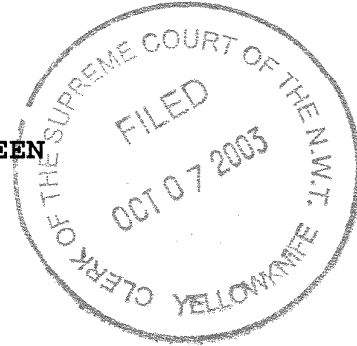


IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- vs. -

ROBERT LOUIS SAYINE

Transcript of the Oral Reasons for Sentence by The Honourable Justice V.A. Schuler, at Fort Providence, in the Northwest Territories, on September 11th, A.D. 2003.

APPEARANCES:

Ms. C. Carrasco:	Counsel for the Crown
Mr. H. Latimer:	Counsel for the Accused

Charge under s. 271 Criminal Code of Canada

**Ban on Publication of Complainant / Witness
Pursuant to Section 486 of the Criminal Code**

1 THE COURT: Robert Louis Sayine has been found
2 guilty today by a jury of sexually assaulting the
3 victim in this case, who was in bed with her boyfriend
4 when this occurred.

5 Obviously, from the verdict, the jury must not
6 have believed Mr. Sayine's evidence and must have
7 believed the evidence of the victim and her boyfriend
8 and have been satisfied beyond a reasonable doubt that
9 the assault occurred as they said. In other words,
10 that Mr. Sayine entered the bedroom and had sexual
11 intercourse with the victim while she was sleeping;
12 that she woke up while he was doing that; she grabbed
13 her boyfriend, who then pulled Mr. Sayine off the bed.
14 It is tragic that a young woman cannot sleep safely and
15 undisturbed even with her boyfriend and even after
16 putting a table against the door to prevent intruders.

17 Unfortunately, this is yet another example of the
18 many cases like this that this Court hears about where
19 in a small community like Fort Resolution, as in this
20 case, a young girl or young woman is not safe in
21 circumstances where she should have been safe and she
22 should have been able to feel safe. She was, as Crown
23 counsel has pointed out, a vulnerable victim because
24 she was sleeping, and that is an aggravating factor.

25 Mr. Sayine is 34 years old now. So at the time of
26 the offence he was 32 and the victim was 15.

27 I have reviewed the victim impact statement that

1 was filed. The victim expresses feelings similar to
2 those of so many other victims of sexual assault; that
3 she is uncomfortable, hurt, humiliated and upset when
4 she sees Mr. Sayine. Now, that statement appears to
5 have been completed in October, 2001. However, even
6 now, as the victim testified, it is clear that the
7 memory of what happened upsets and hurts her. With the
8 support of her family and friends, perhaps she can move
9 forward with her life now that the trial is over and in
10 some way deal with this terrible experience.

11 As I said, Mr. Sayine is now 34 years old. He is
12 Metis. I accept that he is of Aboriginal background.
13 From the character witnesses I heard at trial and on
14 the sentencing and the character references submitted,
15 I accept that he is a good worker, that he is well
16 thought of by his supervisors at Renewable Resources,
17 and that he is highly regarded by his family and very
18 caring towards his grandmother and helpful to her.

19 He has, from the information provided, had a
20 difficult family life in some respects. He has also
21 lived a traditional life for much of his youth with his
22 grandparents. I also must take into account that Mr.
23 Sayine does have a criminal record. The only related
24 conviction was 10 years ago in 1993, that being assault
25 with a weapon, for which he received a fine and
26 probation. His only other convictions are all in 1995
27 and are for what we would term somewhat minor and

1 unrelated offences.

2 I referred to the fact that Mr. Sayine is
3 Aboriginal. However, I also note that there is no
4 evidence that it is because of that or because of his
5 background that he is here in court on this charge.
6 There is no indication that there are any systemic or
7 other factors that bring him before the Court, and with
8 an offence of this nature, his being Aboriginal does
9 not mean that he should be treated any differently from
10 others who might commit this type of offence.

11 It is very clear, and it's been said many, many
12 times by this Court and others, that the principles
13 that apply in sentencing in a case of this nature, the
14 main principles that apply are denunciation and
15 deterrence, meaning that the sentence that is imposed
16 must show how society, how the community denounces,
17 condemns this type of behaviour, and, also, that the
18 sentence should aim at deterring others from committing
19 similar offences.

