

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

JIMMY PHILIP BEAULIEU

Transcript of the Reasons for Sentence by The Honourable
Justice J.Z. Vertes, at Yellowknife in the Northwest
Territories, on March 10th A.D, 2011.

APPEARANCES:

Ms. J. Walsh: Counsel for the Crown
Mr. T. Boyd: Counsel for the Accused

Charge 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: The accused, Jimmy Philip
2 Beaulieu, has been convicted by a jury after
3 trial on a charge of break and enter into a
4 dwelling house and committing therein a sexual
5 assault. Section 348(1) of the Criminal Code
6 stipulates that the potential maximum penalty is
7 one of life imprisonment.

8 The pertinent facts are as follows:

9 The accused, a 49-year-old man, and the
10 victim, now a 22-year-old woman, were at a house
11 party on December 20, 2009, in Dettah. They
12 consumed alcohol. They talked. In the early
13 morning the victim went home. She went to
14 sleep. She awoke to find the accused inside her
15 house, in her bed, touching her. The accused
16 penetrated her anally and then ejaculated on her
17 buttocks. He then left. The victim immediately
18 told her cousin what happened, then contacted
19 her mother who in turn contacted the police.

20 The accused claimed that the victim had
21 invited him into her house and had willingly
22 participated in the sexual encounter. By their
23 verdict, the jury obviously rejected this story.

24 The impact of this crime on the victim and
25 her family was made clear in the victim impact
26 statements read out in court. The victim has
27 had lasting psychological harm, suffering from

1 stress and feelings of isolation.

2 The Judges of this Court, as well as of the
3 Court of Appeal, have recently noted the
4 prevalence of crimes of sexual violence in this
5 jurisdiction, particularly sexual assaults on
6 vulnerable women who are either asleep or
7 otherwise unconscious. Courts have repeatedly
8 said that since this particular type of offence
9 is so frequent, sentencing must emphasize
10 deterrence, denunciation and the promotion of a
11 sense of responsibility in the offender.

12 Crown counsel described this offence as a
13 major sexual assault in the context of a
14 violation of the sanctity and security of one's
15 own home. She said there are no mitigating
16 factors present in this case. I agree.

17 There are, however, a number of aggravating
18 factors.

19 First, the accused and the victim knew one
20 another for a long time. The victim used to
21 babysit the accused's children. She was a
22 friend of the accused's ex-wife. Considering
23 the age difference between them, and this
24 history of social connections, the accused
25 should have exhibited care for the victim, as
26 opposed to taking advantage of her when she was
27 vulnerable. I do not call this a breach of

1 trust but these circumstances are nonetheless
2 aggravating.

3 Second, the accused has a criminal record.
4 He has been convicted of ten offences between
5 1988 and 2009. Admittedly many are minor and
6 there are no convictions for crimes of sexual
7 violence. But there are two convictions for
8 assault.

9 The most recent conviction was in February
10 2009 for arson. The accused burned down his own
11 house. He did this in the midst of an emotional
12 breakup of his marriage. He was sentenced to 15
13 months imprisonment and placed on probation for
14 12 months. He was released from jail just 11
15 days before he committed this offence. He was
16 on probation at the time that he committed this
17 offence. All this is highly aggravating.

18 The accused was born and raised in Dettah,
19 a very small community of the Yellowknives Dene
20 First Nation. He was raised by an uncle after
21 his parents separated. As a teenager he
22 received guidance and training from two elders
23 in the community. He learned how to live and
24 function on the land in the traditional manner
25 of his people. While his formal education was
26 short, he obtained training and certification as
27 a heavy equipment operator and he has worked for

1 most of the past 20 years in that capacity at
2 various mining operations. I was provided with
3 a letter from his current employer who said that
4 he continually exceeds expectations through his
5 dedication and efficiency in performing his
6 duties.

7 The accused is the father of four children.
8 He is separated from the mother of his children
9 but he supports them financially.

10 The accused has been on bail since the date
11 of the offence and has apparently complied with
12 all conditions in his bail order. He has been
13 working full-time and living outside of the
14 community. The coordinator of the Salvation
15 Army's Bailey House has stated that the accused
16 has shown "a tremendous desire to move forward
17 with his life".

