

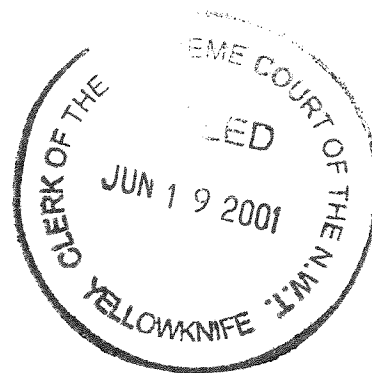
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

HARVEY JOSEPH FIELD



Transcript of the Reasons for Sentence delivered by The Honourable Justice J.E. Richard, sitting in Yellowknife, in the Northwest Territories, on the 14th day of June, A.D. 2001.

APPEARANCES:

Ms. S. Kendall:

Counsel for the Crown

Mr. A. Fox:

Counsel for the Defendant

(Charge under s. 271 of the Criminal Code of Canada)

1 THE COURT: Harvey Field, who is 58 years old
2 and a long-time resident of Yellowknife, has been
3 convicted of a very serious crime by a jury of 12
4 citizens of Yellowknife, and it is now my
5 responsibility to impose upon him an appropriate
6 sentence.

7 Mr. Field's crime is sexual assault, punishable
8 by up to ten years in a federal penitentiary. His
9 victim is one Marina Bugler, 36 years old, the
10 common-law wife of Mr. Field's good friend, Doug
11 Francis. His crime was committed in 1995 and 1996.
12 It started when the victim's common-law husband, Doug
13 Francis, left town to work for the summer months at a
14 fishing lodge. Shortly after the husband left town,
15 Mr. Field took the opportunity to be alone with Miss
16 Bugler and was smoking marijuana with her when he
17 forced himself sexually on her. During this first
18 encounter, the victim was crying and was scared.
19 Afterwards, he told her not to tell anyone. During
20 the next 18 months there were five other separate
21 occasions when Mr. Field forced himself sexually on
22 Miss Bugler. Each incident included full sexual
23 intercourse; what used to be called rape.

24 From my observations during the victim's
25 testimony, and from the jury's verdict, she is a
26 credible witness. She is an aboriginal person
27 originally from Alberta and she has a history of abuse

1 in her past at the hands of other men. She presents
2 as a very quiet, passive, and vulnerable individual.
3 When asked to explain why she continued to allow
4 herself to be in situations where Mr. Field had the
5 opportunity to assault her or why she did not report
6 the first and subsequent incidents to her husband or
7 anyone else, she stated that she felt that she would
8 not be believed because of her other experiences in
9 this regard in her past. Indeed, it seems that
10 Mr. Field played on this fear, telling her that her
11 husband, his good friend, Doug, would take his side,
12 would believe him, Mr. Field, and would disbelieve
13 her, Miss Bugler.

14 From the evidence it appears that the victim was
15 very obedient to her husband, doing whatever he told
16 her to; in particular, in sending her on errands with
17 his good friend, Harvey Field, and driving Harvey
18 Field's car for him, et cetera. The evidence also
19 indicates that the victim was in fear of losing her
20 husband if he suspected any misconduct on her part.

21 In her Victim Impact Statement filed with the
22 Court, she attempts to describe in her own words her
23 feelings of being a victim at the hands of Harvey
24 Field, the effect on her daily life, the suicidal
25 thoughts, the difficulty sleeping and socializing,
26 et cetera. It goes almost without saying that this
27 ongoing abuse at the hands of her husband's good

1 friend was a very traumatic ordeal for the victim
2 especially during that 18-month period and
3 subsequently. It is difficult for any of us to imagine
4 or to understand the mental stress and trauma that
5 woman must have been experiencing for a long period of
6 time.

7 She finally reported the matter to her husband
8 and the police in 1999. Hopefully, now that this
9 trial is over, she can now start to put this terrible
10 ordeal behind her. She and her husband are still
11 together. They have a 19-month-old child and are
12 expecting a second child.

13 As to the offender, Harvey Field, I trust that he
14 realizes now that he must be sentenced to a
15 substantial term of penitentiary time. This is a very
16 serious crime that he committed and he needs to take
17 responsibility for it. This woman did not want to
18 have sex with him and he knew that. He preyed upon
19 her vulnerability and he took perverse advantage of
20 his friendship with her husband. He ignored her right
21 as a person to agree or not agree to sexual activity
22 and he forced himself on her not once, not twice, but
23 on six different occasions to satisfy his own selfish
24 sexual desires. In doing so, he displayed an
25 appalling, an appalling disregard for her personal and
26 bodily integrity.

27 Although he told the jury a preposterous tale of

1 an ongoing, consensual, adulterous affair, including
2 the statement that he was in love with Miss Bugler and
3 that they planned on running away together to Alberta,
4 the jury obviously, and not surprisingly, didn't
5 believe a word of it.

