

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

RUSSELL MICHAEL SIKYEA

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Transcript of the Reasons for Sentence by The Honourable  
Justice L. A. Charbonneau, sitting in Hay River, in the  
Northwest Territories, on the 20th day of February, 2013.

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APPEARANCES:

Ms. D. Vaillancourt: Counsel for the Crown

Mr. T. Boyd: Counsel for the Defence

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Charge under s. 348(1)(b) Criminal Code of Canada

INITIALS USED TO PROTECT THE IDENTITY OF THE COMPLAINANT

BAN ON PUBLICATION PURSUANT TO S. 486.4 CRIMINAL CODE

1 THE COURT: Earlier today I found  
2 Mr. Sikyea guilty of break and enter and sexual  
3 assault, and now I have to decide what sentence  
4 should be imposed for this offence. I summarized  
5 the key aspects of the evidence in my reasons  
6 for decision earlier today, but I will repeat  
7 the facts that I found as part of my decision  
8 so that my sentencing decision is placed in  
9 proper context.

10 The complainant at the time of these  
11 events lived in an apartment in a residential  
12 complex in Fort Smith. She lived with her  
13 common-law spouse, but he worked at the mine  
14 on a two-weeks-in and two-weeks-out shift.  
15 The weekend that this incident happened he was  
16 out at the mine. His sister M. was staying  
17 with the complainant, something that according  
18 to the complainant was not unusual.

19 The complainant, M., and another friend  
20 spent part of the day on September 11th, 2011,  
21 drinking. They were celebrating M.'s birthday.  
22 They drank beer and vodka at the complainant's  
23 home. They then went to a bar in Fort Smith.  
24 The complainant was getting tired so she did not  
25 stay at the bar very long. She returned home,  
26 and sometime later M. returned to her apartment  
27 as well.

1           The accused had also been drinking at  
2           various places that day. He was on his way  
3           to another house where he believed there was  
4           a party going on, and he walked through the  
5           residential complex where the complainant's  
6           apartment is. There he came into contact  
7           with the complainant and M. I accept their  
8           evidence that he knocked on the door of the  
9           apartment, and when they answered he told  
10          them about the party that he was going  
11          to. M. wanted to go to this party, the  
12          complainant did not, so she stayed home.

13           The offender stayed at this other house  
14          for a period of time, and then he left and he  
15          returned to the complainant's home. My findings  
16          at trial were that he was not invited inside but  
17          made his way inside while the complainant was  
18          sleeping on the couch. She barely knew him at  
19          the time and in fact needed some assistance  
20          to identify him the following day. He was  
21          not invited in her home.

22           He took her pants and panties off and  
23          started having intercourse with her. She woke  
24          up during this and started struggling. She said  
25          he was pinning her arms and at one point had his  
26          hand on her mouth. She was screaming at him to  
27          stop, but he continued. Eventually the assault

1 ended and he left.

2 The evidence was somewhat unclear as to  
3 exactly what happened next and in what order,  
4 but sometime the next day the complainant did  
5 tell M. and others what had happened. She was  
6 not intending to do anything about it, but M.  
7 encouraged her to do something. They went to  
8 the house where M. and Mr. Sikyea had gone the  
9 previous night to confirm the identity of the  
10 person who had been there with M.

11 Later they went to the Health Centre and  
12 the police were contacted. The complainant  
13 underwent a sexual assault examination, which  
14 took about two hours. Samples were seized from  
15 her and were analyzed. The result of forensic  
16 and DNA testing confirmed the presence of semen,  
17 which was later matched to the accused; in other  
18 words, establishing that there had been sexual  
19 contact between the two.

20 Mr. Sikyea was not arrested right away.  
21 Police looked for him at various residences in  
22 Fort Smith and they eventually obtained a warrant  
23 for his arrest. They issued a press release to  
24 advise the community that Mr. Sikyea was subject  
25 to an arrest warrant and that the police were  
26 looking for him. Two weeks later Mr. Sikyea  
27 contacted the police essentially turning himself

1 in.

