts in  
22 October of 1995, there is an assault with a weapon and  
23 then in September 1996, assault with a weapon and  
24 sexual assault. Then there is the breach of probation  
25 which involved contacting a victim or the victim of the  
26 September sexual assault and in the circumstances, I  
27 have to say that considering the circumstances that

1 were explained by defence counsel, that offence is not  
2 as serious as the others but then we have, of course,  
3 the three sexual offences that I am sentencing  
4 Mr. Aaluk for today.

5 Having taken all of those matters into account  
6 along with what I have heard about Mr. Aaluk's  
7 background, stand up, Mr. Aaluk, on Count 1 which is  
8 the sexual assault on T. E., I sentence you to a term  
9 of imprisonment of six months; on Count 2, the sexual  
10 assault on E. P., the sentence will be six months  
11 consecutive; and on Count 3, sexual assault on C. P.,  
12 the sentence is six months consecutive, so that is a  
13 total of 18 months' imprisonment.

14 I am going to have the warrant endorsed with the  
15 recommendation that you receive any treatment that is  
16 available to sexual offenders.

17 I am also going to place you on probation for a  
18 period of three years, Mr. Aaluk, and during those  
19 three years, you are to comply with the following  
20 terms: You are to keep the peace and be of good  
21 behaviour. You are to appear before the Court when  
22 required to do so by the Court. You are to notify the  
23 probation officer of any change of address or  
24 employment, and you are not to have any contact with  
25 the three complainants that I just named when going  
26 through the Indictment. You are to take whatever  
27 counselling or treatment programs are recommended to

1 you by your probation officer.

2 Now, when that probation order has been prepared,  
3 the clerk with your lawyer's assistance will arrange to  
4 have it read over to you and to provide you with a copy  
5 and explain the provisions of the Criminal Code dealing  
6 with applying to change probation orders and also  
7 breach of probation orders.

8 There will also be a Section 100 Order which will  
9 commence today prohibiting you from having in your  
10 possession any firearms, ammunitions, or explosives,  
11 and that order will expire ten years after your release  
12 from imprisonment. I take it in light of the earlier  
13 order that the term can be included that any such items  
14 be disposed of forthwith, Mr. Stang. There is no need  
15 for a --

16 MR. STANG: There's no objection to that, My  
17 Lady. It would have already been done as far as I  
18 know.

19 THE COURT: All right, so that is the sentence  
20 I have given you, Mr. Aaluk. From what you have said  
21 today, it sounds to me as though you recognize that  
22 there are people who can help you, and I hope that you  
23 do get some help and that you act on the help that is  
24 available to you.

25 THE ACCUSED: Yes.

26 THE COURT: Is there anything further,  
27 counsel, with respect to that matter?

1 MS. ROBINSON: No. Thank you, My Lady.

2 MR. STANG: No. Thank you, My Lady.

3 THE COURT: All right. We can proceed then  
4 with the Palluq matter. Thank you, counsel.

5  
6 Certified pursuant to Practice  
7 Direction #20 dated December 28, 1987.

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11  
12 *Tara Taylor* .....

13 Tara Taylor, CSR(A), Court Reporter