

IN THE TRIAL DIVISION
OF THE NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN

- and -

W H

Transcript of Reasons for Judgment given by His Honour G.
E. Price, sitting at Aklavik, Northwest Territories, on
Wednesday, September 26th, A.D. 1990

L.A. Charbonneau, Ms.,	Appeared for the Crown
H.I.S. Breier, Ms.,	Appeared for the Defence
R.W. Oxley, Mr.	Court Reporter

(Charge under Section 155 of the Criminal Code)

DÉNONCIATION
(AU NOM DE SA MAJESTÉ LA REINE)

ENTERED

ADJUDICATION & DISPOSITION
JUGEMENT ET DÉCISIONS

CHARGE READ / CHEF D'ACCUSATION
✓ J.M. - 5 1980

DATE: JUL - 5 1980
JUDGE OR JUSTICE: B.A. Buss

CROWN ELECTION / CHOIX DE LA COURONNE
Summary Conviction / Indictment
Condemnation sommaire / Accusation

ACCUSED ELECTION / CHOIX DE L'ACCUSÉ
Territorial Court Judge / Judge & Jury / Judge
Juge de la Cour territoriale / Juge et jury / Juge

DATE: JUL - 5 1980
JUDGE OR JUSTICE: B.A. Buss

PLEA / DÉFENSE
Guilty / Not Guilty
Coupable / Non coupable

DATE: JUL - 5 1980
JUDGE OR JUSTICE: B.A. Buss

FAILURE TO APPEAR / DEFAULT DE COMPARAÎTRE
Bench Warrant issued / Mandat émis

DATE: JUL - 5 1980
JUDGE OR JUSTICE: B.A. Buss

EVERY TIME THIS INFORMATION IS DEALT WITH
APPROPRIATE ENTRIES SHALL BE MADE ON THE REVERSE.
TOUTE MESURE PRISE AU SUJET DE CETTE DÉNONCIATION
DOIT ÊTRE INSCRITE DANS LA CASE APPROPRIÉE AU VERSO.

DISPOSITION / DÉCISIONS
Convicted / Dismissed / Withdrawn
Coupable / Acquitté / Abandonné

Fine / Amende
Surcharge
Default / Non comparution
Time to pay / Délais de paiement
Suspended sentence / Sursis
Conditional discharge / Libération conditionnelle
Probation / 2 1/2 years
Restitution / Restitution
Absolute discharge / Libération inconditionnelle
Imprisonment for / Durée de l'emprisonnement / 6 mos cme.
Order Driving / Décision Conduite
Order Firearms / Décision Armes à feu
Ordered to stand trial / Obligé de subir un procès
Stay of proceedings / Suspension des poursuites / 26 Sept 80

STATISTICS / RENSEIGNEMENTS PERSONNELS
Date of birth / Date de naissance: 22 02 49
SEX: M [X] F
MARRIAGE STATUS / ÉTAT CIVIL: Single

Sworn before me / Asserments devant moi,
this 5th day of July
at 90 Aklavik
1980
in the Northwest Territories / aux Territoires du Nord-Ouest.

APPEARANCE NOTICE / ORDRE DE COMPARAÎTRE
PROMISE TO APPEAR / PROMESSE DE COMPARAÎTRE
RECOGNIZANCE / ENGAGEMENT

COURT NUMBER / NO DU TRIBUNAL: 900489
JUSTICE OF PEACE / NO DU JUGE DE PAIX

This is the information of: / La présente constitue la dénonciation de
NAME / NOM: Cst. A.J. GAUTHIER
ADDRESS / ADRESSE: RCMP Aklavik
OCCUPATION / EMPLOI: Peace Officer

hereinafter called the informant / ci-après appelé le dénonciateur.
[] IF THE INFORMANT HAS PERSONAL KNOWLEDGE / LE DÉNONCIATEUR A UNE CONNAISSANCE PERSONNELLE DE L'INFRACTION
The informant says that / Le dénonciateur déclare que
[] IF THE INFORMANT DOES NOT HAVE PERSONAL KNOWLEDGE / LE DÉNONCIATEUR N'A PAS DE CONNAISSANCE PERSONNELLE DE L'INFRACTION
The informant has reasonable and probable grounds to believe and does believe that / Le dénonciateur a des motifs raisonnables de croire que

STATE THE OFFENCE / NO. QUER / L'INFRACTION
W H
Aklavik, NW0

on and between the 1st day of December A.D. 1979 and the 1st day of January A.D. 1980 at or near the Town of Hay River in the Northwest Territories, did have sexual intercourse with M. H. while knowing that M. H. was his sister contrary to Section 155 of the Criminal Code.

