

CR 03541

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

JOSEPH TEDJUK



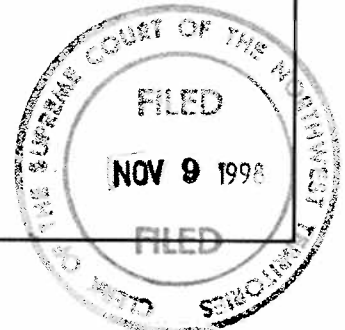
Transcript of the Oral Reasons for Sentence by The Honourable Justice J.E. Richard, at Cambridge Bay in the Northwest Territories, on Wednesday, November 4th A.D., 1998.

APPEARANCES:

Ms. L. Charbonneau: Counsel for the Crown
Mr. A. Mahar: Counsel for the Accused

Charge under s. 144 Criminal Code of Canada

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



1 THE COURT: Because of Mr. Tedjuk's hearing
2 condition, I am going to pronounce the sentence in a
3 loud voice in the hope that he can hear me. But in any
4 event, I am going to direct the court reporter to
5 prepare a transcript as soon as possible and to provide
6 it to Mr. Tedjuk so that he will know what is being
7 said today.

8 In this case, we have a 75-year-old man who is
9 today convicted of committing a serious crime - the
10 rape of a 16-year-old girl some 27 years ago.

11 It is now the Court's responsibility to impose an
12 appropriate sentence.

13 On a date in August 1971, here in the community of
14 Cambridge Bay, the victim and a friend were drinking
15 and were intoxicated. They were invited by this
16 offender, Joseph Tedjuk, then a 48-year-old man, to go
17 to his home and continue drinking.

18 They went there and continued drinking and while
19 at that house the offender, who was himself apparently
20 intoxicated, pushed the young victim on to a bed and
21 raped her notwithstanding her attempted resistance.
22 The victim then passed out and when she woke up she
23 went home and she didn't tell anyone what had happened
24 to her.

25 The victim only disclosed this incident a few
26 years ago while undergoing counselling and reported it
27 to the police last year.

1 She says that she confronted the offender Joseph
2 Tedjuk about this in 1995 and at that time he
3 apologized.

4 When charged with this offence last year, the
5 offender elected to have a jury trial. He was
6 committed to stand trial before a jury following a
7 preliminary hearing in January 1998.

8 This week, at the commencement of the jury
9 assizes, he pleaded guilty to the charge.

10 Mr. Tedjuk says he has no memory of this incident
11 however he accepts as the truth what the victim has
12 said about his conduct on that day back in August of
13 1971.

14 He expresses remorse for his conduct and he
15 attributes it to his alcohol abuse in those early
16 years.

17 Today the offender who appears before the Court is
18 a very frail 75-year-old man who is hard of hearing and
19 who is generally in poor health. His wife is
20 deceased. He has nine children and many
21 grandchildren. One daughter and five grandchildren
22 live here in Cambridge Bay. In fact, his 14-year-old
23 grandson lives in his residence with him. I am told he
24 spends most of his time at home with occasional visits
25 outside of his house to visit friends and to play
26 cards.

27 Mr. Tedjuk has a criminal record as follows: 1978,

1 two convictions for common assault resulting in fines.
2 1984, common assault resulting in a fine. 1985, sexual
3 assault with a sentence of one year imprisonment.

4 At the time that Mr. Tedjuk committed this crime
5 in 1971, it was punishable by a maximum sentence of
6 life imprisonment. Today the same crime is punishable
7 by a maximum of ten years' imprisonment in a federal
8 penitentiary in southern Canada.

9 The primary purpose of our criminal law system,
10 including the sentencing process, is the protection of
11 the public and particularly those members of society
12 who are vulnerable and unable to protect themselves.
13 Any sentence that is imposed must always reflect that
14 primary purpose.

15 A sentence that is imposed can have additional
16 objectives such as deterrence and denunciation. These
17 and other objectives and principles of sentencing are
18 now spelled out in some detail in the Criminal Code for
19 the guidance of sentencing Judges and for the general
20 information of the public.

21 It has always been the case that when a Judge is
22 sentencing an offender for a crime like the one
23 committed by Joseph Tedjuk, that is the rape of a
24 16-year-old girl, the important or overriding
25 considerations are protection of the public,
26 deterrence, and denunciation. This usually means that
27 the sentencing Judge is compelled to impose a

1 substantial period of incarceration in order to
2 adequately or appropriately meet those objectives.

3 But not always. Sometimes there are exceptional
4 circumstances or unique circumstances.

5 Taking into consideration what both counsel have
6 said to the Court, I am of the view that this case is
7 indeed unique or unusual.

8 Firstly, I am not satisfied that today it is
9 necessary to incarcerate this frail 75-year-old Inuk in
10 a penal institution in Yellowknife or elsewhere in
11 order to protect the members of the community from
12 him.

