

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

RUSSELL DEAN DOLL

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Transcript of the Reasons for Sentence held before  
The Honourable Justice K. Shaner, in Yellowknife, in the  
Northwest Territories, on the 13th day of December, 2013

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APPEARANCES:

M. Lecorre, Esq.: Counsel on behalf of the Crown

T. Bock, Esq.: Counsel on behalf of the Accused

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Charges under S. 151 Criminal Code of Canada

BAN ON PUBLICATION OF THE COMPLAINANT PURSUANT TO  
SECTION 486.4 OF THE CRIMINAL CODE

1 THE COURT: Before I begin to give my  
2 reasons for sentence and my decision, I will just  
3 reaffirm that there is a publication ban in place  
4 respecting publication of any information that  
5 would identify the victim in this case. And for  
6 that reason, when I am going through my reasons,  
7 I will not be referring to her by name. I will  
8 be calling her "the victim".

9 Following a trial by judge alone, Russell  
10 Doll was convicted of sexual interference  
11 contrary to Section 151 of the Criminal Code, and  
12 that conviction was entered on  
13 November 13th, 2013.

14 The events took place in Yellowknife between  
15 February 1st and May 31st, 2005. The victim  
16 lived in a three-bedroom apartment in Yellowknife  
17 with her father and her older brother. The  
18 victim's father and Mr. Doll were acquainted  
19 through mutual friends.

20 Mr. Doll had been living in a cabin on the  
21 highway, which was heated only by wood. It was  
22 cold and he needed a place to stay. The victim's  
23 father took him in. The victim, her brother, and  
24 Mr. Doll all had their own bedrooms in the  
25 apartment, and the victim's father slept in the  
26 living room. The victim, who is now 14, was 5 or  
27 6 years old at the time that this occurred.

1           From the evidence, it is clear that life in  
2           the apartment was not geared towards children.  
3           Mr. Doll and the victim's father, we heard, drank  
4           alcohol and used drugs frequently. Neither was  
5           working, although Mr. Doll was earning some  
6           income through carving. They did not pay any  
7           rent, and eventually the victim's family was  
8           evicted from the apartment.

9           Mr. Doll was alone with the victim from time  
10          to time and provided care for her. He described  
11          her as a defiant child, and he said she was a  
12          normal kid, but that he found that she was easily  
13          triggered. If she could not get her way, she  
14          would throw temper tantrums.

15          On two occasions, once while her father was  
16          in the apartment and once when he was alone with  
17          her, Mr. Doll touched the victim's vagina. On  
18          another occasion, again when he was alone with  
19          her, he attempted to take her clothes off, but he  
20          was interrupted by her father.

21          The first incident happened in the bedroom  
22          and started while the victim was asleep, and  
23          while her father was sleeping in the living room.  
24          She had been sleeping in a Halloween costume, and  
25          she awoke to find Mr. Doll unzipping it. She  
26          tried to keep him from undoing it by stiffening  
27          her body, but she was not successful. He then

1           proceeded to touch her vagina under her clothes.

2           The victim managed to get out of the room,  
3           and she went to get her father who was sleeping  
4           in the living room. Mr. Doll followed her out  
5           and entered the kitchen which was open to the  
6           living room. He told her that her father was  
7           asleep and that she should not wake him. She  
8           obeyed and went back to her room and went to  
9           sleep.

10          The second time, Mr. Doll entered the  
11          victim's bedroom and tried to unzip her clothing.  
12          This time her father was out of the apartment.  
13          However, before Mr. Doll could get her clothing  
14          undone, her father came home and Mr. Doll quickly  
15          exited her room.

16          The third incident happened again in the  
17          victim's bedroom and again while she was alone  
18          with Mr. Doll. He was babysitting her. She was  
19          wearing a nightgown. Mr. Doll removed her  
20          underwear and touched her vagina.