SIGNATURE OF INFORMANT / SIGNATURE DU DÉNONCIATEUR

JUDGE OR JUSTICE / JUGE OU JUGE DE PAIX

Confirmed by: / Confirmé par: JUSTICE OF THE PEACE / JUGE DE PAIX DATE

DÉNONCIATION (AU NOM DE SA MAJESTÉ LA REINE)

ENTERED

100490

ADJUDICATION & DISPOSITION JUGEMENT ET DÉCISIONS

CHARGE READ CNEF D'ACCUSATION
JUL - 5 1990
DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX
B.A. Briser

CROWN ELECTION CHOIX DE LA COURONNE
Summary Conviction / Condamnation sommaire Indictment / Accusation
ACCUSED ELECTION CHOIX DE L'ACCUSÉ
Territorial Court Judge / Juge de la Cour territoriale Judge & Jury / Juge et jury Judge / Juge

JUL - 5 1990
DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX
B.A. Briser

PLEA DÉFENSE
Guilty / Coupable Not Guilty / Non coupable
JUL - 5 1990
DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX
B.A. Briser

FAILURE TO APPEAR DÉFAUT DE COMPARAÎTRE
Bench Warrant Issued / Mandat émis
JUL - 5 1990
DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX
B.A. Briser

EVERY TIME THIS INFORMATION IS DEALT WITH APPROPRIATE ENTRIES SHALL BE MADE ON THE REVERSE. /
TOUTE MESURE PRISE AU SUJET DE CETTE DÉNONCIATION DOIT ÊTRE INSCRITE DANS LA CASE APPROPRIÉE AU VERSO.

DISPOSITION DÉCISIONS
Convicted / Coupable Dismissed / Acquitté Withdrawn / Abandonné

Fine / Amende :
Surcharge :
Default / Non comparution :
Time to pay / Délai de paiement :
Suspended sentence / Durée :
Conditional discharge / Libération conditionnelle :
Probation / Probation : 2 1/2 years
Restitution / Restitution :
Absolute discharge / Libération inconditionnelle :
Imprisonment for / Durée de l'emprisonnement : 6 mos.
Order: Driving / Décision: Conduite
Order: Firearms / Décision: Armes à feu
Ordered to stand trial / Obligation de subir un procès
Stay of proceedings / Suspension des poursuites 26 Sept 90
DATE

STATISTICS RENSEIGNEMENTS PERSONNELS
Date of birth / Date de naissance : 20 08 49
Sex: Male / M Female / F
MARRITAL STATUS / ÉTAT CIVIL
Single

Sworn before me / Assermenté devant moi,
this 15th day of June
19 90 at INUVIK
In the Northwest Territories / aux Territoires du Nord-Ouest.

APPEARANCE NOTICE / ORDRE DE COMPARAÎTRE
PROMISE TO APPEAR / PROMESSE DE COMPARAÎTRE
RECOGNIZANCE / ENGAGEMENT

COURT NUMBER / NO DU TRIBUNAL
JUSTICE OF PEACE or JUDGE'S No. / NO DU JUGE DE PAIX OU DU JUGE

This is the information of : / La présente constitue la dénonciation de
NAME / NOM : Sgt GAUTHIER
ADDRESS / ADRESSE : RCMP Aklavik
OCCUPATION / EMPLOI : Peace Officer

hereinafter called the informant. / ci-après appelé le dénonciateur.
 IF THE INFORMANT HAS PERSONAL KNOWLEDGE / SI LE DÉNONCIATEUR A UNE CONNAISSANCE PERSONNELLE DE L'INFRACTION
The informant says that / Le dénonciateur déclare que
 IF THE INFORMANT DOES NOT HAVE PERSONAL KNOWLEDGE / SI LE DÉNONCIATEUR N'A PAS DE CONNAISSANCE PERSONNELLE DE L'INFRACTION
The informant has reasonable and probable grounds to believe and does believe that / Le dénonciateur a des motifs raisonnables de croire que

STATE THE OFFENCE / INDICUER L'INFRACTION
W H
Aklavik, NWT

that between the 1st day of January A.D. 1976 and the 31st day of May A.D. 1990 at or near the Hamlet of Aklavik in the Northwest Territories, did have sexual intercourse with M H while knowing that M H was his sister contrary to Section 155 of the Criminal Code.

