

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

BRUNO SIMPSON

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Transcript of the Reasons for Sentence delivered by The Honourable Justice K. Shaner, sitting in Yellowknife, in the Northwest Territories, on the 1st day of September, 2015.

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APPEARANCES:

Ms. J. Scott: Counsel for the Crown

Mr. T. Bock: Counsel for the Accused

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

No information shall be published in any document or broadcast or transmitted in any way which could identify the victim or a witness in these proceedings pursuant to s. 486.4 of the Criminal Code

1 THE COURT: Mr. Bruno Simpson entered a  
2 guilty plea to a charge of break and entering  
3 with the intent to commit the indictable offence  
4 of sexual assault on the victim contrary to  
5 Section 348(1)(b) of the Criminal Code.

6 I have had an opportunity to consider your  
7 submissions, counsel, as well as the facts that  
8 are agreed upon, the pre-sentence report of March  
9 26th, 2014, and the Victim Impact Statements, as  
10 well as Mr. Simpson's criminal record and the  
11 previous Victim Impact Statement from the  
12 previous proceedings. So I will give my decision  
13 on sentence and the reasons for it now.

14 Counsel made a joint submission for three  
15 years' custody and, from this, there would be  
16 deducted credit for pre-sentence custody of nine  
17 months, or 274 days, leaving a period of two  
18 years and three months to be served.

19 Although this is a penitentiary term  
20 sentence, counsel indicated that it is  
21 anticipated Mr. Simpson will serve his sentence  
22 here in the Northwest Territories at the North  
23 Slave Correctional Centre, where he has been  
24 incarcerated since December 2nd of 2014, and  
25 arrangements have been made by the Crown for  
26 Mr. Simpson to take sex offender and substance  
27 abuse programming at NSCC during the term of

1 custody that I am going to impose.

2 For reasons that I am going to provide  
3 presently, I find the sentence that is proposed  
4 jointly by counsel is within the range for this  
5 offence, and taking into account the aggravating  
6 and mitigating factors as well as the impact on  
7 the victim and her mother and Mr. Simpson's own  
8 personal circumstances, it is appropriate and it  
9 is the sentence that should be imposed.

10 The sentence of three years' custody will  
11 achieve the primary objectives of denunciation  
12 and deterrence while at the same time promoting  
13 rehabilitation and recognition of the systemic  
14 factors which diminish, somewhat, moral  
15 blameworthiness on the part of this offender.

16 Throughout these reasons I will be referring  
17 to the victim as "the victim" rather than by her  
18 name or by her initials as there is a publication  
19 ban respecting information which would identify  
20 her.

21 A statement of agreed facts, which has been  
22 marked as Exhibit S1, was read into the record.  
23 I am not going to repeat those facts verbatim  
24 here, but I will summarize them so that there is  
25 some context to these reasons.

26 On the evening of December 1st, 2014, the  
27 victim, who was 13 years old at the time, was

1 sleeping in the bedroom of her home in a small  
2 community in the Northwest Territories. She  
3 awoke to find Mr. Simpson in her bedroom. She  
4 moved to the corner of her bed, under the covers,  
5 and told Mr. Simpson to leave. He asked her why  
6 and then proceeded to get on her bed and he tried  
7 to get on top of her. The victim pushed him  
8 away, telling him again to leave. He did not.  
9 He kept asking, "Why?" During the time he was on  
10 the bed, he touched the victim's legs.

11 Having heard her daughter screaming for  
12 Mr. Simpson to leave, the victim's mother entered  
13 the room. She found Mr. Simpson who had hidden  
14 himself in the closet. She screamed at him to  
15 leave at which point he ran down the hallway and  
16 left the residence.

17 At the time of this offence, Mr. Simpson was  
18 on probation in connection with a youth  
19 conviction sustained in March 2014 for sexual  
20 assault against the same victim. He had also  
21 received a custodial sentence for that offence.

22 Both the victim and her mother prepared and  
23 filed Victim Impact Statements. The victim asked  
24 that her statement not be read aloud in court;  
25 however, it is clear that it had a tremendous  
26 impact on her and, given the circumstances, that  
27 is not at all surprising. When something like

1 this occurs in the sanctity of one's home, in  
2 one's own bedroom, it is bound to have a  
3 significant effect on the victim's ability to  
4 feel secure in an environment which ought to be  
5 safe.

6 The victim also expressed concern for the  
7 impact that this has had on her grandmother and  
8 her mother. She describes her mother as crying  
9 when relaying the incident to the police, and she  
10 does not want either of them to worry anymore.  
11 That is a tremendous burden for a child to bear.

