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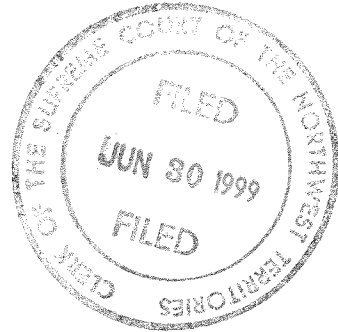
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

BILLY IRWIN CLARK



Transcript of the Oral Reasons for Sentence by The Honourable Justice J.Z. Vertes, at Yellowknife in the Northwest Territories, on Monday, June 28th, A.D. 1999.

APPEARANCES:

Ms. L. Colton: On behalf of the Crown
Mr. R. Gorin: On behalf of the Accused

Charge under s. 271 Criminal Code of Canada

1 THE COURT: I thank counsel for the manner in
2 which they have put together the information here and
3 resolved this case.

4 The sexual assault to which the accused has
5 pleaded guilty is, of course, a serious crime but all
6 in all, on the continuum of seriousness, if I can call
7 it that, it is certainly not what we would describe as
8 a major intrusion. It is a case of sexual touching.

9 The accused was intoxicated.

10 I make no comment on his motivation but I note
11 that when the complainant woke up, he stopped the
12 touching and nothing further arose from this activity.

13 Crown counsel has quite rightly pointed out the
14 aggravating circumstances in this case. The victim was
15 quite young, being 14 years of age. She was quite
16 helpless having become intoxicated and passing out.
17 And, of course, the other aggravating circumstance is
18 the accused's record of criminal convictions.

19 He has a record of ten convictions prior to this
20 offence although I note that they date from 1981 to
21 1989. Most significant, however, is a conviction for
22 sex assault in 1989 for which he was sentenced to a
23 term of imprisonment of two years less one day plus
24 probation for two years.

25 I take into account what Mr. Gorin has said
26 concerning the accused's personal circumstances,
27 including his attempts to address his alcohol problems

1 by attending AA meetings while on remand.

2 I take into account his plans and his work
3 history.

4 It seems to me that while a term of imprisonment
5 is called for in the circumstances of this case, it
6 need not be excessively long.

7 Crown counsel has suggested a period of
8 incarceration of one year of actual imprisonment. I
9 did not hear defence counsel suggest that there need
10 not be actual imprisonment in the circumstances of this
11 case. I think that is probably due to a recognition of
12 the guiding case law which has emphasized the fact that
13 deterrence and denunciation are to be the primary
14 factors in cases of sexual assault and very rarely in
15 such circumstances would nonincarceration be
16 appropriate.

17 I have taken into account the suggestions of
18 counsel. All things considered, I think that the
19 Crown's suggestion of one year is an appropriate one
20 however I will give credit for time served.

21 The accused has served approximately three and a
22 half months of pre-trial detention. Of that time, one
23 month was an actual sentence. So I will take that into
24 account in imposing sentence.

25 Please stand, Mr. Clark.

26 Mr. Clark, I don't think there is much that needs
27 to be said. You are a mature man and I think that you

1 know what you need to do to avoid this sort of thing in
2 the future.

3 I sentence you to serve a term of imprisonment of
4 nine months. There will be no firearm prohibition
5 order. There will be no Victim of Crime Fine surcharge
6 under the circumstances.

7 Is there anything else that we need to address,
8 counsel?

9 MS. COLTON: No, sir, thank you.

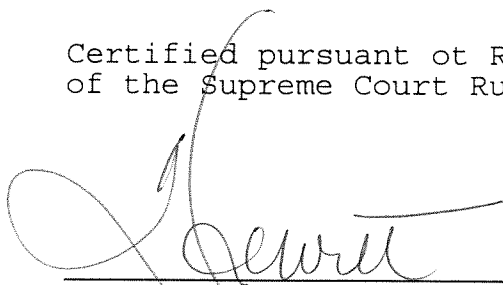
10 MR. GORIN: No, sir.

11 THE COURT: All right, Mr. Clark, you may sit
12 down.

13 Once again my appreciation, counsel, for the
14 manner in which you have resolved this case. We will
15 adjourn.

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18 Certified pursuant to Rule 723
19 of the Supreme Court Rules

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Lois Hewitt,
23 Court Reporter

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