20 Mr. Sayine did speak briefly at this sentencing.
21 He said that he did not do anything. It is clear from
22 that that he does not accept the jury's verdict and
23 does not show any remorse. Nevertheless, I do take
24 into account that he did waive the Preliminary Inquiry,
25 which meant that the Complainant did not have to
26 testify on that occasion. As defence counsel has
27 pointed out, the length of time that this case has

1 taken is because the first trial ended in a hung jury,
2 which is not because of anything that Mr. Sayine or
3 anyone else, for that matter, involved in the case
4 did.

5 I accept that this offence is out of character for
6 Mr. Sayine, who seems to have made an effort to be
7 responsible to his family and his community in the last
8 several years. The fact that he had a lot to drink on
9 the night in question is, of course, not an excuse.
10 There cannot be anyone who does not know that when
11 people consume a lot of alcohol, they do things that
12 they might otherwise not do. The only solution, of
13 course, is simply not to drink like that.

14 Although there were no physical injuries to the
15 victim, there was obviously psychological injury to
16 her, as there always is in these cases. Her testimony
17 was that there was intercourse, and, accordingly, this
18 is a serious sexual assault, a serious violation of her
19 personal and sexual integrity.

20 It is regrettable when people who are generally
21 good and responsible commit serious offences, and
22 sentencing such people is always difficult, as is
23 sentencing generally. It is often said that it is one
24 of the most difficult tasks that a Judge has.

25 I have considered the submissions that have been
26 made. The Crown seeks a term of imprisonment of three
27 years, which I think it is fair to say is generally the

1 range that is imposed for offences of this nature in
2 this jurisdiction. The defence seeks a term of two
3 years less a day and a period of probation.

4 I thought very carefully about those submissions
5 and where an appropriate sentence would lie. I do have
6 to take into account that when Mr. Sayine committed
7 this offence he was not a kid. He was a mature man.

8 Stand up, please, Mr. Sayine. First of all, with
9 respect to the order requested under section 109 of the
10 Criminal Code, the firearm prohibition order, I am
11 going to grant such an order. But in light of the
12 evidence that I have heard about Mr. Sayine's hunting
13 activities, and I am satisfied that it is an important
14 part of his existence, I am also going to make an order
15 under section 113 that the Chief Firearms Officer may
16 issue a permit or license or registration certificate
17 to Mr. Sayine for sustenance or employment purposes.

18 With respect to the DNA order requested, I note
19 that this is a primary designated offence, and having
20 heard no submissions as to why such an order ought not
21 to be made, I am satisfied that it should, and so such
22 an order will go, as well.

23 With respect to the sentence in this case, every
24 case is different. There does have to be some
25 consistency in sentencing, and, in my view, considering
26 other similar cases and considering the particular
27 facts of this case, an appropriate sentence is three

1 years' imprisonment.

2 The victim of crime surcharge will be waived in
3 the circumstances.

4 You may sit down, Mr. Sayine. Is there anything
5 else, counsel, that I need to deal with?

6 MR. LATIMER: I was just wondering about a
7 recommendation that it be served in the Northwest
8 Territories.

9 THE COURT: Yes. I am sorry. I had meant to
10 do that. I will direct the Clerk to endorse the
11 warrant that the sentence be served in the Northwest
12 Territories.

13 MS. CARRASCO: As far as the exhibits are
14 concerned, can there be an order that they be released
15 after the appeal period?

16 THE COURT: That would be the usual order. I
17 take it, Mr. Latimer, that would --

18 MR. LATIMER: Yes.

19 THE COURT: -- be satisfactory to you? All
20 right. There will be an order, then, that the exhibits
21 be held -- they are all paper exhibits, aren't they?

22 MS. CARRASCO: Yes.

23 THE COURT: All right. They be held by the
24 Court until the expiry of the appeal period or the
25 determination of any appeal that is taken.

26 Is there anything further that I need to do?

27 MS. CARRASCO: No, Your Honour. I don't believe

1 so.

2 THE COURT: Mr. Latimer?

3 MR. LATIMER: No, there's nothing.

4 THE COURT: All right. Thank you very much.

5 **(AT WHICH TIME THE ORAL REASONS FOR SENTENCE CONCLUDED)**

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

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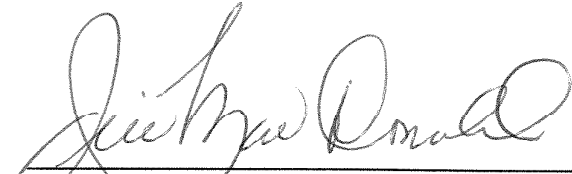
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Jill MacDonal, CSR(A), RPR
Court Reporter