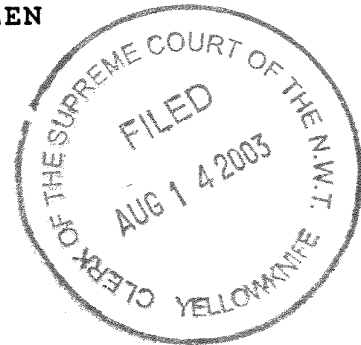


IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -



DONALD CORBETT MCLEOD

Transcript of the Oral Reasons for Sentence by The Honourable Justice J. E. Richard, sitting in Inuvik, in the Northwest Territories, on the 18th day of July, A.D., 2003.

APPEARANCES:

Ms. C. Carrasco:

Counsel for the Crown

Mr. J. MacFarlane:

Counsel for the Defence

1 THE COURT: The offender before the Court,
2 Donald Corbett McLeod, has been convicted by a jury of
3 serious crimes of violence. He is a man of 32 years
4 of age who has a history of crimes of violence. He
5 has a lengthy criminal record which, by my count,
6 includes 11 previous and separate crimes of violence,
7 for each of which he has received a jail term.

8 He was released from jail on January 13th of this
9 year, and on February 6th to 8th, just three weeks
10 later, he committed the crimes for which he is being
11 sentenced this morning.

12 This is a sad case. It is difficult for a person
13 not to be affected by the tragic circumstances of this
14 case. We have a victim, Clara Frost, 28 years of age,
15 who, by her own admission is an alcoholic and who
16 leads a very self-destructive life-style. She is a
17 very vulnerable person, and she is obviously ill with
18 mental or emotional problems. She has, in recent
19 years, suffered greatly from an abusive relationship
20 with Mr. McLeod. She has been unable or unwilling to
21 extricate herself from this abusive relationship.

22 On February 8th of this year, however, she did
23 reach out to someone when she went to her sister's
24 house. Clara Frost may not realize it, but she is
25 fortunate to have a sister like Greta Sittichinli,
26 because it seems that Greta Sittichinli was able to
27 give Clara sufficient encouragement and support to

1 enable Clara, on that occasion, to go to the police
2 and tell them of the violence that she was being
3 subjected to. In my view, it is not an overstatement
4 to say that Greta Sittichinli may have saved her
5 sister's life; and yet the victim, Clara Frost, comes
6 to court reluctantly and in a defiant way and says
7 that nothing happened to her.

8 Then we have the offender, Donald McLeod. He too
9 is a sick individual and obviously suffers from a
10 different kind of mental illness. I am told that he
11 had an unfortunate upbringing, and in his early years
12 was raised in a home environment that was dominated by
13 alcohol abuse and domestic violence. He presents as
14 an uncaring person and a cruel person. It appears to
15 me, as a lay person, that he is incapable of feeling
16 respect for other human beings. He displays a clear
17 disregard for the personal feelings and integrity of
18 others. I also detect a certain immaturity,
19 notwithstanding his age. He is in denial, does not
20 accept responsibility for his own conduct. In his
21 response to the present charges, he would have us
22 believe that he is the victim and Clara Frost is the
23 abuser.

24 In any event, it is indeed a sad case, and it is
25 today the Court's responsibility to impose an
26 appropriate sentence for the present crimes that
27 Mr. McLeod has committed.

1 The main purpose of the sentencing process is to
2 provide for a safe and peaceful community, to protect
3 the people in the community, and to promote respect
4 for the law or the rules of society. A particular
5 sentence can have a variety of objectives, and here
6 the objectives include denunciation and deterrence,
7 but principally the objective is to separate Donald
8 McLeod from society for the protection of the members
9 of society; that is, Clara Frost and others.

10 In the present case, Mr. McLeod's criminal record
11 is obviously an aggravating circumstance, and I will
12 focus here primarily on the violent crimes that appear
13 on his record.

14 In 1987, while still a youth in the eyes of the
15 law, he was convicted of sexual assault and sentenced
16 to six months custody.

17 In April, 1991, he was convicted of assault,
18 sentenced to two months custody. On the same date he
19 was convicted of two other assaults and given 30 days
20 for each of those assaults.

21 In February, 1993, convicted of assault again,
22 sentenced to three months imprisonment. On the same
23 date, assault causing bodily harm, six months
24 consecutive.

25 In April, 1994, he was convicted of manslaughter,
26 sentenced to two years less one day.

27 In September, 1996, assault causing bodily harm,

1 nine months imprisonment.

2 On August 27th, 2001, he was convicted of assault
3 and also assault causing bodily harm. The victim in
4 both cases, I am told, was Clara Frost. Also on that
5 date, he was convicted of breach of an undertaking,
6 and that breach related to a non-contact provision
7 with respect to Clara Frost.