12 Finally, she indicated that she feels safer  
13 since Mr. Simpson has been held in custody.

14 The victim's mother did request that her  
15 statement be read aloud in court. It is Exhibit  
16 S6, and pursuant to her request, I am going to  
17 read that statement aloud.

18 The victim's mother states the following in  
19 her Victim Impact Statement:

20 Since the incident, I have been  
21 feeling scared for my daughter as  
22 well as for this community and our  
23 children. I have cried just about  
24 every night, cried in fear and  
25 more paranoid on whether if the  
26 door are locked, looking through  
27 every window making sure no one is  
peeking through the windows. Just  
about every night I've heard my  
youngest daughter crying and  
hearing her made me cry with pain.  
I felt lost and miserable, but  
more I felt useless for my little  
girl. Watching her in pain,  
hiding it away from me and the

1 help we provided her with by  
2 talking to friends, services from  
3 people that come to Wekweeti, yet  
4 for many months since her 1st  
5 attack, she's been eating more and  
6 gaining so much weight. I've been  
feeling pain and confusion about  
how this could have all happened  
to my innocent baby girl. I am  
still in pain and will always feel  
it.

7 Exhibit S2 is a pre-sentence report which  
8 was prepared for the Territorial Court of the  
9 Northwest Territories respecting the other  
10 conviction. This, combined with Mr. Simpson's  
11 lawyer's submissions, provided me with valuable  
12 information about him.

13 Mr. Simpson is an aboriginal man who is now  
14 20 years old. He was 19 when this offence  
15 occurred. He has a Grade 10 education.

16 He grew up in an environment where he was  
17 able to learn traditional skills and knowledge  
18 through spending time with his father and  
19 grandfather on the land. Unfortunately, he also  
20 grew up in a home where he was subject to  
21 physical abuse at the hands of his father who  
22 abused alcohol. He also witnessed physical abuse  
23 perpetrated on his mother by his father.

24 He was sexually assaulted by an older female  
25 when he was five years old and he was sexually  
26 assaulted by a man when he was 13. Contributing  
27 to the trauma of this last event was the fact

1           that he was held for a period of time and,  
2           further, that he was unable to talk about it with  
3           anyone and obtain counselling and support for it  
4           until very recently.  Indeed, at the time that  
5           the pre-sentence report was written, he would  
6           only describe it as a traumatic event and he  
7           would not disclose the details of it.  At the  
8           same time, he felt that the whole community knew  
9           about it.

10           It was also reported that in 2013  
11           Mr. Simpson was admitted to hospital for  
12           assessment following an episode of auditory  
13           hallucinations.  At the time, he was diagnosed  
14           with drug-induced psychosis and situational  
15           crisis.  He had, prior to that, been using  
16           marijuana, which his lawyer indicates he started  
17           using around 16 years of age.  He was prescribed  
18           medication for the hallucinations.  He is not  
19           currently on medication.

20           As noted earlier, Mr. Simpson has been at  
21           North Slave Correctional Centre since December  
22           2nd, 2014, and, while there, the Court heard that  
23           he has used his time in a manner which supports  
24           his stated desire to live a productive and  
25           crime-free life.  His lawyer indicated  
26           Mr. Simpson has participated in counselling.  He  
27           watches movies with lessons about religion and

1           how to cope with life's problems. He has  
2           established positive relationships, something he  
3           has had difficulty doing historically. He works  
4           in the kitchen at NSCC beginning at 5 a.m. each  
5           day, which gives his day structure. His lawyer  
6           says this is something of which he is proud, and  
7           he has applied for another job as a gym cleaner.

8           Mr. Simpson hopes to obtain a high school  
9           education and possibly pursue post-secondary  
10          studies.

11          Mr. Simpson has a criminal record. As a  
12          youth, he sustained convictions for sexual  
13          assault and sexual interference against two young  
14          girls, one of whom, as mentioned, is the same  
15          victim as in this case. He also has convictions  
16          for breaching conditions, one of which was  
17          sustained as an adult.

18          When asked if he would like to make  
19          submissions on his own behalf, Mr. Simpson was  
20          firm in accepting responsibility for his crime  
21          and he appeared genuinely remorseful. He also  
22          confirmed that he is eager to make positive  
23          changes in his life.

24          The Crown cited a number of aggravating  
25          circumstances in this case. The victim was 13  
26          years old. This is deemed by the Criminal Code  
27          to be an aggravating factor. This was the second



1 time that Mr. Simpson had sexual assaulted her  
2 and he was on probation at the time with a  
3 condition that he have no contact with her. Even  
4 more troubling is that what seems to have played  
5 out is a scenario over which the victim had  
6 expressed concern in the Victim Impact Statement  
7 she prepared for the last incident. In that  
8 statement, she indicated she had nightmares about  
9 someone being in her dark room, watching her  
10 sleep. She worried Mr. Simpson was in the  
11 hallway or elsewhere in her house. And as the  
12 Crown pointed out, Mr. Simpson would have been  
13 present in court when this Victim Impact  
14 Statement was described or read out. At the very  
15 least, this is a very disturbing factor.

