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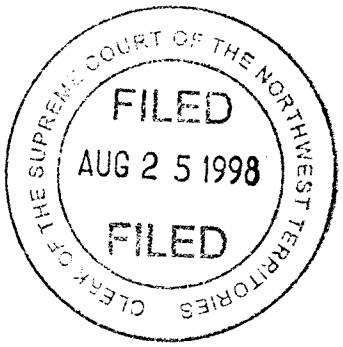
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN

- and -

PAUL LEROUX



Transcript of Reasons for Sentence delivered by the Honourable Justice J. Vertes, sitting at Inuvik, in the Northwest Territories, on the 15th day of August, A.D. 1998.

APPEARANCES:

Mr. S. Couper
Ms. D. Sylvain — For the Crown

Mr. J. Brydon — For the Defence

THE COURT: After two weeks of trial, Paul Leroux is now to be sentenced on 14 convictions. Nine of these were ones he pleaded guilty to but disputed the facts, so we had to hear the evidence. Another five were ones to which he pleaded not guilty. I need not go into the details of each offence since I canvassed all of them in my judgment on the verdicts.

All of the offences involve the sexual abuse of young men between the ages of 13 and 19. All of them except one were students under the care of the accused. Mr. Leroux, from 1967 to 1979, was the senior boys' supervisor at Grollier Hall, a residence for students brought to Inuvik to go to school. The residence was operated by the Roman Catholic Church. The accused was a layperson employed to supervise the daily activities of the students, to provide guidance and counselling, and to maintain discipline. He had private living quarters adjacent to the senior boys' dorm rooms. He clearly was in a position of trust and authority.

The evidence revealed that the accused would invite boys to his room, give them alcohol, supply pornographic materials to look at, and then would encourage or entice them into sexual activity. There was no evidence of any use of force or

coercion. His was a type of seduction technique. Many of the encounters were one time casual ones. Other encounters developed into long-lasting relationships. The activities included fondling, masturbation, fellatio and anal sex.

Most of his victims acquiesced in these activities but, of course, their involvement, while technically consensual, has to be viewed in the context of the significant power imbalance between the accused as supervisor, and the victims, as the ones being supervised. Clearly, he was in a position to take advantage of his authority, and he did so. In these situations, we know that the sexual abuse of young people is an act of violence, both physical and profoundly psychological.

These offences occurred between 1968 and 1979. They stopped in 1979 when the accused was convicted of contributing to the juvenile delinquency of one of the named victims in this trial. He left Inuvik after that.

There are 14 different victims. They are all grown men now. But even though these incidents occurred over 20 years ago, and in some cases almost 30 years ago, many of them still bear significant psychological wounds. Some of them have had serious difficulties in their own lives, and now are trying to make sense of their past. I

reviewed victim impact statements from nine of the victims. All of them spoke of the serious harm caused to them by the accused's actions.

I recognize that the victims in this case have suffered. Any sentence I impose will not absolve that suffering. Indeed, any sentence I impose will likely be seen as deficient in the eyes of the victims. I understand that, but it is very difficult for a court to say what degree of punishment is likely in any particular case to be regarded as sufficient by the victims. We do not impose punishment simply for the sake of retribution.

The primary purpose of sentencing is the protection of society. This involves a blending of deterrence, denunciation, and rehabilitation. The paramount considerations in cases such as this are deterrence and denunciation. But, ultimately, the sentence in any given case must be proportionate to the gravity of the offence and the blameworthiness of the offender. It is very much a case-by-case assessment of an appropriate sentence based on the particular circumstances of the case.

The convictions here include nine counts of gross indecency. When I look back at the time-frame when these convictions occurred, that crime carried a potential maximum penalty of five

years imprisonment. But, as with all of the other crimes involved in this case, there is no prescribed minimum punishment.

There are three convictions for indecent assault. That crime had a maximum penalty of ten years imprisonment. There is one count of attempted indecent assault. That crime had a maximum penalty of five years imprisonment. There is also one count of attempted buggery. That had a potential maximum of seven years imprisonment. The potential maximum penalties are simply one factor in assessing an appropriate sentence.

In this case, the Crown and defence took what I think is fair to call as extreme positions. Defence counsel suggested a sentence of 3 years (after reduction for pretrial custody). Crown counsel suggested a sentence of 15 years (without referencing pretrial custody at all). With respect, both are unrealistic when compared to sentences handed down in comparable cases.

As counsel well know, one of the principles of sentencing is that a sentence should be similar to other sentences imposed on similar offenders for similar offences committed in similar circumstances. No two cases are alike, so there will always be differences in results, but as much as possible, we try to be consistent in the

approach.

When I look at comparable cases from this jurisdiction, cases such as Kringorn and Cloughley, cases also involving breach of trust and the long-term sexual abuse of children, cases where there were also guilty pleas or partial guilty pleas, I see sentences of nine and ten years.