2 He has been in custody since his arrest on  
3 September 25th, 2011, which is five days short  
4 of 17 months. He had a show cause hearing a few  
5 days after he was arrested and he was ordered  
6 detained. The Warrant of Committal was endorsed  
7 showing that he was detained primarily because  
8 of his criminal record, and this means under the  
9 Criminal Code that I do not have any discretion  
10 to grant him credit for pre-trial custody on a  
11 ratio higher than one day for each day spent on  
12 remand.

13 Parliament decided to curtail the discretion  
14 of trial judges as far as how much credit can  
15 be given for remand time. I understand the  
16 submission made by defence counsel, that it does  
17 not appear in doing so that Parliament took into  
18 account the fact that prisoners on remand do not  
19 earn remission. But there is no longer any room  
20 to take that factor into account when a person  
21 is detained primarily because of their criminal  
22 record.

23 As I mentioned in my ruling on the Corbett  
24 application, in referring to the fact that it is  
25 still part of the Evidence Act that an accused  
26 person can be cross-examined on his or her  
27 criminal record, in our system of law, subject

1 to constitutional considerations, the law-making  
2 role belongs to Parliament and not the Courts.  
3 I think it would be circumventing the role of  
4 Parliament for me to reduce a sentence that  
5 I would otherwise impose so as to indirectly  
6 give more credit for Mr. Sikyea for his remand  
7 time than what I am entitled to do under the  
8 existing provisions of the Criminal Code.

9 The starting point for any sentencing  
10 has to be the principles and purpose of  
11 sentencing that are set out in the Criminal  
12 Code, Section 718 and the following sections.  
13 I have considered those sections this afternoon,  
14 although I do not propose to quote them all.  
15 I will refer only specifically to the  
16 fundamental principle of sentencing, which  
17 is proportionality. A sentence should be  
18 proportionate to the gravity of the offence  
19 and the degree of responsibility of the  
20 offender.

21 The gravity of the offence is determined by  
22 the facts of the case, but it is also determined  
23 in part by how the law treats it. What I mean  
24 by this is that the objective seriousness of  
25 an offence is shown by the type of sentence that  
26 the law says is available for it. The maximum  
27 sentence available for break and enter and commit

1 an indictable offence is life imprisonment,  
2 obviously a significant sentence.

3 The invasion of a person's home has always  
4 been treated by this Court as an aggravating  
5 factor, and by other Courts as well. Now  
6 under certain circumstances it is a statutorily  
7 recognized aggravating factor under Section  
8 348.1 of the Criminal Code. That provision  
9 applies here because Mr. Sikyea knew that the  
10 dwelling-house was occupied and he committed  
11 an offence of sexual assault, a crime that is  
12 inherently violent.

13 Even without the break and enter aspect  
14 the objective seriousness of the crime of sexual  
15 assault, standing alone, is also reflected by  
16 the maximum penalty that can be imposed for that  
17 offence, which is ten years. Sexual assault  
18 on its own is also an objectively very serious  
19 crime.

20 The Courts in this jurisdiction have long  
21 recognized that sexually assaulting someone by  
22 having forced intercourse with them is a very  
23 serious type of sexual assault, one where the  
24 offender's moral blameworthiness is high, because  
25 that type of offence shows the complete and  
26 blatant disregard for the personal integrity  
27 and dignity of the person assaulted.

1           For this type of serious sexual assault  
2           this Court and our Court of Appeal have  
3           repeatedly stated that the starting point in  
4           sentencing should be three years imprisonment.  
5           This is not a minimum sentence, it is simply  
6           a starting point that reflects the seriousness  
7           of the offence and the moral blameworthiness  
8           of those who commit it, and from the starting  
9           point the sentence must be adjusted to reflect  
10          whatever mitigating or aggravating circumstances  
11          exist.

12           Obviously when such a serious sexual assault  
13          also involves the invasion of a victim's home,  
14          as is the case here, that is aggravating. It  
15          is provided for in Section 348.1, but it would  
16          be aggravating even in the absence of that  
17          provision. The criminal record of Mr. Sikyea  
18          is another aggravating factor, and I will  
19          address it in more detail in a moment.

