

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

NANCY BERTHA RUBEN

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Transcript of the Oral Reasons for Sentence delivered  
by the Honourable Justice V.O. Ouellette, sitting at  
Inuvik, in the Northwest Territories, on April 25th,  
A.D. 2007.

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APPEARANCES:

Mr. B. Lepage: Counsel for the Crown

Ms. J. Lillegran: Counsel for the Accused

(Charge under s. 267(a) Criminal Code)

1 THE COURT: I take it you agree that  
2 pursuant to section 109 of the Criminal Code the  
3 firearms prohibition is mandatory?  
4 MS. LILLEGRAN: Yes, that is correct.  
5 THE COURT: All right. So that order will  
6 go, Madam Clerk.  
7 THE COURT CLERK: Thank you, sir.  
8 THE COURT: And in relation to the DNA  
9 testing?  
10 MS. LILLEGRAN: No.  
11 THE COURT: She does not agree, I take it,  
12 or --  
13 MS. LILLEGRAN: I'm sorry?  
14 THE COURT: What is your position in  
15 relation to the DNA? It is discretionary --  
16 MS. LILLEGRAN: Yes.  
17 THE COURT: -- in this case with the  
18 nature of this offence.  
19 MS. LILLEGRAN: This would be assault with a  
20 weapon.  
21 THE COURT: Yes. And what is Ms. Ruben's  
22 position in relation to whether or not that order  
23 should be made?  
24 MR. LEPAGE: Your Honour, I submit with  
25 section 267 a DNA order is mandatory.  
26 THE COURT: Is it?  
27 THE COURT CLERK: Yes.

1 MR. LEPAGE: Yes.

2 THE COURT: Then there is no issue. All

3 right. I thought it was one of the discretionary

4 ones, but --

5 MR. LEPAGE: No. The assault would be a

6 discretionary, Your Honour.

7 THE COURT: But with a weapon.

8 MR. LEPAGE: Yes.

9 THE COURT: Okay. Then that order will

10 go, Madam Clerk. That's fine, Madam Clerk.

11 THE COURT CLERK: Thank you, sir.

12 THE COURT: You are satisfied also.

13 All right.

14 (FURTHER SUBMISSIONS ON SENTENCE BY COUNSEL)

15 THE COURT: Ms. Ruben, one of the most

16 difficult things I find as a Judge is sentencing.

17 The law clearly provides in the Criminal Code,

18 sections 718 and 718.1, 718.2, the different

19 factors that the Court has to look at in deciding

20 the appropriate sentence. Of course, it really

21 boils down to balancing denunciation and

22 deterrence with rehabilitation.

23 I clearly accept Ms. Lillegran's submissions

24 on your behalf that your life has not been an

25 easy one. You have had a lot of tragedies. I do

26 not know about the previous incidences with

27 regard to your record, but clearly I accept that

1           you do not recall using the knife in this case,  
2           and that seemed to be fairly evident from all of  
3           the evidence that is before us.

4           I also do to a certain extent - although it  
5           is not a self-defence issue and it was not in  
6           these circumstances - take into account that  
7           before the use of the knife you were a victim of  
8           some sort in the sense of being pushed around and  
9           being verbally abused. Clearly, if one accepts  
10          the evidence of Kristen, who did not seem to pick  
11          sides, you were also the subject of some sexual  
12          harassment of some form, and I think that has to  
13          be taken into account when the big picture is  
14          looked at.

15          Unfortunately, Ms. Ruben, your record and  
16          your related record involves assaults causing  
17          bodily harm and then another assault and another  
18          assault and many failures to appear and breaches,  
19          but, most importantly, the last one in 2002,  
20          which I do appreciate is four years ago, but that  
21          is also assault with a weapon, which was a knife.  
22          On that occasion you received one year.

23          We do have to look at what is called the  
24          step up principle, meaning that this sentence  
25          should be greater than the previous one.

26          However, I do agree with Ms. Lillegran that we  
27          are not looking at pen. time, and, in fact, the

1 Crown has suggested two to three years, which, if  
2 one went two years less a day, would put us at  
3 territorial time. I am satisfied, when I  
4 consider the circumstances of this offence and  
5 what happened in the hour or two before the  
6 actual offence itself that you committed, that  
7 that clearly satisfies me that you are not in the  
8 pen. range.

9 I am satisfied, when I take all of those  
10 matters into account, that the proper sentence  
11 would be 18 months. However, your net sentence  
12 will be reduced by -- I just want to make sure.  
13 My intent is to give you a credit of two-for-one  
14 for every day of remand. You served 95, if I  
15 heard correctly. So that would be 190 days, if  
16 my math is right. Yes. Basically six months'  
17 credit. So your net sentence would be one year.

18 I am going to recommend that that sentence  
19 be served in Fort Smith where you can access all  
20 of the programs that could be of use to you  
21 dealing with grief and other issues that you have  
22 to deal with.

23 Is there anything else that I have  
24 forgotten?

25 THE COURT CLERK: Your Honour, how long is the  
26 firearm prohibition for?

27 THE COURT: Ten years.

1 THE COURT CLERK: Thank you.  
2 THE COURT: I think that is what the Code  
3 provides, in any event.  
4 MR. LEPAGE: Yes. Yes, it does, Your  
5 Honour. Thank you.  
6 THE COURT: All right. Ms. Lillegran, is  
7 there anything that I have forgotten?  
8 MS. LILLEGRAN: No, Your Honour.  
9 THE COURT CLERK: Victims of crime surcharge,  
10 sir?  
11 THE COURT: Waived.  
12 THE COURT CLERK: Thank you.  
13 THE COURT: Thank you, Madam Clerk. Is  
14 there anything else that I should think of?  
15 THE COURT CLERK: No, sir. I believe that is  
16 everything.  
17 THE COURT: All right. Thank you very  
18 much.

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

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Jill MacDonald, CSR(A), RPR  
Court Reporter