

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

GREGORY MARK KOCHON

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Transcript of the Oral Reasons for Sentence by The  
Honourable Justice J. E. Richard, sitting in Norman Wells,  
in the Northwest Territories, on the 12th day of March,  
A.D., 2010.

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APPEARANCES:

Mr. J. MacFarlane: Counsel for the Crown

Ms. C. Wawzonek: Counsel for the Defence

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Charges under s. 348(1) (b) & 271 Criminal Code of Canada

Official Court Reporters

1 THE COURT: The offender, Gregory Mark  
2 Kochon, is a 23-year-old aboriginal man from  
3 Colville Lake who has been living here in Norman  
4 Wells since 2004. Yesterday a jury found him  
5 guilty of a very serious crime, that is, breaking  
6 and entering into a residence here in Norman  
7 Wells at 4:00 in the morning and committing  
8 therein a sexual assault contrary to Section  
9 348(1)(b) of the Criminal Code. The maximum  
10 sentence for this crime is life imprisonment.

11 Colville Lake is a small Dene community  
12 which still to this day primarily lives the  
13 traditional lifestyle of the Dene, and that is  
14 focused on the land. This offender was raised  
15 there and learned the traditional land skills of  
16 the Dene people. The offender did encounter some  
17 problems in his upbringing, however, as the Court  
18 is told that members of his family suffered from  
19 alcohol addiction.

20 The offender decided, at the age of 17, to  
21 move to Norman Wells. The Court is told that he  
22 has had a common-law spouse for the past five  
23 years and that since coming to Norman Wells he  
24 has had steady employment. At the time of  
25 committing the present offence in August of 2008  
26 he had two jobs, one as a bartender in a local  
27 bar and the other as a maintenance man with the

1 local Housing Authority. The offender's formal  
2 education ceased halfway through grade 10, but he  
3 has expressed an interest in upgrading his  
4 education and also entering trades training.

5 Mr. Kochon has accumulated a criminal record  
6 since coming to Norman Wells. In particular, on  
7 April 24th, 2006, he was convicted of two  
8 offences of break and enter with intent, two  
9 offences of break and enter and commit, and one  
10 offence of take auto without owner's consent.

11 The Court is advised that these prior B & Es were  
12 property related. For those five crimes he was  
13 sentenced on April 24th, 2006, to nine months  
14 imprisonment, and he was also placed on probation  
15 for one year. It is not clear from the criminal  
16 record whether the one-year probation ran  
17 concurrently with the nine-month jail sentence  
18 or was in force for one year after the nine-month  
19 sentence was served.

20 The only other entry on his criminal record  
21 is dated December 22nd, 2009, and it indicates  
22 that he was convicted under Section 430(4) for  
23 damage to property, and also under Section 145(3)  
24 for a breach of recognizance. I am told that  
25 these two crimes occurred subsequent to August  
26 of 2008, that is subsequent to the date of the  
27 crime for which he is to be sentenced today.

1           Indeed, the breach of recognizance relates to the  
2           recognizance document whereby he was on judicial  
3           interim release with respect to the present  
4           charge. The sentence imposed on December 22nd,  
5           2009, was time served, and the record shows that  
6           Mr. Kochon had had three and a half months of  
7           pre-sentence custody.

8                         Since December 22nd, 2009, Mr. Kochon has  
9           been remanded in custody while awaiting his trial  
10          this week on this present charge, a period of two  
11          and a half months, and this is taken into  
12          consideration in the determination of sentence.

13                        I turn now to the circumstances of the  
14          serious crime for which Mr. Kochon is to be  
15          sentenced this morning. The victim is a  
16          29-year-old woman who is a single parent and who,  
17          on the date in question, in August of 2008, was  
18          living with her seven-year-old daughter in her  
19          residence here in Norman Wells. She did not know  
20          the offender well. She was acquainted with him  
21          as the bartender at a local bar and also because  
22          he was the maintenance person from the Housing  
23          Authority who had repaired the screens or windows  
24          at her residence earlier in the summer of 2008.

25                        On the evening of August 15th the victim was  
26          socializing with friends at a bar and at a dance  
27          at the community hall and had consumed a fair

1 amount of alcohol. She returned to her residence  
2 in the early morning hours of August 16th, paid  
3 her babysitter, and when the babysitter left the  
4 victim locked the door to her residence. She  
5 then went to sleep in her bed with her  
6 seven-year-old daughter sleeping beside her;  
7 she was fully clothed.

8 The victim awoke to find that she was naked  
9 and that this offender, Gregory Kochon, was on  
10 top of her having sex with her. She was  
11 understandably startled, scared and confused.  
12 She looked beside her and there was her  
13 seven-year-old daughter lying beside her, awake  
14 and eyes open. She attempted to push the  
15 offender off of her and she pleaded with him,  
16 saying "please don't do this, my daughter is  
17 right there." She asked him to stop, but he did  
18 not stop.

19 He picked her up and carried her to another  
20 bedroom where he continued the assault. The  
21 victim heard her daughter crying out for her.  
22 She pushed the offender off of her, ran back to  
23 her bedroom to comfort her daughter. The  
24 offender followed her back into the victim's  
25 bedroom and continued to have forcible  
26 intercourse with her. When it was over, and  
27 before he left, he told the victim that if she

1 told anyone he would be back every morning.

2 Later in the morning, when the victim was  
3 cleaning herself in the bathroom, she had the  
4 painful and humiliating experience of removing a  
5 tampon which she had been using at the time of  
6 this rape, which had become stuck inside of her  
7 and which was difficult to remove.

