

R. v. Jerome, 2010 NWTSC 15

S-1-CR-2009-000031

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

ARCHIE JAMES PARRY JEROME

Transcript of the Reasons for Sentence of The Honourable
Justice D.M. Cooper, sitting in Fort McPherson, in the
Northwest Territories, on 3rd day of February, A.D., 2010.

APPEARANCES:

Mr. B. Lepage: Counsel for the Crown
Ms. T. Boyd: Counsel for the Defence

Charges under S. 271 Criminal Code of Canada

An order has been made banning publication of the
identity of the Complainant/Witness pursuant to Section
486.4 of the Criminal Code of Canada

1 THE COURT: Passing of sentence is never
2 easy to do and each case is different. In this
3 case, after trial by jury, Mr. Jerome has been
4 convicted of having sexually assaulted J. L.
5 on August 30th, 2008 at Fort McPherson in the
6 Northwest Territories.

7 I'll try to avoid repeating the facts at
8 length, but in this case, J.L. was a
9 20-year-old student who had been boarding at
10 Mr. Jerome's home in her own room since February
11 of 2008. Mr. Jerome's 52 years of age, and he is
12 a cousin of Ms. L's father and they had been
13 lifelong friends.

14 After finishing work at the Co-op on Friday
15 August 29th, Ms. L. joined some young friends
16 for socializing and over the next five or
17 six hours consumed a significant amount of
18 alcohol. Thereafter, there was a bonfire-type of
19 party at which she consumed more alcohol but left
20 after a few hours because, as she identified, she
21 was feeling intoxicated. She walked to the
22 Jerome home and went to bed fully clothed after
23 having taken off her jacket and her shoes. She
24 woke up some hours later to discover the accused

25 having intercourse with her. Expert analysis has
26 placed his semen in her vagina. She told him
27 somewhat impolitely to get off, he did, and he

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1 left.

2 She called a Mr. and Mrs. Firth
3 immediately or within a matter of minutes.
4 Mr. Firth came and picked her up. She was
5 convulsing, sobbing, and highly emotional. They
6 had never seen her like that before.

7 The accused testified he consumed overproof
8 vodka, passed out on a living room couch, and
9 awoke on the bed beside the complainant where
10 consensual sex was already under way. From its
11 verdict, it is clear that the jury did not accept
12 his evidence.

13 Of the assault the only positives that could
14 be said to be present, was that there was no
15 gratuitous violence, and Mr. Jerome did stop and
16 leave immediately when asked to do so.

17 The Crown has asked for a period of
18 incarceration here of approximately four or
19 five years. Mr. Boyd, counsel for the accused,
20 has asked for a blended -- what he calls a

21 blended sentence, which would merge the
22 principles of denunciation and deterrence, which
23 are called for in a case such as this, along with
24 the principles set out in Section 718(2)(e).

25 The purpose of sentencing is to contribute
26 along with crime prevention initiatives to
27 respect for the law and the maintenance of a

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1 just, peaceful, and safe society by imposing just
2 sanctions that have one or more of the following
3 objectives: to denounce unlawful conduct, to
4 deter the offender and others from committing
5 offences, to separate offenders from society
6 where necessary, to assist in rehabilitating
7 offenders, to provide reparations for harm done
8 to victims or to the community, and to promote a
9 sense of responsibility in offenders and
10 acknowledgment of harm done to the victims and
11 the community.

12 Other principles are that a sentence must be
13 proportionate to the gravity of the offence and
14 the degree of responsibility of the offender. It
15 is also said that a sentence should be increased
16 or reduced to account for any relevant,

17 aggravating, or mitigating circumstances, and a
18 sentence should be similar to sentences imposed
19 on similar offenders for similar offences
20 committed in like circumstances. And the
21 principle I've referred to is that all available
22 sanctions other than imprisonment that are
23 reasonable in the circumstances should be
24 considered for all offenders with particular
25 attention to the circumstances of aboriginal
26 offenders.

