

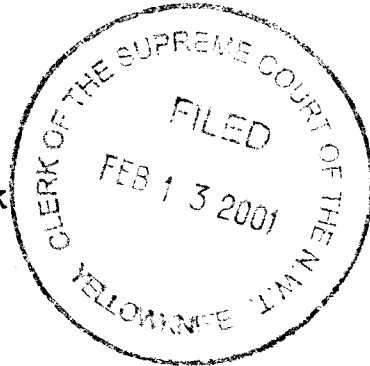
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

COREY KASOOK



Transcript of the Reasons for Sentence delivered by The Honourable Justice J.Z. Vertes, sitting in Inuvik, in the Northwest Territories, on the 1st day of February, A.D. 2001.

APPEARANCES:

Ms. B. Schmaltz:	Counsel for the Crown
Mr. J. MacFarlane:	Counsel for the Defendant

(Charge under s. 271 of the Criminal Code)

1 THE COURT:

2 Corey Kasook has entered a plea
3 of guilty to a charge of sexual assault. The plea
4 came just before jury selection for his trial was due
5 to commence. Notwithstanding the lateness of the
6 plea, I commend counsel for their efforts in resolving
7 this case without the necessity of a trial. It not
8 only serves the administration of justice, but it has
9 spared the victim from having to go through what
10 undoubtedly would have been a highly traumatic
11 situation.

12 The facts of the offence are relatively
13 straightforward. The victim and offender are cousins.
14 They were drinking one night, along with some others,
15 at the victim's home. The victim went to sleep in her
16 bedroom. She awoke to find the offender having sexual
17 intercourse with her. As soon as she awoke, the
18 offender left. The victim did not disclose this
19 offence until some time later, fearing that there
20 would be repercussions within the family.

21 This offence, unfortunately, is all too common.
22 It is a shameful act by a man who takes advantage of a
23 vulnerable woman simply for his immediate
24 gratification. I say "man", but in this case the
25 offender appears to be barely more than a boy, being
26 only 22 years old. The victim is 32 years old. Crown
27 counsel quite rightly emphasized that this type of
conduct must be treated harshly so as to deter the

1 accused and others from similar conduct and to
2 denounce the shameful, violent behaviour that it
3 represents. And I want to emphasize that intoxication
4 is no excuse, either in law or in reality, for this
5 type of offence.

6 As I said, the offender is only 22 years old. He
7 has lived all his life in Inuvik. His parents have
8 good standing in the community. The offender has only
9 a grade eight education. He has a previous conviction
10 for common assault in 1996 for which he was put on
11 probation. He is currently serving a three-month
12 sentence for offences committed while on bail for this
13 offence. Apparently, he has started some counselling
14 programmes at the Yellowknife Correctional Centre.

15 The *Criminal Code* requires that I consider all
16 available sanctions, other than imprisonment, that may
17 be reasonable with particular attention being paid to
18 the circumstances of aboriginal offenders. The
19 offender here is an aboriginal person coming from a
20 large family that still participates in traditional
21 activities such as hunting on the land. While that
22 certainly is a factor to consider, there were no
23 particular submissions regarding any unique, systemic,
24 or background factors which may have played a part in
25 bringing this particular aboriginal offender before
26 the Court, nor any submission as to a particular
27 sanction that may be appropriate for this offender

1 because of his particular aboriginal heritage.

2 Unfortunately, in this case, as in many cases of
3 crimes of personal violence, the question is not
4 whether incarceration is the appropriate disposition
5 but rather how long the offender needs to be
6 incarcerated to give full effect to all the relevant
7 sentencing principles.

8 Crown counsel has suggested a sentence of two to
9 three years' incarceration, taking into consideration
10 the mitigating effects of the guilty plea and the
11 offender's young age. That is certainly a reasonable
12 submission and would almost constitute, in most cases,
13 a bare-minimum sentence. In this case, however, I am
14 concerned that sending this offender to the
15 penitentiary, while it would certainly serve the
16 interests of deterrence and denunciation, would be
17 quite harmful to any prospect of rehabilitation. I
18 think all of the fundamental principles and objectives
19 of sentencing can be best served by a maximum
20 territorial sentence combined with a lengthy period of
21 probation where he can receive the treatment,
22 training, guidance, and supervision needed so that he
23 can become a healthy and law-abiding member of this
24 community.

