

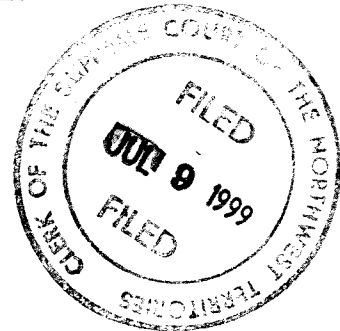
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

WILBERT COOK



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Transcript of the Oral Reasons for Sentence of The Honourable Madam Justice V.A. Schuler, sitting in Norman Wells, in the Northwest Territories, on the 6th day of July, A.D. 1999.

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APPEARANCES:

Mr. B. Lepage:

Counsel for the Crown

Mr. J. Brydon:

Counsel for the Defence

1 THE COURT: The facts of this case are,  
2 unfortunately, not all that uncommon. Mr. Cook has  
3 pleaded guilty to sexually assaulting a woman who was  
4 passed out at the time of the sexual assault and that  
5 circumstance is something that, unfortunately, quite  
6 often comes before the Court. It's particularly sad,  
7 in my view, when someone who obviously has education  
8 and has the ability to further himself in his career,  
9 comes before the Court in these circumstances;  
10 someone who has the ability and the opportunity to  
11 make a contribution to his community.

12 The pre-sentence report, which indicates that  
13 the worker interviewed quite a number of people who  
14 know the accused and who live in the community of  
15 Tulita, indicates that some individuals have  
16 indicated that there is a problem with sexual assault  
17 in Tulita. That doesn't come as any surprise. It's  
18 probably the most common offence that comes before  
19 the Supreme Court of the Northwest Territories and  
20 it's the type of offence for which the courts have  
21 generally stated a jail term will be imposed.

22 Now, there are a number of things that I have to  
23 take into account in this case. I do take into  
24 account that Mr. Cook pleaded guilty. I take into  
25 account that although the matter was set for trial,  
26 the complainant has not had to testify at all. She  
27 did not have to testify because the preliminary

1 hearing was waived and, with the guilty plea this  
2 morning, has not had to testify and I accept that  
3 that is something that saves her what we, I think,  
4 all generally know is the trauma of having to testify  
5 in a case like this. It also indicates that the  
6 accused is taking responsibility for his actions and  
7 that he is willing to own up to them, and I take into  
8 account that it indicates remorse on his part as well  
9 as the remorse indicated by the apology that he has  
10 made here this morning and the fact that the  
11 pre-sentence report indicates that he had earlier  
12 indicated that he felt that he had done something  
13 wrong and wanted to apologize to the complainant.

14 I take into account, as well, the accused's  
15 background and the fact that it does appear that he  
16 has been able to garner quite a bit of respect from  
17 his fellow community members.

18 There are some aggravating factors. In my view,  
19 it's extremely aggravating that this offence occurred  
20 when the accused's 13-year-old son was present and I  
21 can't imagine what that young boy must have thought  
22 seeing his father carrying this passed-out woman to a  
23 room and then being unable to enter the room because  
24 his father had barred it or locked it with a knife.  
25 That's aggravating and, Mr. Cook, you should consider  
26 to yourself what does that teach your son? What does  
27 that make your son think about what kind of behavior

1 is acceptable?

2 It's also worth noting, and I don't take this as  
3 an aggravating factor, but obviously there are people  
4 in the community who feel a huge amount of  
5 disappointment in your behavior. That's something  
6 that I think comes quite naturally when somebody who  
7 is otherwise respected commits an offence, especially  
8 an offence like this, and people then see that the  
9 respect that they have has perhaps, in some ways,  
10 been misplaced.

11 I take into account that there is a criminal  
12 record and that the criminal record is very much  
13 related. It's for exactly the same offences, sexual  
14 assault in 1992 and 1990, and obviously the offence  
15 in 1992 was, in the spectrum of the various kinds of  
16 sexual assaults that there are, was of the more  
17 serious variety because the sentence imposed in that  
18 case was three years.

