

R. v. Bughins, 2017 NWTSC 53

S-1-CR2016-000098

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

CHRISTOPHER TED BUGGHINS

Transcript of the Reasons for Sentence by The Honourable
Justice A. M. Mahar, at Yellowknife in the Northwest
Territories, on May 9th A.D., 2017.

APPEARANCES:

Mr. B. MacPherson: Counsel for the Crown

Mr. J. Bran: Counsel for the Accused

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 of Canada

Official Court Reporters

1 THE COURT: I have before me a
2 38-year-old Aboriginal offender who has pled
3 guilty to a single count of sexual assault.

4 He has four children.

5 When he drinks, he poses a serious risk to
6 the public.

7 The sexual assault in this case involved
8 the spouse of a friend of his who woke up to
9 find Mr. Bughins' hands under the sleeping
10 bag she was sleeping in, trying to undo her
11 pants.

12 If he was someone without a criminal
13 record, this offence would fall at the lower
14 end of such offences for the consideration of
15 the Court. But, Mr. Bughins has five prior
16 convictions for sexual assault, all of which
17 occurred while he was highly intoxicated, all
18 of which he apparently has either limited or
19 no memory of; and, collectively, they indicate
20 that Mr. Bughins poses a serious risk to the
21 community.

22 Regardless of the place on the spectrum of
23 possible sexual offences that this conduct
24 actually falls, the Court is well aware that
25 invasions of other people's dignity, personal
26 space, and intimacy leave lasting effects that
27 go well beyond the level of violence or

1 clinical intrusion involved, and I take that
2 into account in the sentence.

3 In terms of denunciation, the community
4 will not tolerate this sort of behaviour no
5 matter what difficulties offenders are faced
6 with. We simply cannot tolerate it. On the
7 other hand, guidance of the legislature and
8 the Supreme Court of Canada in dealing with
9 all offenders, and specifically with
10 Aboriginal offenders, is that understanding
11 and compassion can never disappear from the
12 sentencing process in an effort to condemn the
13 behaviour of an accused.

14 I have before me an individual who was
15 given up essentially at birth because his
16 mother could not stop drinking. I am not
17 going to diagnose him as having some impulse
18 control problems as a result of this, but it
19 would be rather surprising if he didn't.

20 He was adopted by, it appears to have
21 been, a lovely couple who, after they had
22 raised their own kids, decided that they
23 wanted to assist other children in giving them
24 a good life. But Mr. Bughhins found himself
25 from the age of five until the age of nine or
26 ten, nine, being physically and sexually
27 abused in that environment as well. Not by

1 his parents; his parents never knew. He was
2 afraid to tell them.

3 When we think about the trauma that one
4 incident of sexual assault can bring to a
5 victim, it is staggering to think how much
6 damage was likely done to Mr. Bughins by four
7 or five years of abuse. So he is a victim.
8 And one of the unfortunate difficulties of
9 criminal court is that we are often confronted
10 with victims who become offenders. Mr.
11 Bughins is one of those people.

12 While I have spoken of denunciation, I
13 will speak of deterrence although to me they
14 are linked and people have to understand that
15 there are consequences for this type of
16 behaviour, even if they are not in the
17 position to exercise that thought process when
18 they occur. Because of the general matter of
19 living in a civil society, we all have to
20 understand that there are consequences for
21 this kind of bad behaviour. There is likely
22 no particularly deterrent effect for Mr.
23 Bughins. He does not want to commit these
24 offences when he is sober. He does not want
25 to drink, but he has a very difficult time
26 staying away from it.

27 The paramount concern of this Court in

1 dealing with Mr. Bughins is protection of the
2 public - he has to be sent away both in terms
3 of the gravity of the offence in the context
4 of his record and also just to keep everybody
5 safe for a while. I believe that I can do
6 that at the lower end of what the Crown
7 attorney is recommending - three years. So
8 the sentence will be three years.

9 He will be given full credit for the
10 381 days of pre-trial custody that he has
11 served, and somebody will have to do the math
12 for me because I can't subtract 381 from 730
13 that quickly. But whatever remaining days
14 there are, he will serve.

15 The Court often makes reference to what we
16 have come to call Gladue factors. There is an
17 inequality of circumstance resulting from the
18 impact of settler colonialism on the
19 indigenous people of Canada, which resulted in
20 fractured communities, social disintegration,
21 and the sort of circumstances that we are
22 dealing with here today.