25 Stand up, Mr. Kasook.

26 I hereby impose a sentence of two years less one
27 day imprisonment with a recommendation that you serve

1 that sentence at the Yellowknife Correctional Centre
2 where you can continue any treatment programs already
3 started. This sentence is concurrent to the sentence
4 you are now serving. In addition, I direct that you
5 be placed on probation after your release for a period
6 of two years. The conditions of that probation will
7 be as follows:

- 8 (a) You are to keep the peace and be of good
9 behaviour;
- 10 (b) You are to report to this court when and
11 if required to do so;
- 12 (c) You are to report immediately to a probation
13 officer and be under the supervision of a
14 probation officer;
- 15 (d) You are to actively participate in any
16 treatment or counselling programme as
17 directed by your probation officer;
- 18 (e) You are either to be in full-time attendance
19 in an educational institution, or, if not,
20 then you are to seek and maintain
21 employment;
- 22 (f) You are to abstain absolutely from the
23 consumption of alcohol or other intoxicating
24 substances or the consumption of drugs
25 except in accordance with a medical
26 prescription;
- 27 (g) You are to comply forthwith with the demand
of a police officer to supply a sample of
your breath for analysis, and;
- (h) You are to perform 200 hours of community
service work during the first 18 months of
your probation.

25 Do you understand those terms, Mr. Kasook? I
26 want to hear you say so.

27 THE ACCUSED: Yes.

1 THE COURT: I want to be perfectly clear that
2 you understand that if you do not follow any of these
3 conditions, that if you commit any other crime while
4 you are on probation, you can be brought back before
5 me, I can change these terms, I can extend the term of
6 probation. Do you understand that?

7 THE ACCUSED: Yes.

8 THE COURT: All right. You may sit down.

9 Under the circumstances, there will be no victim
10 of crime fine surcharge.

11 An order will issue for the taking of a DNA
12 sample from the offender. Crown counsel should obtain
13 defence counsel's approval as to form and substance of
14 the formal order prior to submitting it.

15 With respect to a firearm prohibition, I think it
16 is important that this offender be able to continue to
17 participate in family hunting activities. It is
18 important for maintaining his sense of family
19 identification and for the opportunity it provides to
20 his family to give the offender the benefit of their
21 guidance and influence.

22 The *Criminal Code* makes a firearm prohibition
23 mandatory even where no weapon is used in the
24 commission of the offence, but I am able to authorize
25 a Chief Firearms Officer to consider issuing an
26 authorization or certificate for the offender to
27 possess or use firearms for the purpose of hunting or

1 trapping or employment. So the prohibition order for
2 a period of ten years will issue, but I make an order
3 pursuant to Section 113(1) of the *Criminal Code*
4 authorizing the Chief Firearms Officer to issue to the
5 offender a certificate notwithstanding the prohibition
6 order.

7 Now, Counsel, have I covered all of the necessary
8 bases, or is there anything else that I need to
9 consider? Miss Schmaltz?

10 MS. SCHMALTZ: Just to clarify, Sir, in doing up
11 the order, the firearms prohibition order. So the
12 exception is Section 113(1)(a)?

13 THE COURT: Yes, I believe that's the
14 specific provision.

15 MS. SCHMALTZ: Just to do up the order. That's
16 all from the Crown, sir.

17 THE COURT CLERK: Beginning today and continuing
18 ten years from release?

19 THE COURT: The prohibition order in the
20 usual terms should commence today and continue for ten
21 years from the date of his release from the sentence.

22 MS. SCHMALTZ: And I believe Mr. MacFarlane said
23 he didn't have any weapons.

24 THE COURT: Well, I think you can put into
25 the formal order the usual provision requiring him to
26 surrender any weapons that he owns to the RCMP
27 forthwith.

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MS. SCHMALTZ: Thank you.

MR. MACFARLANE: Yes, I can confirm that Mr. Kasook does not have, possess or own, doesn't own any firearms, and I'd have no other comments, Your Honour.

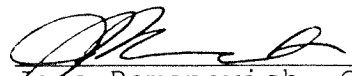
THE COURT: All right. Counsel, I ask that you speak with the clerk and see what will be the best way to arrange for Mr. Kasook to sign the probation order. He may as well sign it while we're here in Inuvik. It may be necessary to bring him back at some later time. Madam Clerk, as well, I ask that you send a copy of the transcript of my sentencing reasons to the correctional authorities for their information.

THE COURT CLERK: Thank you, Your Honour.

THE COURT: Thank you, Counsel.

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Certified Pursuant to Rule 723
of the Rules of Court



Jane Romanowich, CSR(A)
Court Reporter