21          The victim told her father what happened  
22          some years later when she was 9 years old.

23          The Court heard today about Mr. Doll's  
24          circumstances. He is 53 years old, and he is an  
25          accomplished carver. He was born and raised in  
26          Drayton Valley, Alberta, and he is Métis. His  
27          lawyer described a very difficult childhood,

1 where Mr. Doll witnessed domestic violence  
2 between his parents and alcohol abuse, where he  
3 himself was the victim of abuse while living at  
4 an orphanage between the ages of 1 and 3 years.

5 Following his parents' separation, Mr. Doll  
6 and his brothers were raised by their father, and  
7 he grew up in poverty with very little oversight  
8 or supervision. He left home and began using  
9 drugs at a very young age. His problems with the  
10 law began at a very young age as well, and he  
11 attributes this to the lack of guidance and  
12 supervision that I just noted. Nevertheless,  
13 Mr. Doll managed to hold down jobs, and with his  
14 partners raised three children. As well, as I  
15 noted earlier, he has enjoyed a measure of  
16 success as a carver.

17 The Criminal Code sets out the principles  
18 and objectives of sentencing that provide a  
19 framework to guide judges in imposing a sentence  
20 that is just and appropriate. It is a highly  
21 individualized process. The objectives are set  
22 out in Section 718 of the Criminal Code, and I am  
23 not going to go through each one of them. I will  
24 say, however, that the emphasis placed on each of  
25 these objectives very much depends on what the  
26 offence is, the circumstances under which it was  
27 committed, and the circumstances of the offender.

1           Where the offence involves the abuse of a  
2           person under the age of 18, as is the case here,  
3           primary consideration is to be given to the  
4           objectives of denunciation, which is an  
5           expression of society's abhorrence of particular  
6           conduct, and deterrence, both for the offender  
7           and for the public at large.

8           There are a number of principles that guide  
9           judges in giving effect to these objectives, and  
10          these too are included in the Criminal Code. The  
11          most important principle is proportionality,  
12          which means that a sentence must reflect the  
13          gravity of the offence and the degree of  
14          responsibility of the offender.

15          Judges must consider aggravating and  
16          mitigating factors and increase or reduce  
17          sentences accordingly.

18          The Criminal Code deems a number of factors  
19          to be aggravating, although this is not an  
20          exclusive list. The factors included in the  
21          Criminal Code are evidence that an offender  
22          abused a person under the age of 18, and that the  
23          offender was in a position of trust vis-a-vis the  
24          victim.

25          The Court is also guided by the principles  
26          of restraint and parity. The latter means that  
27          sentences should be similar for like offences and

1           circumstances. In applying the principle of  
2           restraint, the Court must give consideration to  
3           all available sanctions other than imprisonment  
4           that are reasonable in the circumstances, with  
5           particular attention to the circumstances of  
6           Aboriginal offenders. The importance of that  
7           principle was recently reaffirmed by the Supreme  
8           Court of Canada in R. v. Ipeelee. As I have  
9           noted earlier, Mr. Doll is Métis.

10                   There are a number of aggravating  
11           circumstances in this case. The victim, who was  
12           a child of no more than 6, was highly vulnerable.  
13           Mr. Doll was entrusted with her care. The events  
14           occurred when she was asleep or about to go to  
15           asleep. They occurred when she was alone. On  
16           one occasion, however, Mr. Doll was so bold as to  
17           touch the victim's vagina while her father slept  
18           in the living room. And when the victim went to  
19           her father for help, Mr. Doll, an adult, told  
20           this child to leave her father alone.

21                   It is aggravating that there was not just  
22           one, but three instances of sexual touching over  
23           a relatively short period of time. I consider  
24           the incident where Mr. Doll attempted to remove  
25           the victim's clothing but was interrupted by her  
26           father to be an incident of sexual touching.  
27           Touching genitalia is not necessary.

1           Mr. Doll has an extensive criminal record,  
2           and it, too, is aggravating. It dates back to  
3           1978, with convictions sustained almost every  
4           year since that time. It contains 32  
5           convictions, including six convictions for  
6           assault.