13 And secondly, denunciation of Mr. Tedjuk's
14 unlawful conduct and general deterrence can be achieved
15 in the circumstances of this case by imposing a
16 sentence short of actual incarceration.

17 I am accordingly prepared to accept counsel's
18 joint submission with respect to an appropriate
19 sentence in this exceptional case.

20 Before imposing that sentence, I want to state for
21 the victim the Court's sincere hope that her treatment
22 and recovery will continue. I am told that over the
23 years she has suffered emotionally as a result of this
24 incident which occurred 27 years ago and that she has
25 experienced nightmares about this incident for many
26 years. Hopefully with the concluding chapter of this
27 case today, she can put this matter behind her and get

1 on with her recovery towards a normal and healthy
2 life.

3 Mr. Tedjuk, please stand now, sir.

4 Joseph Tedjuk, for the crime that you have
5 committed, that is the rape of R M on August
6 15th, 1971, I hereby sentence you to a term of
7 imprisonment of two years less one day.

8 As I am satisfied that allowing you to serve this
9 sentence in your community will not endanger the safety
10 of the community and would be consistent with the
11 fundamental purpose and principles of sentencing that
12 are set out in the Criminal Code, I order that you
13 serve your sentence in the community of Cambridge Bay
14 subject to your compliance with the following
15 conditions:

16 That you keep the peace and be of good behaviour.
17 That you appear before this Court when required to do
18 so. That you report to a supervisor in this community
19 within two working days and thereafter whenever
20 required by the supervisor. That you remain within the
21 jurisdiction of this Court unless written permission to
22 leave the jurisdiction is obtained from the Court or
23 the supervisor. That you notify the Court or the
24 supervisor in advance of any change of name or address
25 and promptly notify the Court or the supervisor of any
26 change of employment or occupation. That you abstain
27 from the consumption of alcohol. That except for

1 absences for medical reasons, that you remain in your
2 usual residence every day for the first 12 months of
3 your term of imprisonment with the exception of a
4 period of time from 12 noon to 3 p.m. each day when you
5 are permitted to be absent from your residence.

6 Now, Mr. Tedjuk, I want you to understand that if
7 you do not comply with these conditions, you can be
8 brought back to court here and if the Court is
9 satisfied that you have failed to obey these
10 conditions, there is a strong likelihood that you will
11 be sent to jail in Yellowknife to serve the rest of
12 your sentence behind bars.

13 I am going to direct the Clerk of the Court to
14 provide you with a copy of this order and with the
15 assistance of your lawyer, Mr. Mahar, and the court
16 interpreter, to explain to you the substance of Section
17 742.4 and 742.6 of the Criminal Code and the procedure
18 for applying for a change to the stated conditions.

19 Now, at this time I am going to direct that we
20 adjourn court and we will reconvene after the clerk and
21 Mr. Mahar and the interpreter have had an opportunity
22 to go over these things with Mr. Tedjuk, and we will
23 reconvene for the purpose of confirming that that has
24 been done and that Mr. Joseph Tedjuk understands
25 everything in the circumstances that we have here today
26 where I am not satisfied that he can hear me
27 necessarily, each and every word.

1 So we are going to adjourn for 20 minutes. If it
2 takes longer, it takes longer.

3 **(ADJOURNMENT)**

4 MR. MAHAR: My Lord, first for the assistance
5 of the court reporter, Mr. Tedjuk's address in
6 Cambridge Bay, Box 1096, area code XOE OCO, for the
7 provision of the transcript.

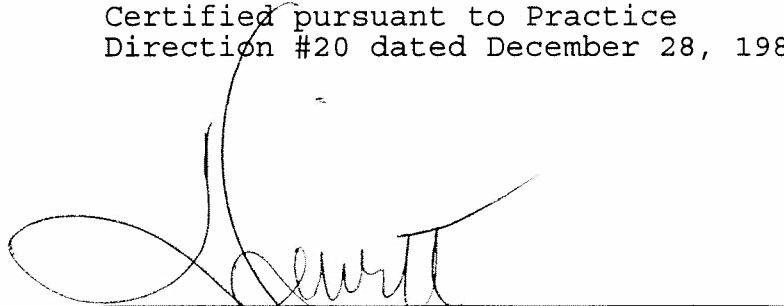
8 The conditions of the conditional sentence, as
9 well as what can happen with respect to a breach and
10 the provisions for changing, have all been explained to
11 Mr. Tedjuk, and I am content that he understands them
12 and more importantly he is content that he understands
13 what is happening to him. So on that basis, sir, I
14 believe that we can conclude.

15 THE COURT: Thank you. Before we adjourn, I
16 want to compliment counsel for their handling of this
17 difficult case.

18 If there is nothing further, we will close court.

19 **(AT WHICH TIME THE ORAL REASONS FOR SENTENCE CONCLUDED)**

20
21 Certified pursuant to Practice
22 Direction #20 dated December 28, 1987.

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26 Lois Hewitt,
27 Court Reporter