18 I must, as mandated by Section 718.2(e) of
19 the Criminal Code, consider the circumstances of
20 the accused as an aboriginal offender. Judges
21 are required to take into account any unique
22 background and systemic factors which may have
23 played a part in bringing the particular
24 offender before the Court. This does not mean
25 that an aboriginal accused must establish a
26 causal link between those background and
27 systemic factors and the commission of the

1 offence. It is, however, a recognition of the
2 devastating impact that Canada's treatment of
3 its aboriginal population has wreaked on the
4 members of that society. How has the offender
5 been affected by, for example, substance abuse
6 in the community, or poverty, or overt racism,
7 or family and community breakdown?

8 Before me, and prior to sentencing, the
9 accused spoke at length about the cycle of
10 alcohol abuse and violence that he witnessed in
11 his formative years. He spoke about the need
12 for his community to come to grips with these
13 long-standing problems.

14 The Judges working in the northern courts
15 are all too aware of the difficulties facing
16 many of our communities. There is, throughout
17 the Northwest Territories, a high incidence of
18 alcohol abuse and crimes of violence. But, we
19 are also aware of the significant efforts made
20 by many communities at restoration and
21 rehabilitation.

22 I have no doubt that much of the accused's
23 behaviour over the years has been influenced by
24 his experience of family breakdown and his
25 experience of alcohol abuse.

26 Nevertheless, this was a very serious crime
27 of violence, one that has had a long-lasting

1 impact on the victim. In crimes such as these,
2 where deterrence must be emphasised, the
3 appropriate decision will be similar whether one
4 is dealing with an aboriginal or non-aboriginal
5 offender. Aboriginal communities, and
6 aboriginal victims, must know that the harm
7 caused by an offender's actions will be taken
8 just as seriously in their community as in any
9 other community.

10 Crown counsel has suggested a sentence of
11 five to seven years imprisonment. Defence
12 counsel, while recognizing that a term of
13 imprisonment is called for, strongly urged me
14 not to impose a sentence that would have, in his
15 words, "a crushing effect on the accused".

16 I must, of course, impose a sentence that
17 is proportionate to the gravity of this crime.
18 I recognize however, having regard to the
19 accused's work history and his evident family
20 support, that there are reasonably good
21 prospects for the accused successfully
22 reintegrating back into the community and
23 leading a productive and healthy life.

24 Stand up, Mr. Beaulieu.

25 The sentence of this Court is that you
26 serve a term of imprisonment of five years.

27 You may sit down.

1 In addition, the usual ancillary orders
2 will issue:

3 An order requiring the accused to supply a
4 sample for DNA analysis and submission to the
5 DNA databank;

6 An order requiring the accused to comply
7 with the provisions of the Sexual Offender
8 Information Registration Act for the designated
9 period of 20 years; and,

10 A firearms prohibition order for a period
11 of no less than ten years from the date of his
12 release.

13 Under the circumstances there will be no
14 victim of crime fine surcharge.

15 Have I neglected anything, counsel?

16 MR. BOYD: Sir, one request that was
17 passed on to me through the accused's mother is
18 to ask if the warrant of committal could be
19 endorsed with the recommendation that the
20 sentence be served in the north, pursuant to the
21 agreement between the Correction Services Canada
22 and Northwest Territories Corrections.

23 THE COURT: Thank you. I have already
24 heard from Crown counsel as to their
25 disagreement with such a recommendation. I am
26 not, in the circumstances of this case, inclined
27 to make that recommendation. I think Correction

1 Services are much better positioned than I am to
2 know which would be the most appropriate setting
3 for Mr. Beaulieu to serve his sentence, having
4 consideration to the available programs and
5 services that would be appropriate for him under
6 the circumstances, so I will decline to that
7 make that recommendation.

8 MR. BOYD: Yes, sir.

9 THE COURT: Anything else, counsel?

10 MS. WALSH: Nothing from Crown, sir.

11 MR. BOYD: Not from defence, Your
12 Honour.

13 THE COURT: Thank you for your
14 assistance, counsel. We will close court.

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19 Certified to be a true and
20 accurate transcript pursuant
21 to Rules 723 and 724 of the
Supreme Court Rules,

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Lois Hewitt, CSR(A), RPR, CRR
Court Reporter

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