27 With respect to the background of the

1 accused, Mr. Jerome is a 52-year-old --
2 51-year-old Gwich'in man. He has many children.
3 Three daughters who are here in court today. Two
4 children not yet at the age of majority. He has
5 a son who is perhaps going to enter into the
6 Canadian Armed Forces.

7 Mr. Jerome has a criminal record and one
8 conviction for sexual exploitation in 1989 in
9 which he received five months in jail. While I
10 can't ignore that, I feel I must take into
11 account that the conviction is 21 years old. And
12 unlike many, many accused that the court sees

13 before it, Mr. Jerome has had a clean record
14 during the intervening period and has raised a
15 large family and provided for his family, not
16 only with work and money in the modern day sense,
17 but also as a hunter for his nuclear and extended
18 family.

19 It's clear that from those who were here in
20 court, Mr. Jerome has a loyal and proud family,
21 and he himself has expressed a great deal of
22 pride and he's also expressed a great deal of
23 remorse for what he's done, and the shame that he
24 has visited upon himself and his family and his
25 community.

26 He's worked as essentially a maintenance
27 foreman, a handyman for the last ten or so years

1 at the Tloondih Healing Society. And prior to
2 that I'm told that he worked largely in the area
3 of construction.

4 He's accessed counseling for substance
5 abuse, which was pointed out by the Crown, as
6 evidenced by a letter filed by the defence from a
7 Dr. Chambers although it's dated November of
8 2008.

9 As well I'm told that Mr. Jerome has
10 honoured the undertaking he entered into in
11 August of 2008. That he was victimized in a
12 residential school. He's in the process of
13 making a legal claim, which is in addition to the
14 common experience payment he received.
15 Mr. Jerome has been a productive individual
16 seemingly so for the past 20 years.

17 The victim has not completed a victim impact
18 statement, but the Crown has advised the court
19 that she is scared when she's in Fort McPherson,
20 that she has difficulties with a relationship
21 with a male which she attributes to her
22 experience, and that she has lost her trust in
23 people.

24 I have listened to the Crown and defence and
25 reviewed the authorities submitted by the Crown.
26 The starting point in cases of this nature is
27 generally in the three-year range. The court

1 needs to be -- or needs to consider the
2 circumstances it considers to be aggravating and
3 those which may be mitigating.

4 There is one aggravating factor here. It's

5 consequential, and that is as is pointed out this
6 was a rather flagrant breach of the trust that a
7 young woman would have placed in someone she
8 considered to be a father figure and someone with
9 whom she could hope would protect her from others
10 and not be her sexual aggressor.

11 It is mitigating that Mr. Jerome has had a
12 clean record for over 20 years and that he has
13 been a productive member of this society on
14 behalf of this community and his entire family.
15 I take into consideration as well as I've
16 mentioned that there was no gratuitous violence
17 in this offence and Mr. Jerome stopped
18 immediately when asked to do so.

19 It's not an excuse that he was highly
20 intoxicated, but it can in certain circumstances
21 help to explain how someone who is otherwise
22 seemingly an outstanding member of a community
23 can have a lapse of this magnitude and do
24 something as serious as this.

25 The case law in this jurisdiction is clear
26 that while I am required to balance all of the
27 principles of sentencing that the offence of

1 sexual assault calls for a deterrent and
2 denunciatory sentence. There is far, far too
3 much of this kind of offence in the Northwest
4 Territories. It has been called a scourge, and
5 the courts must send a strong message to those
6 who would be like-minded. This simply has to
7 stop.

8 The defence strongly urges the court that it
9 should give particular attention to the provision
10 of our law that instructs judges to exercise all
11 available sanctions other than imprisonment that
12 are reasonable in the circumstances with
13 particular attention to the circumstances of
14 aboriginal offenders.

15 What separates Mr. Jerome from most of the
16 accused that we see coming before the courts is
17 that he did live the residential school
18 experience. This is a court and not a facility
19 for psychiatry, but I think I can assume and
20 presume that that experience of being in
21 residential school left Mr. Jerome with some
22 deep-seated psychological issues, that he either
23 fights against successfully or he succumbs to
24 from time to time.

