

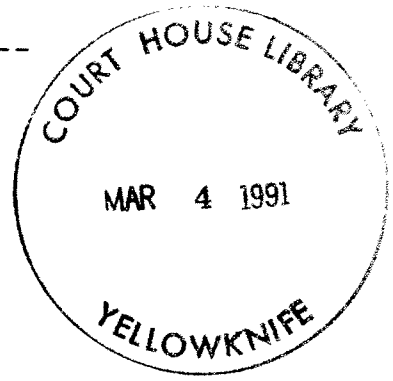
IN THE TERRITORIAL COURT  
OF THE NORTHWEST TERRITORIES

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HER MAJESTY THE QUEEN

VS

JAMES LAFLEUR



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Transcript of Oral Sentencing by His Honour Judge T.B. Davis  
sitting at Ft. Norman in the Northwest Territories, on  
Thursday, February 16, A.D. 1989.

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D. McWhinnie, Esq.,

Appeared for the Crown

G. Nearing, Esq.,

Appeared for the Defence

J. Heerema, Ms.,

Court Reporter

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(Charges under Section 246 (1) of the Criminal Code)

1 THE COURT: James Lafleur is a 58-year old  
2 resident of Ft. Norman, in the Northwest Territories, who  
3 admits that on the 2nd of September, 1988, he had placed his  
4 hand upon the clothing of his five-year old granddaughter in  
5 the genital area, and as a result of that, violated the law  
6 by committing a sexual assault.

7 There has always been concern for the effects of  
8 assaults on children, and the hope is that this child will  
9 not be permanently adversely affected by the activity.  
10 It's obvious from the reports that have been made that the  
11 parents of the child are fully aware of the circumstances  
12 and are taking precautions to ensure that the child is  
13 getting whatever treatment is required or will be required  
14 for her to have no adverse results.

15 The actual touching in this case, of course, is of a  
16 minor nature, but the Court has expressed its concern in the  
17 past for persons who fondle or touch -- for adults who  
18 fondle or touch children, because the children are very  
19 vulnerable. And when there's a relationship of trust and  
20 that trust is breached, society must denounce the actions  
21 because society expects more of persons in trust than to at  
22 any time assault children.

23 A very helpful presentence report has been prepared  
24 indicating that the accused is a responsible and  
25 well-thought of person in the community, this being the  
26 first time that he has been before the Court for any  
27 purpose. He takes pride in his work, has been good to his

1 family. He's in rather poor health at times. And this has  
2 been of substantial embarrassment to him, for which he has  
3 through counsel and the social services officer indicated  
4 remorse.

5 On other offenses of a similar nature where adults have  
6 fondled children, the Court has imposed short periods of  
7 time in gaol for the purposes of denunciation and to deter  
8 the accused and others from committing similar offenses.

9 Defence counsel has pointed out that the more important  
10 aspect of the minor assault should be the rehabilitation of  
11 the accused to ensure that there's never a repetition of  
12 this type of activity. That has to some extent already been  
13 cared for in that the parents of the child have removed the  
14 child from the community in which the accused lives.

15 So as to follow through on the denouncing of this type  
16 of offense, I feel it appropriate for me to impose a very  
17 short time in gaol on the accused followed by some probation  
18 which will require counselling if and when the probation  
19 officer feels it appropriate. To acknowledge, however, the  
20 minimal aspect of this assault, I do not feel that the time  
21 in gaol need be long. But the attendance even for a short  
22 period to a person who has never been in custody and never  
23 been before the courts before will have, I'm sure, a  
24 severe effect. And I would hope that it also will notify  
25 the public that sexual assaults ordinarily do result in gaol  
26 terms unless there is some outstanding or exceptional reason  
27 not to have that result. I'm going to impose, therefore,

1 five days in gaol.

2 I suspect that that period of time can be served  
3 locally, or if not, it may be that the accused will wish to  
4 have it served on two different times intermittently, and  
5 I'll hear an application on that regard if there is some  
6 reason for doing so.

7 Ordinarily, would a five-day term be served in this  
8 community or outside? In the meantime, I'll indicate that  
9 the probation period will be for six months, and the accused  
10 will participate in any counselling or treatment programs  
11 recommended by the probation officer.

12 MR. MCWHINNIE: With respect to the incarceration  
13 disposition portion of this matter, sir, I understand that  
14 the facilities in this community are extremely limited, and  
15 it is unlikely, if the accused served a sentence straight  
16 out, that he would be here. They will likely have to  
17 transport him elsewhere.

18 THE COURT: He's already been in court a number  
19 of times and spending full days in court, and we often even  
20 give the days in court as a credit on these matters. I  
21 wonder if maybe we should give credit for the appearances in  
22 court previously and credit him up with two previous days  
23 and have a three-day sentence. Would that be possible to  
24 have it served here conveniently with the Police Officers or  
25 not?

26 MR. MCWHINNIE: The situation, I understand, sir,  
27 is that there aren't any civilian guards available in this

1 community at the present time. It's not so much an issue  
2 for the Police Officers as the guards that are necessary in  
3 these circumstances.

4 THE COURT: Does the Defence have any  
5 submissions at this time?

6 MR. NEARING: No, I have not at this time.

7 THE COURT: Thank you. All right, that is the  
8 direction of the Court at this time. The clerk will be  
9 preparing the probation order, and that's for the six-month  
10 period.

11 (PROCEEDINGS CONCLUDED)

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13 I, Jane Heerema, Court Reporter, hereby certify that I  
14 attended the above Proceedings and took faithful and  
15 accurate shorthand notes and the foregoing is a true and  
16 accurate transcript of my shorthand notes to the best of my  
17 skill and ability.

18 Dated at the City of Calgary, Province of Alberta, this  
19 30th day of March, A.D. 1989.

20  
21  
22 *Jane Heerema per Jane Middleton*  
23 Jane Heerema  
24 Court Reporter. *G.M.*