16 As noted, Mr. Simpson has a criminal record,  
17 including convictions for sexual offences.  
18 Admittedly, the record is not a long one;  
19 however, it is significant that he has, by the  
20 age 20, incurred convictions for now four sexual  
21 offences as well as those for breaching court  
22 orders.

23 The circumstances under which this offence  
24 was committed are deemed by the Criminal Code,  
25 and are, in fact, aggravating. It happened in  
26 the victim's bedroom in her home. She was in bed  
27 and her mother was home.

1           There are a number of mitigating factors in  
2           this case as well. Mr. Simpson never denied the  
3           charge and he took full responsibility for his  
4           actions. He cooperated with the police. The  
5           guilty plea came at a very early time. No  
6           preliminary hearing was necessary, sparing the  
7           victim and her family the necessity of having to  
8           testify in court. The manner in which  
9           Mr. Simpson has used his time at the North Slave  
10          Correctional Centre to date as well as his stated  
11          willingness and apparent concrete plan to take  
12          sex offender and substance abuse programming once  
13          it is available at North Slave Correctional  
14          Centre are also mitigating. They demonstrate a  
15          commitment by Mr. Simpson to do what he can to  
16          contribute to his own rehabilitation, and given  
17          his age and his limited criminal record, there is  
18          great hope for rehabilitation in this case.

19                 Gladue factors are also relevant here, and I  
20                 have taken them into account in determining that  
21                 the three-year sentence suggested by the Crown  
22                 and the defence is appropriate.

23                 Mr. Simpson, like many young aboriginal men  
24                 who appear in this court, was a victim of the  
25                 dysfunction of his family and some members of his  
26                 community. He was victimized at a vulnerable and  
27                 impressionable time in his life by his father, by

1 his sister's friend, and by a man who came to the  
2 community for work. While on probation, he lived  
3 in his home community. He was isolated  
4 geographically, and no doubt financially, from  
5 the kinds of resources and infrastructure needed  
6 to help overcome and deal with the result of that  
7 dysfunction and, more importantly, to get on the  
8 road to rehabilitation, resources that might be  
9 found in a larger place or which could be  
10 accessed by someone of greater financial means.  
11 These factors, in my view, diminish to some  
12 degree Mr. Simpson's moral blameworthiness. They  
13 do not, however, remove it altogether, nor do  
14 they operate to justify a non-custodial sentence  
15 or a sentence less than what is proposed.

16 The appropriate starting point for this  
17 offence is three years and that was confirmed by  
18 the Alberta Court of Appeal in R. v. T.L.G., 2006  
19 ABCA 313. But for the mitigating circumstances  
20 and the Gladue factors, a much longer sentence  
21 might be justified, something in the  
22 neighbourhood of four and a half to five years.  
23 This is a serious crime with significant effects  
24 for a young victim who has suffered not once but  
25 twice from Mr. Simpson's actions. It is the type  
26 of crime that absolutely cries out for a  
27 custodial penalty of some significance in order

1 to achieve the objectives of denunciation and  
2 deterrence, and indeed this is reflected in the  
3 fact that the maximum penalty for this offence is  
4 life in prison.

5 Mr. Simpson, please stand. Bruno Simpson, I  
6 hereby sentence you to a term of three years'  
7 imprisonment for the crime of break and enter  
8 with intent to commit the indictable offence of  
9 sexual assault. You can sit down.

10 From the three years, as I said, will be  
11 deducted 274 days representing credit for time  
12 spent in remand awaiting this sentencing hearing.  
13 This is calculated on the basis of 183 days at a  
14 credit rate of 1.5 days for each day spent in  
15 pre-sentence custody.

16 I will also impose an order that you must  
17 provide a sample of your bodily fluids for DNA  
18 analysis, and there will be a lifetime SOIRA  
19 order. There will also be a firearms prohibition  
20 which will remain in effect for ten years.

21 Counsel is there anything else?

22 MS. SCOTT: No, Your Honour.

23 THE COURT: Mr. Bock?

24 MR. BOCK: No, Your Honour.

25 THE COURT: Thank you.

26 Mr. Simpson, work hard, take the programming  
27 that is offered to you in prison. You need to

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get back on track, because, if you do not, there  
can be very, very serious and much more egregious  
consequences for you in the future.

Thank you, counsel.

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Certified Pursuant to Rule 723  
of the Rules of Court

Jane Romanowich, CSR(A)  
Court Reporter