8 The assault conviction in August of 2001, I am
9 told, arose from an incident on May 25th, 2001, and
10 the assault consisted of Mr. McLeod kicking Ms. Frost
11 in the vaginal area, and on her arms and legs. The
12 assault causing bodily harm conviction in August of
13 2001 arose from an incident on August 2nd, 2001, when
14 apparently Mr. McLeod threw Ms. Frost off of some
15 stairs, resulting in her suffering a fractured heel.

16 Next, we have a conviction in September 23rd of
17 2002, breach of an undertaking. Again, I am told that
18 this breach related to a non-contact with Clara Frost
19 provision in his undertaking. He received a sentence
20 of two months.

21 Next, on October 24th, 2002, he was convicted of
22 assault, sentenced to four months imprisonment.
23 Again, the victim was Clara Frost. This assault, I am
24 told, involved cigarette burns to her person. The
25 date of that offence was August 24th of 2002;
26 obviously a date when he had not yet completed his
27 sentence from the August, 2001 convictions.

1 On January 13th of this year he was released from
2 jail and returned to Inuvik. Approximately three
3 weeks later, on February 6th to 8th, he committed the
4 crimes for which he is being sentenced this morning.
5 Again, I note from the dates that he was, technically
6 speaking, still serving his October sentence when he
7 committed these crimes.

8 Clara Frost and Mr. McLeod had apparently had a
9 common-law relationship since 1997, and one child was
10 born of that relationship. The child was in foster
11 care at the time of these events.

12 Clara Frost stated that she did not want
13 Mr. McLeod to resume cohabitation with her on his
14 release from jail and his return to Inuvik in January
15 of this year. She says, however, that he forced his
16 way into her home, uninvited, and again started to
17 control her life.

18 Over the two- to three-day period, before she
19 went to the police on the evening of February 8, she
20 stated that she was subjected to continual assaults.
21 She said he hit her, kicked her, punched her, and
22 burned her with cigarettes. She had bruises all over
23 her body and also cigarette burns. She said he forced
24 her to have sex when she did not want to.

25 I am satisfied, on the whole of her second
26 videotaped statement to Constable Martin on February
27 8th, that there was more than one instance of forced

1 sexual intercourse. She said that she let him have
2 sex with her because she did not want to get pounded
3 again. She said there were times when he would not
4 allow her to go to sleep, times when he would not
5 allow her to sit down, times when he would not allow
6 her to eat. He would accuse her of being with other
7 men and call her names. She said that he would spit
8 in her face. She said that he would threaten her
9 every day, and that he told her that if he ever had to
10 go back to jail that he would kill her. She told the
11 police, on the evening of February 8th, that she left
12 her house that day because she could not put up with
13 it anymore, because she was getting burnt and kicked
14 and punched.

15 The jury convicted Mr. McLeod of assault and
16 using a weapon, cigarettes, in the commission of the
17 assault contrary to Section 267 of the *Criminal Code*.
18 The jury also convicted him of sexual assault contrary
19 to Section 271. Each of these crimes carries a
20 maximum sentence of ten years imprisonment in a
21 federal penitentiary.

22 There are aggravating features here, as I have
23 mentioned. In particular, the previous pattern of
24 violence, the reoffending immediately after release
25 from jail, the continuation of the violence over a
26 two- to three-day period, and the commission of crime
27 against a very vulnerable person in her own home.

1 There are no mitigating circumstances.
2 Mr. McLeod displays no remorse for what he has done,
3 but instead contemptuous disregard for the feelings
4 and integrity of another human being. Mr. McLeod does
5 have pretrial custody of five and a half months, and
6 is given credit for that in the determination of the
7 length of the penitentiary term to be imposed.

8 Please stand, Mr. McLeod. Donald Corbett McLeod,
9 for the crimes that you have committed, on Count 1,
10 assault with a weapon, the sentence of the Court is
11 you serve a term of imprisonment of two and a half
12 years. On Count 2, sexual assault, the sentence is
13 four years imprisonment concurrent to the sentence on
14 Count 1.

15 In addition, there will be a firearms prohibition
16 order under Section 109 for a period of ten years. I
17 grant the DNA order sought by the Crown. In the
18 circumstances there will be no victim fine surcharge.
19 I make no recommendation as to where Mr. McLeod should
20 serve his term of imprisonment. I leave that in the
21 discretion of the federal penitentiary officials. You
22 may sit.

23 Is there anything else on this case, counsel?

24 MS. CARRASCO: Yes, Sir. If there could be an
25 order for the release of the exhibits after the appeal
26 period has expired.


27 THE COURT: Agreed?

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MR. MACFARLANE: No position, Sir.

THE COURT: That order is granted. Before we close court I want to commend each of Crown counsel, Ms. Carrasco, and defence counsel, Mr. MacFarlane, for their individual conduct of this very difficult case. Thank you. We will close court.

Certified to be a true and accurate transcript, pursuant to Rules 723 and 724 of the Supreme Court Rules


Joel Bowker
Court Reporter