23 I want to try and assist Mr. Bughins in
24 never finding himself back in front of the
25 Court. Because if he does, this sad story
26 could end up much sadder and Mr. Bughins
27 could very well end up spending the rest of

1 his life in the penitentiary. At a certain
2 point the protection of the public would call
3 for the segregation of the person forever, if
4 they unable to get to the bottom of why they
5 do what they do. What gives me some hope
6 about Mr. Bughins is that he does not appear
7 to be a significant risk when he is sober.
8 Whatever demons he is carrying, through no
9 fault of his own, appear to be problems that
10 he can at the very least control when he is
11 sober, so I intend to help him do that.

12 At the conclusion of your sentence, you
13 will be placed on probation for a period of
14 three years. First, I will make some
15 recommendations on the warrant of committal.

16 It is recommended that you be considered
17 for placement in an in-house or residential
18 treatment program if such becomes available to
19 you. I will make a similar recommendation on
20 your probation order.

21 You will be placed on probation for a
22 period of three years.

23 You are to abstain absolutely from the
24 possession or consumption of alcohol or other
25 intoxicants. You are to take counselling as
26 directed. You are to report to Probation
27 Services within three days of your release

1 and, after that, as directed, and frequently.
2 You are to participate in any treatment
3 programs that are found for you. You are to
4 reside as directed, specifically with a view
5 to assisting you in dealing with your alcohol
6 problem.

7 I am going to get to the mandatory orders
8 in a moment, Mr. MacPherson. Are there any
9 other conditions that you wanted to see on the
10 probation order?

11 MR. MacPHERSON: A no-contact condition, Your
12 Honour.

13 THE COURT: There will be no contact
14 with the complainant, directly or indirectly,
15 or her husband or spouse?

16 MR. MacPHERSON: With the complainant, Your
17 Honour.

18 THE COURT: Just the complainant?

19 MR. MacPHERSON: Yes.

20 THE COURT: I said with the complainant
21 and her spouse.

22 MR. MacPHERSON: Yes, I understand.

23 THE COURT: Just the complainant?

24 MR. MacPHERSON: Just the complainant.

25 THE COURT: There will be no contact
26 directly or indirectly with the complainant.

27 Mr. Bran, any suggestions?

1 You are to submit, upon request, to a
2 breathalyzer demand by a police officer.

3 And you are to inform the RCMP and the
4 probation officer of your residence and be
5 willing to present yourself at the door of
6 your residence upon request by the RCMP. So
7 make sure that you are staying sober.

8 You will be placed in the Sex Offender
9 Registry for life.

10 A section 109 firearms order for a period
11 of ten years.

12 Do you hunt? I will make a recommendation
13 that you be considered for a limited permit
14 under s. 113. Any objection to that, Mr.
15 MacPherson?

16 MR. MacPHERSON: No, Your Honour.

17 MR. BRAN: Thank you, Your Honour.

18 THE COURT: Thank you.

19 There will be a DNA order. Not that it
20 hasn't already been taken, I will make a DNA
21 order in case there is some problem.

22 Mr. MacPherson, is there anything that you
23 can think of that I have forgotten?

24 MR. MacPHERSON: Nothing further, thank you.

25 THE COURT: Mr. Bran?

26 THE CLERK: Victim crime, sir?

27 THE COURT: A victim crime surcharge of

1 \$200; thank you, Madam Clerk. I will give you
2 five years to pay that.

3 Did you want to say something, Mr.
4 Buggins?

5 THE ACCUSED: I did the calculation of my
6 time. 257 comes up to be 385.

7 THE COURT: 257?

8 THE ACCUSED: 257 days at time and a half
9 equals 385.

10 THE COURT: 385 days? Do you have a
11 calculator on your computer, Madam Clerk?

12 THE CLERK: No, I don't, sir.

13 THE COURT: Why don't we see if we can
14 round this 389 days -- or sorry, not 389, 381
15 days into months. Why don't we call that --
16 months are longer than 30 days, average. But
17 if we call them 30 days, we have got ten --
18 call it 13 months. Does that work for you,
19 Mr. MacPherson?

20 MR. MacPHERSON: Yes, Your Honour.

21 THE COURT: 13 months out of 36, leaves
22 us with 23 months.

23 THE CLERK: Thank you, sir.

24 THE COURT: So the sentence is
25 23 months.

26 If there is nothing else, we can close
27 court.

1 Mr. Buggins, I really do hope that you
2 get the help that you need because I don't
3 want to see you back here.

4 THE ACCUSED: Me neither, Your Honour.

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

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Lois Hewitt,
Court Reporter

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