20           There are no mitigating factors here;  
21          defence counsel has conceded that. I will  
22          give credit, within the parameters that the  
23          law allows, to Mr. Sikyea for the time that  
24          he has spent in pre-trial custody. The net  
25          effect of that will be to reduce the length  
26          of the sentence that otherwise would be imposed,  
27          but it is not truly a mitigating factor. It is



1 not something about him or about the offence  
2 that makes matters less serious or deserving  
3 of a lesser punishment.

4 Mr. Sikyea's aboriginal descent is something  
5 that I am required to consider under our law.  
6 Parliament, recognizing the overrepresentation  
7 of aboriginal offenders in Canadian jails, has  
8 included in the sentencing principles that the  
9 requirement of restraint, which always applies  
10 on sentencing, be given special attention,  
11 special effect when dealing with aboriginal  
12 offenders. That provision has been interpreted  
13 by the Supreme Court of Canada as requiring  
14 Courts to approach the sentencing of aboriginal  
15 offenders with a different lens, one that takes  
16 into account the systemic factors that the  
17 offender has faced as an aboriginal person  
18 and may have contributed to that person coming  
19 into conflict with the law. Courts also have  
20 to consider whether a more restorative approach  
21 to sentencing is justified and better suited for  
22 an offender given their aboriginal background.

23 I accept, based on the submissions of his  
24 counsel, that Mr. Sikyea has been exposed to  
25 some of the systemic factors that many aboriginal  
26 offenders face. His parents went to residential  
27 school, his mother abused alcohol and lacked

1 parenting skills. Fortunately for Mr. Sikyea  
2 he had supportive grandparents who raised him  
3 and support him to this day, as demonstrated  
4 by the fact that his grandmother travelled  
5 here this week to attend court earlier in  
6 these proceedings.

7 Mr. Sikyea himself turned to alcohol, and  
8 it is obvious to me from the evidence we heard  
9 at this trial that he suffers from an alcohol  
10 problem. Some of the comments that he made to  
11 the police officer in his statement, which came  
12 out during the trial in the context of his being  
13 cross-examined on that statement, reflect the  
14 reality that he himself recognized that he  
15 gets into trouble when he consumes alcohol.  
16 The question, of course, is why he has not  
17 done anything to deal with that issue.

18 I am aware of the obligations that fall  
19 upon me as a sentencing judge arising from  
20 the fact that this offender is aboriginal and  
21 of the onus that it places on me to approach  
22 his sentencing with a different lens, and I am  
23 thankful to counsel for having provided me with  
24 information about Mr. Sikyea's background and  
25 some of the struggles that he has faced.

26 At the same time, the Supreme Court of  
27 Canada has recognized that when dealing with

1 serious offences and with offenders who pose  
2 a serious threat to the community it may not be  
3 possible to deal with aboriginal offenders any  
4 differently than with non-aboriginal offenders,  
5 and I think that is the situation here. Where  
6 someone repeatedly commits serious offences  
7 that harm fellow community members, which in  
8 this jurisdiction are often other aboriginal  
9 people, the different approach that the Court  
10 has to consider using in dealing with aboriginal  
11 offenders cannot result in the imposition of  
12 sentences other than jail terms if that is what  
13 is required to protect the public.

14 I think defence counsel, who is a very  
15 experienced defence counsel, recognizes this,  
16 because he is not suggesting otherwise. He is  
17 not asking me not to impose a jail term, and it  
18 would be very unrealistic if he did. It is very  
19 sad that people like Mr. Sikyea are exposed at  
20 a young age to difficult circumstances, hardship  
21 and abuse. There is little doubt that exposure  
22 to such things makes it more likely that they  
23 will run into problems with the law, develop  
24 addictions and behavioral problems. The Court  
25 is not without empathy for that situation and  
26 the Court is not without empathy for Mr. Sikyea.  
27 Unfortunately, the Court is left today with

1 dealing with this particular offender and has  
2 to be realistic about the risk that he now  
3 presents to others. The Court has to be  
4 realistic about the abuse that Mr. Sikyea  
5 inflicted on this victim, and on his other  
6 victims, and of the very real risk that he  
7 could harm someone again.

