

R. v. Laviolette, 2003 NWTSC 26

S-1-CR2002000068

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

LEE TODD LAVIOLETTE



Transcript of the Oral Reasons for Sentence by The Honourable Justice J.E. Richard, at Yellowknife in the Northwest Territories, on May 16th A.D., 2003.

APPEARANCES:

Mr. A. Fox: Counsel for the Crown
Mr. J. Brydon: Counsel for the Accused

Charge under s. 273, s. 279(2), s. 270(1) *Criminal Code*

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

1 THE COURT: Lee Todd Laviolette is convicted
2 of sexual assault. The maximum penalty is ten years'
3 imprisonment in a federal penitentiary.

4 Mr. Laviolette's crime was a particularly egregious
5 one, and I have given careful consideration to an
6 appropriate sentence.

7 Mr. Laviolette is an aboriginal person of 35
8 years of age, and I am told that he originally is from
9 Fort Chipewyan in the province of Alberta. At the time
10 of committing this offence in June of 2002, he was
11 living in Yellowknife and working in a convenience
12 store. I understand that he is single but I am told
13 that he has three children who live in Saskatchewan
14 including daughters, 6 years and 9 years of age.

15 Since the age of 18, Mr. Laviolette has compiled
16 a lengthy criminal record. That record includes eight
17 or nine convictions for crimes of violence. As
18 recently as December 1999, he was convicted of sexual
19 assault in Fort McMurray, Alberta, and received a
20 sentence of 15 months imprisonment.

21 The present offence of sexual assault for which
22 Mr. Laviolette is being sentenced today occurred on
23 June 6th, 2002. The victim was a 23-year-old woman who
24 had just arrived in Yellowknife two days earlier. She
25 arrived here from Saskatchewan to join her parents in
26 an employment opportunity as a caregiver.

27 On the night of June 5th, she had been in the

1 bars in Yellowknife and at closing time, she left a
2 pub and was about to get into a taxi with some new
3 friends when she was approached by this offender Lee
4 Todd Laviolette. The offender cautioned her against
5 getting in the taxi with these other people and
6 indicated that he would take her home. The victim, who
7 was intoxicated, went with the offender, who was also
8 intoxicated.

9 The victim, being new to Yellowknife, did not
10 know where the offender was taking her. He took her a
11 few blocks away from the main part of town to a rocky
12 and bushy area near the Prince of Wales museum. There
13 he threw her to the ground and despite her struggling
14 and her plea for him to stop, he raped her not once
15 but twice.

16 This was a particularly cruel, callous, and
17 brutal rape.

18 The victim was able to escape after the second
19 rape and after the offender had passed out. Within a
20 short time, she had told the police what had happened,
21 and the police found the offender still passed out at
22 the scene of the crime. He was arrested and has been
23 in custody since that time.

24 The victim was taken to hospital and treated for
25 her injuries. She had many scratches and bruises and
26 also vaginal bleeding. She was suffering from severe
27 emotional trauma.

1 From the reading of her Victim Impact Statement
2 on the Court file, she continues to suffer severe
3 emotional trauma. As with many rape victims, it is
4 quite likely that the memories of this terrible event
5 will remain with her for the rest of her life.

6 I will just state for the record that although I
7 have also read the other statements on the Court file
8 that apparently were written by the victim's parents
9 and relatives, those other statements are not
10 considered by me in the determination of an
11 appropriate sentence for this offender. Although these
12 written statements are labelled "Victim Impact
13 Statements", they are not Victim Impact Statements
14 within the meaning of Section 722 of the *Criminal*
15 Code.

16 With respect to the victim herself, it is the
17 Court's sincere hope that within time and the help of
18 professional people and her family that she will make
19 some progress in putting this horrible ordeal behind
20 her and getting on with a normal life.

21 The sentence that the Court imposes today, or
22 even a much longer sentence, would have no direct
23 relationship to the speed of the victim's recovery
24 process. All that we can say is that this chapter, the
25 trial Court process, is over or concluded and now that
26 it is over and not still hanging out there, the victim
27 can move past this chapter and get on with her life.

1 The law that binds a sentencing Judge says that
2 the purpose of the sentencing process is to promote
3 respect for society's laws and to maintain a safe and
4 peaceful community. A sentencing Judge is required to
5 impose an appropriate sentence that has one or more
6 objectives that are set forth in the *Criminal Code*.

7 Here, as is usually the case in sentencing those
8 who have committed a major sexual assault,
9 denunciation and deterrence are obviously objectives
10 of the sentence to be imposed. In addition, I find
11 that in the circumstances of this case, it is
12 necessary to separate this offender from society for
13 the protection of society. Although I am not a
14 psychiatrist or psychologist, I am satisfied as a
15 layperson that this man suffers from some kind of
16 emotional or mental dysfunction.