If I want to look at an extreme comparison, there is the 1997 decision of the British Columbia Court of Appeal in the case of Maczynski, which is reported at 120 C.C.C. (3d) 221. There a 67-year-old man was convicted of 29 counts involving indecent assault, buggery, and gross indecency. The offences occurred over an 11-year period in the 1950's and 1960's when he was a supervisor at an Indian residential school in British Columbia. The acts were committed with threats of punishment and sometimes accompanied by punishment. The offender exhibited no remorse and no understanding of the horrific nature of his crimes. The British Columbia Court of Appeal upheld a global sentence of 16 years in that case. That offender, however, had already been sentenced to seven years for similar offences in the Yukon as well as four years on offences in the Northwest Territories. The circumstances there seem to me to be far more aggravating than in this case, and as I

said, there it was a sentence of 16 years.

Clearly a significant penitentiary term is called for in this case, but what is the appropriate term? If I look at comparable cases, I have no doubt that 15 years is too high, and 3 years is far too low.

First, I have to consider the actual offences that were committed. Many of them are single or relatively brief incidents of actual sexual contact. The aggravating feature, however, is that most of them were accomplished through a long-term method of ingratiation and affection made possible by the accused's position of trust.

Some other offences were more long-term sexual relationships. The accused rationalized them no doubt as two-way consensual relationships, but that is nothing more than a rationalization. He must have known the great influence he had over these boys who were away from their families and were entrusted to his care. He took advantage of these young people who were in a vulnerable position to satisfy his sexual urges.

But I also recognize that, even today, many of the victims acknowledge that in other respects the accused was a fair and helpful supervisor.

Seriously aggravating the circumstances are the breach of trust, and the length of time the

accused carried on this behavior. The young age of the victims is also an aggravating feature, but it must be noted that many of the victims were older teenagers, a couple of whom, as I recall, told the accused in no uncertain terms where to go when he tried to molest them.

I also have to consider the accused's circumstances. He stood up and admitted that his actions were wrong. I agree with Crown counsel that in some way he tried to minimize or rationalize his actions, but at no time did he try to shift any responsibility to the victims. He accepted the blame as his alone. I must give him some credit for that.

I must also give him credit for his willingness to plead guilty to some charges even though in many of those he was only willing to admit some of the facts. But it is still a sign of a recognition that his actions were criminal.

The accused is 58 years old. He testified how during his years in Grollier Hall, he had what he now recognizes as a disorder, that being an unhealthy sexual attraction to young men. He said that he now controls that by not putting himself in the types of situations where his urges would give him the opportunity to act on them. There is no evidence of any criminal behavior on his part since

1979. I must take that into account.

At the sentencing hearing, I heard evidence from Dr. Peter Collins, a forensic psychiatrist called on behalf of the Crown, who gave the opinion that based upon the accused's past conducts, the accused exhibits behavior consistent with that of being a pedophile, specifically of having a sexual preference for young, pubescent males. Dr. Collins, of course, could offer no real diagnosis because he did not personally examine the accused. There are indications as well, however, from materials seized from the accused's residence upon his arrest in 1997, that he still has this sexual deviance. That may not be too surprising. Paedophilia is a life-long entrenched condition. It cannot be cured. It can only be controlled. The fact that the accused may be a pedophile, in and of itself, is no excuse from deviating from general sentencing principles. It is part of the general principle of protecting the public. But the sentence I impose must be for the specific offences that he has committed, not for some psychiatric label that may be put on him.

I must also take into account the fact that the accused has served fourteen and a half months in pretrial custody. The sentence I am imposing in this case has already taken into account that

pretrial custody time.

I must as well be mindful of the cumulative effect of the individual sentences imposed for these offences. I must exercise some compassion and judicial discretion to ensure that the total sentence, or global sentence as we call it, is not unduly long or harsh in the circumstances.

I have not ignored the expression of remorse by the accused made at the end of the sentencing hearing. I take his apology to be a sincere one.

Finally, I want to address something hinted at by defence counsel during his submissions: The accused is not here as a scapegoat for the abuses of the residential school system. He is here as one individual who is being called to account for his specific crimes, and only for those crimes. They were a gross abuse of trust and for that he must be punished.

Taking into account all of the relevant circumstances, I have concluded that the appropriate global sentence is one of ten years. The individual sentences are as follows:

Count 3, one year imprisonment;

Count 7, two years consecutive;

Count 9, one year consecutive;

Count 10, one year concurrent;

Count 12, two years consecutive;

Count 15, one year consecutive,

Count 22, two years consecutive;

Count 27, one year concurrent;

Count 30, one year concurrent;

Count 32, one year concurrent;

Count 34, one year concurrent;

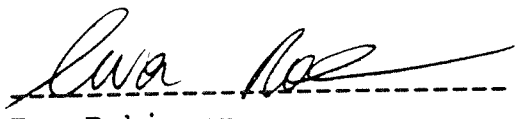
Count 35, one year concurrent,

Count 39, one year concurrent,

Count 44, one year consecutive.

In addition, there will be a firearm prohibition order for ten years. There will be no fine surcharge.

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



Eva Robinson
Court Reporter