8 The Court has very limited tools to deal  
9 with the underlying problems that lead to this  
10 conduct as part of a sentencing hearing. In  
11 fact, the Court has no tools at all to address  
12 those problems. All the Court can hope is that  
13 while in jail Mr. Sikyea will have access to  
14 services and resources that will help him deal  
15 with the underlying issues that he faces.

16 All this to say, this is not a case where  
17 the fact that Mr. Sikyea is of aboriginal descent  
18 is something that can justify not imposing a  
19 jail term, nor do I think under the circumstances  
20 that it can justify imposing a shorter jail term  
21 than what is required to protect the public  
22 and achieve the principles and purposes of  
23 sentencing.

24 The Crown is seeking a jail term of seven  
25 to eight years. The defence acknowledges that  
26 jail must be imposed, and a significant jail  
27 term must be imposed, but asks that I exercise

1 restraint and impose a sentence in the range  
2 of five to five and a half years. I raised  
3 on my own the issue of whether this was a case  
4 that the Court should order that Mr. Sikyea  
5 serve at least half of his sentence before being  
6 eligible for parole. After having considered its  
7 position the Crown is asking me to do just that.  
8 The defence is urging me not to given the fact  
9 that Mr. Sikyea, when he has not been in jail  
10 in recent years, has shown an ability to have  
11 initiative, find work, a willingness to put  
12 himself out there and re-locate to places  
13 where he could find work, and that he has  
14 some marketable skills that can assist him  
15 in turning his life around if he chooses to  
16 do so.

17 The Crown has referred me to three cases  
18 in support of its position. Two of them, R. v.  
19 Gladue 2011 ABCA 378 and R. v. Janvier 2011 SKCA  
20 133, are examples where home invasions were  
21 treated as an aggravating factor on sentencing.  
22 They are also examples where sentences in the  
23 range similar to what is sought by the Crown  
24 here were imposed. But there are several  
25 distinguishing factors between this case and  
26 those two cases, and I agree with defence counsel  
27 that they are not of significant assistance in

1 supporting the range of sentence that the Crown  
2 seeks.

3           What I mean by that is that those sentences  
4 of seven years in those cases may well have been  
5 appropriate, but from the reasons that led to  
6 those sentences being imposed it seems that  
7 the considerations that led to that range  
8 were different, even though what is common to  
9 the three cases is the home invasion element.  
10 For example, things like the use of a weapon,  
11 the existence of a spousal or trust relationship  
12 between the offender and the victim, prior  
13 violence against the same victim, are all things  
14 that would be significant aggravating factors and  
15 are not present here. On the other hand, in this  
16 case the offender has a prior related conviction  
17 for a sexual offence, a fact that does not appear  
18 to have been present in either of the two cases  
19 filed. So the cases are distinguishable.

20           The sentencing decision that relates to  
21 Mr. Sikyea's previous sexual assault conviction,  
22 though, is significant, and it is significant for  
23 a number of reasons. First, the sentence imposed  
24 in that case was five years. The actual further  
25 jail term imposed was less than that because of  
26 the remand time, but the Court concluded that  
27 a fit sentence in that case was five years.

1           That is a significant sentence, even after  
2           trial, for someone with the relatively limited  
3           criminal record that Mr. Sikyea had at that  
4           time. That sentence was imposed for an offence  
5           of sexual assault only, because the jury did  
6           not find Mr. Sikyea guilty of break and enter;  
7           although to be fair, the Court did treat the  
8           fact that this happened in the complainant's  
9           home as an aggravating factor.