7           There is, by contrast, very little in the  
8           way of mitigation. There was no guilty plea, and  
9           I do pause to emphasize that that is not an  
10          aggravating factor. However, it means that there  
11          is the absence of that as a mitigating factor.

12          Mr. Lecorre for the Crown seeks a custodial  
13          sentence of four years as well as a number of  
14          ancillary orders. It is the Crown's position  
15          that this is necessary to achieve the objectives  
16          of sentencing, particularly denunciation and  
17          deterrence, and as I noted earlier those must be  
18          given primary consideration.

19          In support of its position, the Crown relies  
20          upon the decision of my colleague Justice  
21          Charbonneau in R. v. Griffin [2013] N.W.T.J. No.  
22          98, and the 1992 decision of the Alberta Court of  
23          Appeal in R. v. W.B.S., R. v. Powderface [1992]  
24          A.J. No. 601; 127 A.R. 65. These are, in my  
25          view, reflective of the law that is to be applied  
26          in sentencing in this case.

27          The defence submits that a sentence of two



1 years less a day in custody followed by three  
2 years of probation would be more appropriate, and  
3 defence counsel made a number of submissions in  
4 support of this. However, Mr. Doll bears a very  
5 high degree of moral blameworthiness in this  
6 case, and in my view the objectives of  
7 denunciation and deterrence will be achieved only  
8 if there is a significant custodial sentence.

9 Sex crimes against children occur all too  
10 often, and the consequences are nothing short of  
11 profound. A victim's self-perception, their  
12 self-esteem, his or her very life is changed in  
13 an instant. Even in the absence of physical  
14 wounds, the emotional harm takes many years to  
15 heal, if it does at all. Adults who commit these  
16 crimes violate children's trust and take  
17 advantage of their weaker position and their  
18 tendency to comply with adult direction.  
19 Mr. Doll's actions were both predatory and  
20 opportunistic.

21 In her victim impact statement, the victim  
22 described her life and what has happened as a  
23 result of Mr. Doll's actions. She has trouble  
24 sleeping. She has tried to kill herself. She  
25 started drinking and using drugs and getting into  
26 fights with people. She has flashbacks. She  
27 gets scared if she sees anyone who looks like

1 Mr. Doll.

2 The last sentence of her statement reads:

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4 But after a while I didn't  
5 want to be around anyone, and  
6 I would just stay at home and  
7 try and sleep, which usually  
8 never worked so I'd just lay  
9 there and think of what my  
10 childhood would have been like  
11 if Russell hadn't ruined it.

12

13 I have considered Mr. Doll's Aboriginal  
14 status and history. His childhood was, to say  
15 the very least, difficult, but there is no link  
16 that has been demonstrated between this difficult  
17 childhood and his being Métis.

18 Unfortunately, in the circumstances, there  
19 are no reasonable alternatives to a long period  
20 of incarceration. A sentence with a shorter  
21 period of incarceration followed by probation  
22 would not, in this case, achieve the important  
23 objectives of denunciation and deterrence. As  
24 well, Mr. Doll's record clearly shows that he has  
25 not benefitted from any attempts at  
26 rehabilitation to date.

27 Finally, given the predatory and

1 opportunistic nature of this crime and the  
2 profound impact that it has had on the victim's  
3 life, it is important that Mr. Doll is separated  
4 from society and that society is protected from  
5 him.

6 Mr. Doll stand up.

7 Upon é convicted of sexual interference and  
8 upon considerations of the circumstances and the  
9 nature of the offence as well as your personal  
10 circumstances, I sentence you to a term of four  
11 years' imprisonment. That term will be reduced  
12 by the amount of time you have spent in custody  
13 awaiting the disposition of your case since  
14 conviction on a one-to-one basis, which is as of  
15 today 29 days. Do you understand?

