

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

LESLIE MEMOGANA

Transcript of the Reasons for Sentence delivered by The Honourable Justice J.E. Richard, in Yellowknife, in the Northwest Territories, on the 27th day of March, 2007.

APPEARANCES:

Ms. S. Tkatch: Counsel on behalf of the Crown

Ms. K. Payne: Counsel on behalf of the Accused

Charge under s. 271 C.C.

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

1 THE COURT: It is now the Court's
2 responsibility to impose sentence on Leslie
3 Memogana for a serious crime that he committed in
4 June 2005 at Inuvik. His crime was the sexual
5 assault of a female friend whom he had invited to
6 his residence and at a time when both were
7 drinking and possibly intoxicated.

8 When he was charged, he elected to be tried
9 by judge and jury. In April 2006 he was
10 committed for trial by a jury in this court. His
11 jury trial was scheduled for November 2006 in
12 Inuvik, however Mr. Memogana did not show up. He
13 forfeited his right to a jury trial and was held
14 in custody until his trial by Supreme Court
15 judge.

16 At his trial, the victim gave evidence of
17 forcible sexual intercourse accompanied by
18 physical violence. This was a major sexual
19 assault.

20 The offender is a 35-year-old Inuvialuit man
21 who is originally from Ulukhaktok. I am told
22 that he grew up on the land outside that
23 community and that to this day, he still
24 participates in hunting and fishing activities in
25 the traditional way for sustenance purposes for
26 himself, his family, and extended family. He has
27 a Grade 9 formal education and has some

1 employment history in the construction field and
2 also working with the annual reindeer harvest.

3 Mr. Memogana has a lengthy criminal record
4 which includes both property offences and crimes
5 of violence. He was convicted of sexual assault
6 some ten years ago and received a sentence of
7 three years' imprisonment. In the past six years
8 he has been convicted on four separate occasions
9 for crimes of violence and sentenced to jail.

10 Mr. Memogana, through his counsel, admits
11 that he has a history of substance abuse,
12 particularly with alcohol and marihuana.

13 I found Mr. Memogana's trial testimony to be
14 unreliable and it may be that he is not, or was
15 not, fully aware of the violence that he
16 perpetrated on the victim on that night.

17 On this sentencing hearing, he now expresses
18 what I accept to be genuine remorse for what he
19 did to this victim and he apologizes and states
20 that he now takes full responsibility for what he
21 did.

22 One of the main purposes of the sentencing
23 process is to provide for a safe and peaceful
24 society, and the objectives of denunciation and
25 deterrence are important in achieving that
26 purpose. Accordingly, the sentence that is
27 imposed in a case like this must take into

1 consideration those important objectives of
2 denunciation and deterrence. This is
3 particularly so in this jurisdiction because of
4 the prevalence of this very crime. As has been
5 stated many times by the Court, the rate of this
6 crime in the Northwest Territories is many times
7 the national average.

8 This was a serious crime committed by
9 Mr. Memogana and the sentence has to reflect
10 that.

11 There are no mitigating circumstances.

12 Having regard to the submissions of counsel
13 and previous sentencing decisions of this court,
14 some of which were referred to by counsel, I find
15 that an appropriate sentence in this case is four
16 years' imprisonment; however I will give
17 Mr. Memogana six months' credit for the time that
18 he has been in custody since last November
19 awaiting his trial.

20 Please stand now, Mr. Memogana.

21 Leslie Memogana, for the crime that you have
22 committed - sexual assault contrary to section
23 271 of the Criminal Code - it is the sentence of
24 this Court that you be imprisoned for a period of
25 three-and-a-half years.

26 In addition, there will be the mandatory
27 firearms prohibition order pursuant to section

1 109 of the Criminal Code for a period of ten
2 years. However, I further order under section
3 113 of the Criminal Code that a firearms officer
4 may issue an authorization to Mr. Memogana to use
5 firearms for sustenance purposes.

6 Finally, an order will issue as sought by
7 the Crown requiring Mr. Memogana to comply with
8 the SOIRA Act for a period of 20 years.

9 In the circumstances there will be no victim
10 fine surcharge.

11 You may be seated.

12 MS. PAYNE: And, sir, could I also make a
13 request that you make a recommendation that he be
14 permitted, subject to the correction -- the
15 decision of Corrections Canada, that he be
16 permitted to spend his sentence in a northern
17 institution.

18 THE COURT: Does Crown have any
19 submissions on that point?

20 MS. TKATCH: No, Your Honour.

21 THE COURT: Fine, I'm satisfied that that
22 would be appropriate in the case of this
23 offender.

24 The warrant of committal will be endorsed
25 with the court's recommendation that Mr. Memogana
26 be given consideration to serve his sentence in a
27 facility in the Northwest Territories.

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Anything further on this case from counsel?

MS. TKATCH: No, Your Honour, thank you.

MS. PAYNE: No, thank you, sir.

THE COURT: We'll close court.

Good luck to you, Mr. Memogana.

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

Annette Wright, RPR, CSR(A)
Court Reporter