10                   But more importantly, the information  
11           disclosed in the decision from 2005 about  
12           some of Mr. Sikyea's other convictions is very  
13           disturbing. The Crown has referred to this in  
14           her submissions, but for the purpose of these  
15           reasons for sentence I think it is important  
16           that I refer to it as well, and I am quoting  
17           from page 4 of the decision where the Court  
18           is talking about the record. Of course, the  
19           Court is talking at that point about some of  
20           the convictions that pre-date 2005. The Court  
21           said:

22  
23                   There are four instances where  
24           Mr. Sikyea got into a home without  
25           permission, and in each case was  
26           found in the bedroom, or the doorway  
27           of the bedroom, of a sleeping woman

1 or young girl. In one instance,  
2 the mischief conviction in March of  
3 2003, the circumstances were similar  
4 to this offence in that the victim  
5 was sleeping on a mattress on the  
6 floor with her boyfriend on a couch  
7 nearby, and she awoke to find  
8 Mr. Sikyea on the mattress beside  
9 her.

10

11 In none of those prior instances  
12 did Mr. Sikyea sexually assault  
13 the victim, but of course, however,  
14 that may have been only because  
15 she did wake up. Clearly, however,  
16 it has to be of concern that  
17 Mr. Sikyea has been so often  
18 found lurking and watching around  
19 sleeping women.

20

21 Evidently this information was disturbing  
22 to the Court in 2005. Knowing now that there  
23 was a further instance where Mr. Sikyea broke  
24 into a residence and sexually assaulted a person  
25 who was in a vulnerable state, sleeping and  
26 alone, it is of great concern to this Court  
27 today. In the 2005 sentencing it appears from



1 the reasons for sentence that Mr. Sikyea attacked  
2 a woman who was sleeping next to her boyfriend,  
3 and it also appears from the decision that when  
4 that woman woke up and started screaming at him  
5 he left.

6 In the trial I heard this week the victim  
7 was more vulnerable because she was alone in the  
8 house, and Mr. Sikyea knew that. In addition,  
9 when she woke up and started to resist he did not  
10 leave. He overpowered her and continued what he  
11 was doing. That type of escalation, to my mind,  
12 is of great concern.

13 There are similarities between the crime  
14 that I must now sentence Mr. Sikyea for with  
15 the crime that led to his 2005 sentencing.  
16 As I said, there are differences, but they  
17 are not in Mr. Sikyea's favour: There was  
18 a greater vulnerability on the part of the  
19 victim, and more force was used once she  
20 woke up.

21 Restraint is an important sentencing  
22 principle. A sentence should never be longer  
23 than what is required to achieve the objectives  
24 of sentencing and uphold sentencing principles  
25 that govern the Court. Mr. Sikyea has already  
26 received a significant jail term for this type  
27 of crime, and even after serving that long

1 sentence, apart from the offence I am sentencing  
2 him for today, he has not stayed out of trouble.  
3 He has involved himself with drugs and he has  
4 committed other offences. That, combined with  
5 what he did in September of 2011, suggests that  
6 he continues to present a very real threat for  
7 the safety of his community.

8 The paramount sentencing consideration  
9 here has to be the protection of the public.  
10 General deterrence and denunciation are also  
11 important factors and principles because of  
12 the prevalence of the crime of sexual assault  
13 in the Northwest Territories. Unfortunately,  
14 this Court has numerous occasions to comment  
15 on the prevalence of this type of offence.  
16 It is disconcerting how frequently sexual  
17 assaults occur in this jurisdiction, and it  
18 seems that no matter how many times the Court  
19 talks about denouncing that behavior and the  
20 harm it causes it continues to happen.

21 Going back to what I said before, the  
22 Court only has limited tools to respond, and  
23 all it can do is continue to respond sternly  
24 when these types of crimes are committed.  
25 I do not know what it will take for Mr. Sikyea  
26 to change his ways. He has five children and  
27 he is still quite young. He is able to work

1 and he obviously has some good skills and good  
2 potential. I do not doubt, as he told the police  
3 and to some extent as he said during the trial,  
4 that alcohol is a big contributor to him getting  
5 into trouble.

6 But, as the judge found in 2005, I am unable  
7 to accept that alcohol is the only reason. Many  
8 people drink, sometimes too much, and do not  
9 go out breaking into people's home and raping  
10 them. There are deeper issues here. I am not  
11 a psychologist, psychiatrist or an expert in  
12 such things, but it is evident from the criminal  
13 record that there are deeper issues here. The  
14 Court pointed this out when sentencing Mr. Sikyea  
15 over seven years ago, and unfortunately I have to  
16 point that out to him again today.