16 THE ACCUSED: Yeah.

17 THE COURT: You can be seated.

18 I now turn to ancillary orders that were  
19 requested by the Crown. The Crown requested an  
20 order pursuant to Section 161(a) and 161(b) of  
21 the Criminal Code. The circumstances here, while  
22 they are very serious in my view, do not justify  
23 imposing restriction under Section 161(a), which  
24 would prohibit Mr. Doll from attending at certain  
25 public areas where children are likely to be  
26 present.

27 However, given the opportunistic nature of

1 the crime, an order under 161(b) is justified.  
2 And, accordingly, Mr. Doll will be prohibited  
3 from obtaining employment, whether remunerated or  
4 not, or becoming a volunteer in a capacity that  
5 involves é in a position of trust or authority  
6 towards any person under the age of 16 years, and  
7 this will be in effect for life.

8 The Crown also asks that I impose a firearms  
9 prohibition under Section 109 of the Criminal  
10 Code. That section provides for a mandatory  
11 prohibition where a person is convicted of an  
12 indictable offence in the commission of which  
13 violence against a person was used, threatened,  
14 or attempted, and for which the person may be  
15 sentenced to a term of ten years or more.

16 I sought further submissions from the Crown  
17 and defence counsel on whether the actions  
18 perpetrated against the victim in this case were  
19 violent in the sense that that term is used in  
20 Section 109 of the Criminal Code. In saying  
21 this, I emphasize again that I do not suggest in  
22 any way that there is not a degree of inherent  
23 violence in all sexual crimes. The question I  
24 raised was whether here that violence was such  
25 that Section 109 becomes engaged, and I accept  
26 the Crown's submissions that it is. Force was  
27 used against the victim to remove or attempt to

1 remove her clothing and to touch her genitals.  
2 On the first occasion, it will be recalled that  
3 the victim stiffened her body so that Mr. Doll  
4 could not take her clothing off. She tried to  
5 resist the touching, but she could not.

6 Accordingly, there will be an order for a  
7 firearms prohibition under Section 109 of the  
8 Criminal Code for a period of ten years.

9 There will also be an order for bodily  
10 fluids to be taken from Mr. Doll for DNA  
11 analysis, and an order requiring him to comply  
12 with the Sex Offender Information Registration  
13 Act pursuant to Section 490.012 of the Criminal  
14 Code. That will be in effect for 20 years.

15 Mr. Doll, you have expressed through your  
16 lawyer your views that the circumstances of your  
17 childhood have led you to having so much conflict  
18 with the law and led you here today. The fact  
19 is, however, that you alone are responsible for  
20 your actions. You will in prison no doubt be  
21 offered many opportunities to take programming  
22 that will assist you in dealing with the trauma  
23 you suffered through the events and circumstances  
24 of your childhood. You should take advantage of  
25 these. You are in charge of yourself, and it is  
26 up to you to change.

27 Counsel, is there anything else?

1 MR. LECORRE: Just the surcharge, Your  
2 Honour, the victims of crime surcharge. This is  
3 a case that -- it's before the new amendment, so  
4 it is discretionary, and -- well, considering  
5 Mr. Doll is going to be in jail for a fairly long  
6 time, the Crown has no objection to Your Honour  
7 waiving the surcharge in the circumstances.

8 THE COURT: There will be no victims of  
9 crime surcharge.

10 Is there anything further?

11 MR. LECORRE: Not from the Crown, Your  
12 Honour.

13 THE COURT: All right. Thank you.

14 This is concluded then.

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16 PROCEEDINGS CONCLUDED

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24 CERTIFICATE OF TRANSCRIPT

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1 I, the undersigned, hereby certify  
2 that the foregoing pages are a complete and  
3 accurate transcript of the proceedings taken down  
4 by me in shorthand and transcribed from my  
5 shorthand notes to the best of my skill and  
6 ability.

7 Dated at the City of Edmonton,  
8 Province of Alberta, this 13th day of  
9 January, 2014.

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Christine Bos, CSR(A)