19 Now, Mr. Cook has been sentenced for his  
20 previous offences and I'm not resentencing him at  
21 this time, but the record does indicate that there is  
22 a problem and that's a problem that should be  
23 addressed so that this sort of thing doesn't happen  
24 again.

25 There is reference in the pre-sentence report to  
26 alcohol and people sometimes say, Well it's the  
27 alcohol that does it. But it's not the alcohol. Mr.

1 Cook, you're obviously an intelligent man. You're 34  
2 years old, just about, and you know that it's you  
3 that takes the drink so it's you that causes the  
4 problem, not the alcohol.

5 Now, I take into account that counsel have made  
6 a joint submission in this case that there should be  
7 a sentence of four years incarceration and a joint  
8 submission is not binding on the Court, but it's  
9 something that I would not lightly ignore.

10 The four years that has been suggested is within  
11 the range for this kind of offence and I think  
12 especially in this case because of the guilty plea  
13 and the fact that the victim has not had to testify.

14 I should say that although the victim has not  
15 had to testify, obviously that doesn't mean that she  
16 hasn't been traumatized by what happened, and the  
17 description that the Crown read of the words that the  
18 victim, herself, has used to describe how she feels  
19 and what was said by Miss Fraser-McKay as well about  
20 what she has observed of the victim, indicate that  
21 this has had a very serious and traumatic impact on  
22 her and I take that into account as well. And it  
23 seems to me, Mr. Cook, that that's something that you  
24 should think about especially as someone who has  
25 family members who may have suffered sexual abuse or  
26 grown up in a family where there may have been sexual  
27 abuse. It seems to me that you should understand how

1           devastating that can be and the long-term effects  
2           that can leave.

3           It's very very sad, I suppose it is the only  
4           word I can think of, to think that with all your  
5           family responsibilities, the good work that you've  
6           done in the community, and the respect that you have  
7           been able to get from your community, that in effect  
8           all of that is thrown away because one night you get  
9           drunk and take advantage and sexually assault a young  
10          woman. The effect on her is, as I've said,  
11          devastating and obviously the effect on you is very  
12          serious because now you've lost your job and you are  
13          going to be separated from your family for a long  
14          time.

15          I am going to accept the joint submission made  
16          by counsel, but you should be aware, Mr. Cook, that  
17          in the circumstances, considering your record, you  
18          could have been looking at more than four years and  
19          if you commit a similar offence in the future, I  
20          would think that in all likelihood you would be  
21          looking at quite a bit more than that.

22          Would you stand up please. The sentence I  
23          impose on you is four years in jail. I will have the  
24          clerk endorse the warrant with the recommendation  
25          that you be given the opportunity for any treatment  
26          program suitable for sexual offenders and also any  
27          alcohol treatment. In the circumstances, considering

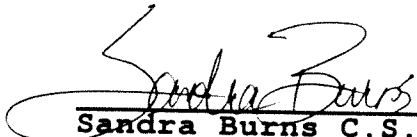
1           what I've heard about your hunting activities and the  
2           fact that at the time of this offence Section 100 was  
3           in force, I'm not going to make a firearm prohibition  
4           order and the victim of crime surcharge will also be  
5           waived in light of the term of incarceration. You  
6           can sit down, Mr. Cook. Is there anything else,  
7           counsel, that should be addressed?

8       MR. BRYDON:                    No thank you, My Lady.

9       MR. LEPAGE:                   No thank you, My Lady.

10      THE COURT:                    Okay. Thank you very much, counsel,  
11           for your disposition of the cases this week and we  
12           will close court.

13 -----  
14                                    **Certified pursuant to Practice Direction #20**  
15                                    **dated December 28, 1987.**

16                                      
17                                    \_\_\_\_\_  
18                                    **Sandra Burns C.S.R. (A)**  
19                                    **Court Reporter**