17 In the 2005 decision the Court noted that  
18 Mr. Sikyea had only been out of jail for a few  
19 days from his previous sentence when he committed  
20 that sexual assault. On that matter he was  
21 on remand until his trial and then received a  
22 lengthy jail term. I do not know when he was  
23 released from that sentence, but looking at his  
24 subsequent offences and the fact that there was  
25 remand time on those as well, it is clear that  
26 he has spent a good portion of the last decade  
27 in custody.

1           I heard earlier today that he was released  
2           from his last sentence of two years less a day  
3           in June of 2011. He committed this offence that  
4           I am sentencing him for today within a matter of  
5           months. The sad conclusion I have to draw from  
6           this is that he continues to be a serious threat  
7           to members of his community. The offence he  
8           committed in 2011, like the one for which he  
9           was sentenced for in 2005, was predatory in  
10          nature, it was serious and it caused great harm.  
11          I do not have the benefit of a victim impact  
12          statement in this case, but as I mentioned in  
13          my reasons for decision on the trial, I observed  
14          the complainant during her testimony. I saw the  
15          emotional and physical reactions that she had  
16          while she was talking about these events, and it  
17          is obvious that she remains affected by it until  
18          this day.

19                 Mr. Sikyea was entitled to have a trial and  
20                 he should not be punished more harshly because he  
21                 exercised that right. But his evidence at trial  
22                 shows that he is completely unwilling to take  
23                 any responsibility for his actions. He put the  
24                 entire responsibility for these events on the  
25                 complainant. Until and unless he is willing  
26                 to face his own responsibility for things, until  
27                 he deals not only with his alcohol problem but

1           also whatever underlying problems are making him  
2           target women in this way, he will continue to be  
3           a threat.

4           The Court does hope that he will get help  
5           during this sentence, that he will make the most  
6           of that help to address the underlying issues  
7           that make him act this way, because as I said the  
8           Court is not without empathy for the struggles he  
9           has faced growing up, and the Court is aware that  
10          the road to recovery from such things is a long  
11          one. But the Court would be remiss in its duty  
12          if it did not recognize the seriousness of this  
13          conduct and the threat that he poses.

14          The sentence imposed in 2005 should not  
15          be treated as a minimum sentence or a starting  
16          point, and to that extent I agree with defence  
17          counsel. The so-called step principle or jump  
18          principle in many ways is not really a principle  
19          in my view; it is more a recognition of the  
20          logical fact that if someone commits the same  
21          offence over and over again and persists in the  
22          conduct that person can expect to be dealt with  
23          more severely over time. Recidivists are treated  
24          more severely than first offenders.

25          But when I apply the three-year starting  
26          point that I am bound to apply, when I note  
27          the absence of mitigating factors and I take

1           into account the aggravating factors, including  
2           the criminal record, when I take into account  
3           Mr. Sikyea's own circumstances, I conclude that  
4           the sentence to be imposed this time has to be  
5           more significant than the sentence that was  
6           imposed the last time for essentially a very  
7           similar offence.

8           However, after consideration I have  
9           decided not to exercise my discretion to delay  
10          Mr. Sikyea's eligibility for parole pursuant  
11          to Section 743.6 of the Criminal Code. I have  
12          reviewed the decision of R. v. Zinck [2003]  
13          1 S.C.R. 41 of the Supreme Court of Canada  
14          where that provision was interpreted, which has  
15          reminded me of some of the governing principles  
16          that must be taken into account when making this  
17          type of decision. It is a provision that should  
18          be used in rare circumstances.

19          After some hesitation, because I am  
20          concerned about the risk that Mr. Sikyea  
21          presents to the public, considering that he  
22          will be in jail for a lengthy period of time,  
23          I have concluded that the monitoring of his  
24          progress, the assessment of his risk level,  
25          is better left with the correctional authorities  
26          and the people who will have day-to-day contact  
27          with him over a period of time.