8 This horrific assault had a devastating  
9 impact on the victim. The police officer who  
10 interviewed her later that day described her as  
11 being extremely upset and shaking uncontrollably.  
12 He stated that he had to terminate the taking of  
13 a formal statement from her because of her  
14 condition. The Court also observed symptoms of  
15 her emotional trauma when she was relating the  
16 details of the assault during her testimony.

17 In the circumstances of this case it is  
18 reasonable to infer that there is a second  
19 victim, that is the seven-year-old daughter, who  
20 was a witness to her mother being raped in her  
21 own bed. Of course, we do not know in any  
22 certain way how seriously the little girl was  
23 traumatized or to what extent she continues to  
24 suffer from such a traumatic event.

25 The offender testified at his trial and told  
26 the jury that he went to this woman's home,  
27 uninvited, at 4 a.m., that the seven-year-old

1 girl let him into the house and that he went to  
2 the victim's bedroom, and after drinking beer  
3 with her and having a conversation with her that  
4 the two of them had consensual sex.

5 In a narrative that is not unreasonably  
6 described as preposterous, he says that he went  
7 to the home of a woman he barely knew, uninvited,  
8 at 4:00 in the morning, and had consensual sex  
9 with her in the presence of her seven-year-old  
10 daughter. The jury, quite understandably,  
11 rejected his evidence, and it should come as no  
12 surprise to Mr. Kochon that they did not believe  
13 him.

14 I mention his evidence here as it indicates  
15 that this offender is a man who is not taking  
16 responsibility for his criminal behavior of 18  
17 months ago. One of the objectives of the  
18 sentence to be imposed is to promote a sense of  
19 responsibility in the offender.

20 This was a predatory crime. There was  
21 premeditation on the part of Gregory Kochon in  
22 the commission of this offence, and that  
23 distinguishes this sexual assault from many  
24 others we see in the Courts which could be  
25 described as crimes of opportunity. These are  
26 aggravating features of Mr. Kochon's offence, as  
27 is the fact that he took advantage of a

1 vulnerable unconscious woman, asleep in her own  
2 bed, in her locked residence, and in the presence  
3 of a seven-year-old child.

4 There are no mitigating factors to consider  
5 in the determination of sentence in this case.

6 The unlawful behavior of sexually assaulting  
7 a vulnerable unconscious woman is all too common  
8 in this jurisdiction and has been for 20 years or  
9 more. On account of the important sentencing  
10 principles of denunciation, deterrence and  
11 parity, this is not a time to alter this Court's  
12 practice of imposing a meaningful period of  
13 incarceration in such cases.

14 It is also a fundamental principle that a  
15 sentence must be proportionate to the gravity  
16 of the offence and the offender's degree of  
17 responsibility for it. This was egregious  
18 criminal behavior by Gregory Kochon. In  
19 conducting himself as he did he displayed an  
20 appalling disregard for the personal integrity  
21 and bodily integrity of another human being. The  
22 level of his moral culpability or blameworthiness  
23 is quite high.

24 I remind myself though that the sentence  
25 ought not be so excessive or harsh as to dash any  
26 hope for Gregory Kochon's rehabilitation. He is  
27 still a young person and he has a long life ahead



1 of him in which he can be a good person who  
2 adheres to the rules of our society and who can  
3 contribute to a better life for he and his family  
4 and his community.

5 The sentence ought to be such as to assist  
6 him in rehabilitating himself into a law-abiding  
7 citizen, and in this regard I note Mr. Kochon has  
8 indicated a desire to improve his lot in life  
9 during his period of incarceration by taking  
10 courses to upgrade his education and to  
11 participate in the AA program and other programs  
12 that are offered within the correctional  
13 facilities. It will indeed be up to him to  
14 take advantage of those opportunities.

15 I hereby grant the mandatory firearms  
16 prohibition order pursuant to Section 109 for a  
17 period of ten years following Mr. Kochon's  
18 release from imprisonment. Pursuant to Section  
19 113 I hereby authorize the registrar of firearms  
20 or the chief firearms officer to issue to  
21 Mr. Kochon a licence to use firearms for  
22 sustenance purposes during the period of the  
23 firearms prohibition order.

24 The DNA order sought by the prosecution  
25 pursuant to Section 487.051(2) shall issue.  
26 Also, I grant the prosecution's application  
27 pursuant to Section 490.012(2) for an order

1 requiring Gregory Kochon, during his lifetime,  
2 to comply with the Sex Offender Information  
3 Registration Act.

4 In view of the fact that Mr. Kochon has been  
5 incarcerated and therefore unemployed for the  
6 past several months and that he will be  
7 incarcerated for some time, I exempt him from  
8 payment of the statutory victim surcharge under  
9 Section 737. Please stand, Mr. Kochon.

10 Gregory Mark Kochon, for the crime that you  
11 have committed, break enter and commit sexual  
12 assault contrary to Section 348(1)(b) of the  
13 Criminal Code, it is the sentence of this Court  
14 that you be imprisoned for a period of four  
15 years. I direct the clerk to endorse the Warrant  
16 of Committal with this Court's recommendation  
17 that the penitentiary officials allow you to  
18 serve your period of incarceration at a  
19 correctional facility within the Northwest  
20 Territories. You may be seated.

21 Counsel, is there anything else with respect  
22 to this case? Mr. MacFarlane?

23 MR. MACFARLANE: No, Your Honour.

24 THE COURT: Ms. Wawzonek?

25 MS. WAWZONEK: No, Sir.

26 THE COURT: Thank you. I want to thank  
27 both counsel for their conduct of this difficult

1 case throughout this week, and I want to thank  
2 the court staff for their usual excellent  
3 performance of their duties. We will close  
4 court.

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

11 \_\_\_\_\_  
12 Joel Bowker  
13 Court Reporter  
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