6 I do not detect any remorse on Mr. Field's part
7 for what he, in fact, did to this woman.

8 Mr. Field, the offender, is 58 years old. He has
9 been married for a long time to his wife. They have
10 two children. I am told that each of he and his wife
11 overcame a serious alcohol problem which was
12 destroying their lives many years ago and that each of
13 them have been free from alcohol for some 17 years.
14 Mr. Field has not had steady regular or full-time
15 employment in recent years primarily due to an
16 arthritic left knee which causes him pain and
17 restricts his mobility and his ability to do physical
18 tasks or physical labour. His employment prospects
19 are also restricted by his limited formal education,
20 although he does get casual work, I am told, at the
21 local hospital from time to time as a Chipewyan
22 interpreter. Mr. Field says that his wife, Shirley,
23 is the primary income provider in the family.

24 Mr. Field has a substantial criminal record.
25 However, I do not, on the determination of an
26 appropriate sentence, put very much emphasis on that
27 record. Suffice it to say he committed many offences,

1 both property offences and crimes of violence, when he
2 was a younger man and he went to jail many times as a
3 result. All of that, though, appeared to cease in
4 1984 when he stopped drinking. His only convictions
5 since then were in 1996 for possession and trafficking
6 in marijuana.

7 In determining the length of this offender's
8 sentence, I have taken into consideration, as directed
9 by Parliament, the purpose and objectives of the
10 sentencing process and all prescribed sentencing
11 principles.

12 Denunciation of Mr. Field's unlawful conduct as
13 simply being unacceptable to the members of this
14 community is obviously an important objective this
15 morning. The need to deter Harvey Field and others
16 from committing similar offences is also an important
17 objective. In this case, the sentence imposed ought
18 to be one which will promote in Harvey Field a sense
19 of responsibility for what he has done and an
20 acknowledgment of the harm that he has done to Marina
21 Bugler, his victim.

22 For all of these reasons, there is no other
23 option but to impose a substantial term of
24 imprisonment. I acknowledge that Harvey Field is an
25 aboriginal offender; however, there are no particular
26 circumstances brought to my attention, either personal
27 to Harvey Field or to this case, that cause me to

1 deviate from what is otherwise an appropriate
2 sentence.

3 Please stand, Mr. Field.

4 Harvey Field, for the crime that you have
5 committed, the sexual assault of Marina Bugler, it is
6 the sentence of this Court that you serve a term of
7 imprisonment of four years.

8 In the circumstances, there will be no victim
9 fine surcharge. I make an order under Section 109 of
10 the *Criminal Code* prohibiting you from having in your
11 possession any firearm or ammunition or explosive
12 substance for a period of time commencing on today's
13 date and expiring on a date ten years after your
14 release from your term of imprisonment. Any such item
15 shall be surrendered to a Peace Officer within 30 days
16 of today's date. I further order that under Section
17 113 of the *Criminal Code* that a Firearms Officer is
18 authorized to issue to you an authorization or licence
19 to use a firearm for sustenance purposes
20 notwithstanding the Section 109 order; and, finally, I
21 direct the Clerk of the Court to endorse the Warrant
22 of Committal with this Court's strong recommendation
23 that you be allowed to serve your term of imprisonment
24 at the Yellowknife Correctional Centre. You may sit
25 down.

26 THE COURT: Anything further on this case,
27 Counsel?

1 MS. KENDALL: Sir, the visitor's log that was
2 made an exhibit in this case, I would ask that the
3 Court seal that visitor's log for the duration of the
4 appeal period and thereafter order that it be
5 destroyed to protect the privacy interests of the
6 others who are listed on that log.

7 THE COURT: Fine. There will be an order
8 directing the Clerk of the Court to place Exhibit 1 in
9 a sealed envelope, and the outside of the envelope
10 will be endorsed with the direction that it will not
11 be opened without order of the Court.

12 Anything further, Mr. Fox?

13 MR. FOX: Sir, just one point in regard to
14 the firearms prohibition order. Your Honour's order
15 that had firearms be given to the police within 30
16 days. I'm wondering if that might be expanded to
17 allow "or otherwise lawfully surrender to someone
18 else"? What I'm thinking is that perhaps a member of
19 his family or something like that might be able to
20 make use of it. For this thing to simply be
21 destroyed, which is what would happen --

22 THE COURT: I'm sorry?

23 MR. FOX: For the item to be destroyed,
24 which is what would happen if it goes to the RCMP,
25 would perhaps be a financial loss to the family that
26 maybe need not be imposed.

27 THE COURT: Actually, maybe I'm operating

1 under the old Section 100. That provision about
2 turning over the firearms within "X" days doesn't seem
3 to be a mandatory part of the 109 order.

4 MS. KENDALL: Sir --

5 THE COURT: Can counsel help me here? It
6 used to be at the end of the Section 100 section.

7 MS. KENDALL: It's Section 114 now, Requirement
8 to Surrender.

9 THE COURT: Well, the requirement I see now,
10 upon reading it, is discretionary. So I'm going to
11 delete it from the order. The order simply says he
12 can't possess the firearms. It's an offence if he
13 does. That's the carrot and stick. So we'll delete
14 the "turn over to the police" matter.

15 MR. FOX: Thank you, Sir.

16 THE COURT: It will be for him to get the 113
17 authorization when the time comes. Fine. Thank you.
18 We'll close court.


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21 Certified Pursuant to Rule 723
22 of the Rules of Court

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Jane Romanowich, CSR(A)
Court Reporter

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