1           But in order to make sure that those  
2           authorities are aware of my concerns and  
3           aware that these concerns stem not just from  
4           what happened in 2011, but for the pattern that  
5           has emerged since 2003 and possibly before that,  
6           I am going to direct that a copy not only of the  
7           transcript of my reasons for sentence, but also  
8           a copy of my reasons for judgement in this case,  
9           and a copy of the 2005 reasons for sentence  
10          from this Court, that all of these materials  
11          be provided to the correctional authorities.

12           I can only hope that with this information  
13          and other information the authorities will  
14          be able to gather that they will ensure  
15          that Mr. Sikyea is exposed to the type of  
16          programs and treatment that he needs to get,  
17          if possible to get to the root causes that  
18          underlie his conduct. Because otherwise it  
19          is almost inevitable that at some time in the  
20          future there will just be another victim, and  
21          if Mr. Sikyea is convicted again of something  
22          like this he will find himself at the receiving  
23          end of an application to have him declared a  
24          dangerous offender and the Crown seeking to have  
25          him incarcerated indefinitely. And that is not  
26          something that is in Mr. Sikyea's best interest.  
27          So the only positive thing that I can think of

1           that could come out of the sad events that led  
2           to this case is if it can be a turning point  
3           for him.

4           I will grant the ancillary orders that the  
5           Crown has sought. First of all, there will be  
6           a DNA order because this is a primary designated  
7           offence. There will be an order that Mr. Sikyea  
8           comply with the Sexual Offender Information  
9           Registration Act. This requirement will be  
10          in force for the rest of his life because he  
11          has already been subject to an order as far  
12          as the 2005 sentence. For a subsequent order  
13          it has to be for life.

14          There will be a firearms prohibition order.  
15          Now, the Crown has asked that it be consecutive  
16          to the existing order which was made in relation  
17          to the 2005 sentence. Because I do not know  
18          on what date Mr. Sikyea was released from  
19          that sentence I do not know when that firearm  
20          prohibition order will expire. But the intent  
21          is that the order that I make today expire ten  
22          years after the expiration of the existing one.  
23          So Mr. Clerk, the wording should be that the  
24          order commences today and expires ten years  
25          after the expiration of the order made in 2005.

26          There will not be a victim crime surcharge  
27          in this case because of the amount of time that



1 Mr. Sikyea has spent on remand and the length  
2 of the jail term that I will impose on him today.

3 There will be an order for the return of  
4 any exhibits seized that are appropriate to be  
5 returned to their rightful owner. Any other  
6 exhibits will be destroyed, but all of this  
7 of course only at the expiration of the appeal  
8 period.

9 Mr. Sikyea, stand up, please.

10 Mr. Sikyea, it gives me no joy at all to  
11 send someone to jail for a long time, but based  
12 on everything I heard this week I feel I have  
13 no choice. For the break and enter and sexual  
14 assault that you committed I have decided that  
15 a fit sentence is a sentence of seven years.  
16 I am going to give you credit for 17 months  
17 for the time that you spent on remand, pre-trial  
18 custody. So there will be a further jail term  
19 of five years and seven months. You can sit  
20 down.

21 Are there any questions, counsel, or any  
22 requirements for clarification or anything that  
23 I have overlooked?

24 MR. BOYD: Nothing from the defence, Your  
25 Honour.

26 MS. VAILLANCOURT: Nothing from the Crown, Your  
27 Honour.

1 THE COURT: Thank you. Before we close  
2 court I want to thank counsel for your work on  
3 this case and your professional conduct of it,  
4 and the court staff for their work, particularly  
5 my thanks to Mr. Court Reporter for assisting me  
6 with a transcript of the evidence. With that we  
7 will close court.

8 -----

9  
10 Certified to be a true and  
11 accurate transcript, pursuant  
12 to Rules 723 and 724 of the  
13 Supreme Court Rules.

14 \_\_\_\_\_  
15 Joel Bowker  
16 Court Reporter

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