17 This man has two daughters of his own. Being a
18 father of two young girls, he would have to be shocked
19 and full of shame with the knowledge of what he did to
20 this young woman. The cruel and brutal nature of what
21 he did to the victim tells me that he is ill, that
22 this was more than simply sexual gratification.

23 Notwithstanding what Mr. Laviolette has said
24 today, intoxication alone is not an explanation in my
25 view. There is something wrong with him and he needs
26 treatment. He needs to be segregated from society for
27 a long enough period that he can receive treatment and

1 have a fair chance to rehabilitate himself before
2 returning to society's midst.

3 I will state that proportionality and parity, as
4 those principles are set out in the *Criminal Code*, are
5 two important principles that I have considered in
6 determining an appropriate sentence in this case. It
7 is an additional aggravating circumstance that in
8 committing this offence, Mr. Laviolette preyed upon a
9 vulnerable intoxicated young woman many years his
10 junior.

11 When I consider all of the circumstances of this
12 particular crime of sexual assault and of
13 Mr. Laviolette's previous history of violent crime, I
14 am of the view that an appropriate sentence would be
15 in the range of five to six years' imprisonment.
16 However, there are two matters that operate to
17 mitigate a sentence of that duration.

18 Firstly, Mr. Laviolette has pleaded guilty to the
19 crime. The plea did not come at an early stage. There
20 were two changes of defence counsel, postponements of
21 trial dates, but Mr. Laviolette did waive his right to
22 a preliminary inquiry, did plead guilty in this Court,
23 with the result that the victim was not required at
24 any time to testify in a public courtroom about the
25 details of this horrible ordeal. And from what I
26 understand of the emotional trauma which the victim
27 continues to experience, I am satisfied that

1 Mr. Laviolette's guilty plea has saved or prevented
2 further emotional harm to the victim. Mr. Laviolette's
3 guilty plea, late as it is, is taken by the Court as
4 real acknowledgment of responsibility for what he has
5 done and a willingness to accept the consequences for
6 what he has done.

7 Secondly, there is the fact that Mr. Laviolette
8 has been without his liberty since committing this
9 crime. As I have stated, he was arrested immediately
10 after the event and has been remanded in custody ever
11 since while awaiting his trial. This is a period in
12 excess of 11 months, and he is entitled to credit
13 against his sentence on that account.

14 Please stand now, Mr. Laviolette.

15 Lee Todd Laviolette, for the crime that you have
16 committed, sexual assault contrary to Section 271 of
17 the *Criminal Code*, it is the sentence of this Court
18 that you serve a term of imprisonment of three years.

19 In addition, I grant the DNA order requested by
20 the Crown. And further, there will be a firearms
21 prohibition order under Section 109 of the *Criminal*
22 *Code*. In the circumstances, there will be no Victim
23 Fine surcharge. I direct the Clerk of the Court to
24 endorse the Warrant of Committal with this Court's
25 recommendation that you be given an opportunity to
26 access psychiatric treatment or counselling or other
27 programs, similar programs, while you are serving your

1 sentence.

2 You may sit.

3 Is there anything further, counsel, on this file?

4 MR. FOX: Nothing, sir.

5 MR. BRYDON: I don't know if an order has been
6 made protecting the identity of the complainant. I
7 don't remember one being made in this Court, perhaps
8 that should be made even at this stage.

9 THE COURT: There is nothing in the Court's
10 reasons that says her name, that is deliberate.

11 MR. BRYDON: But the Information or the
12 Indictment is a public document and just out of an
13 abundance of caution.

14 THE COURT: There hasn't been an order in this
15 Court, is what you are saying, as yet. There would
16 have been probably in the Territorial Court.

17 MR. BRYDON: Yes.

18 THE COURT: Fine, that's a good point, Mr.
19 Brydon, thank you for pointing that out. There will
20 be an order under the provision of the *Criminal Code*
21 prohibiting the publication or broadcasting of the
22 identity of the complainant, or the victim in this
23 case, or any information that could disclose her
24 identity.

25 MR. BRYDON: Thank you, sir.

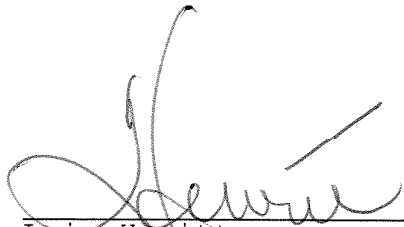
26 THE COURT: Thank you.

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(AT WHICH TIME THE ORAL REASONS FOR SENTENCE CONCLUDED)

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



Lois Hewitt,
Court Reporter