25 I have to take into account as well that he
26 has, again, unlike many, if not most, accused
27 that comes before the court led a productive life

1 for the past 21 years. He has obeyed his
2 undertaking. And given his former stature in
3 this community and the support he has from his
4 family as is evident today, I have confidence
5 that Mr. Jerome will not be quick to repeat the
6 kind of offence he committed here.

7 I am going to accede to the request of the
8 defence and impose a blended sentence. Please
9 stand up, please, Mr. Jerome. Mr. Jerome, for
10 the offence of sexual assault upon Ms. L. I
11 am sentencing you to a period of incarceration of
12 two years in jail, and I'm placing you on
13 probation for an additional period of two years
14 and the conditions will be you will keep the
15 peace and be of good behaviour, appear before the
16 court when required to do so, notify the court or
17 probation officer in advance of any changes of
18 name or address and promptly notify the court or
19 the probation officer of any change of employment
20 or occupation. And in the first 18 months of
21 your probation you are to perform 240 hours of
22 community service work here in Fort McPherson as
23 directed by your probation officer. Do you
24 understand?

25 THE ACCUSED: Yeah.

26 THE COURT: You may sit down.

1 all the circumstances in this case, the very
2 least restrictive sentence I can impose.

3 There will also be a victim surcharge of
4 \$100; a Sexual Offence Information Registration
5 Act order, which will be in effect for 20 years,
6 a DNA order, and a Section 109 order that will be
7 in effect for ten years from the time you're
8 released from prison. Is there anything else,
9 counsel?

10 MR. LEPAGE: Yes, Your Honour. From the
11 Crown's perspective on the terms of the probation
12 order, that would be under the supervision of a
13 probation officer? Supervision of a probation
14 officer?

15 THE COURT: I'm sorry. I can't hear you.

16 MR. LEPAGE: Is the probation order to be
17 supervised by the probation officer?

18 THE COURT: Yes.

19 MR. LEPAGE: Then given the letter that
20 Your Honour's received, there's a number of terms
21 that I think should be included, which would be
22 counseling as directed by the probation officer,

23 which could be either alcohol, substance abuse,
24 or a sexual orientation-type thing, which would
25 be determined by the probation officer. And for
26 the protection of Ms. L., no contact
27 whatsoever with her, direct or indirect.

1 THE COURT: An additional -- thank you,
2 Mr. Lepage. I had forgotten that. An additional
3 term of your probation, Mr. L., is you're to
4 have no contact -- Mr. Jerome, that you have no
5 contact with J.L.

6 With respect to counseling, Mr. Boyd, do you
7 want to speak to that?

8 MR. BOYD: If I could have a moment,
9 please, Your Honour.

10 THE COURT: My only issue, Mr. Lepage, is
11 that Mr. Jerome is not in his 20s. He's already
12 embarked on some counseling. If he really wants
13 to, if he thinks he needs it, he'll take it and
14 not because a probation officer says he has to at
15 his age, but I'll hear from Mr. Boyd.

16 MR. BOYD: Sir, Mr. Jerome says that he
17 intends to continue counseling with Dr. Chambers.

18 THE COURT: I'll put the provision in then

19 that Mr. Jerome is to take such counseling as may
20 be recommended to him by his probation officer.

21 Will that do it, Mr. Lepage?

22 MR. LEPAGE: Yes, Your Honour. Thank you.

23 THE COURT: Anything from you, Mr. Boyd?

24 MR. BOYD: No, Your Honour. Thank you.

25 THE COURT CLERK: Order, all rise. This trial
26 of the Supreme --

27 THE COURT: Before court is closed, I want

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1 to thank both counsel for the able work you did
2 here, and I'd like to thank the staff. Thank you
3 very much.

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5 PROCEEDINGS CONCLUDED

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7 CERTIFICATE OF TRANSCRIPT

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10 I, the undersigned, hereby certify that the
11 foregoing pages are a true and faithful transcript
12 of the proceedings taken down by me in shorthand and
13 transcribed from my shorthand notes to the best of my
14 skill and ability.

15 Dated at the City of Edmonton, Province of
16 Alberta, this 23rd Day of February, 2010.

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Christine Jacobson

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