SIGNATURE OF INFORMANT - SIGNATURE DU DÉNONCIATEUR
[Signature]

Confirmed by / Confirmé par :
JUSTICE OF THE PEACE - JUGE DE PAIX
[Signature]

DÉNONCIATION
(AU NOM DE SA MAJESTÉ LA REINE)

ENTERED

808 and
788

ADJUDICATION & DISPOSITION
JUGEMENT ET DÉCISIONS

CHARGE READ CHEF D'ACCUSATION
JUL - 5 1990 *B.A. Gauthier*
DATE JUDGE OR JUSTICE JUGE OU JUGE DE PAIX

CROWN ELECTION CHOIX DE LA COURONNE
Summary Conviction Indictment
Condamnation sommaire Accusation

ACCUSED ELECTION CHOIX DE L'ACCUSÉ
Territorial Court Judge Judge & Jury Judge
Juge de la Cour territoriale Juge et jury Juge

JUL - 5 1990
DATE JUDGE OR JUSTICE JUGE OU JUGE DE PAIX

PLEA DÉFENSE
Guilty Not Guilty
Coupable Non coupable

DATE JUDGE OR JUSTICE JUGE OU JUGE DE PAIX

FAILURE TO APPEAR DÉFAUT DE COMPARAÎTRE
Bench Warrant issued Mandat ammis

JUL - 5 1990
DATE JUDGE OR JUSTICE JUGE OU JUGE DE PAIX

EVERY TIME THIS INFORMATION IS DEALT WITH
APPROPRIATE ENTRIES SHALL BE MADE ON THE REVERSE.
TOUTE MESURE PRISE AU SUJET DE CETTE DÉNONCIATION
DOIT ÊTRE INSCRITE DANS LA CASE APPROPRIÉE AU VERSO.

DISPOSITION DÉCISIONS
Convicted Dismissed Withdrawn
Coupable Acquitté Abandon

Fine: Amende

Surcharge

Default: Non comparution

Time to pay: Délais de paiement

Suspended sentence: Sursis

Conditional discharge: Libération conditionnelle

Probation: Probation: 2 1/2 years

Restitution: Restitution

Absolute discharge: Libération inconditionnelle

Imprisonment for: Durée de l'emprisonnement: 6 mos conc.

Order: Driving: Déclaration Conduite

Order: Firearms: Déclaration Armes à feu

Order: Stand trial: Obligation de subir un procès

Stay of proceedings: Suspension des poursuites

STATISTICS RENSEIGNEMENTS PERSONNELS

Date of birth: Date de naissance: 22 02 49 Sex: M F

DRIVER'S LICENCE NO./PERMIS DE CONDUIRE N° MARITAL STATUS / ÉTAT CIVIL: Single

Sworn before me
Asserment devant moi,
this 5th day of July
19 90 at Aklavik
In the Northwest Territories.
aux Territoires du Nord-Ouest.

COURT NUMBER
NO DU TRIBUNAL: 900450 mt.
JUSTICE OF PEACE
OF JUDGE'S NO.:
NO DU JUGE DE PAIX
OU DU JUGE

This is the information of:
Le présente constitue la dénonciation de
NAME
NOM: Sgt. A.J. GAUTHIER
ADDRESS
ADRESSE: RCMP Aklavik
OCCUPATION
EMPLOI: Peace Officer

hereinafter called the informant. si-après appelé le dénonciateur,
 IF THE INFORMANT HAS PERSONAL KNOWLEDGE
SI LE DÉNONCIATEUR A UNE CONNAISSANCE PERSONNELLE DE L'INFRACTION
The informant says that
Le dénonciateur déclare que
 IF THE INFORMANT DOES NOT HAVE PERSONAL KNOWLEDGE
SI LE DÉNONCIATEUR N'A PAS DE CONNAISSANCE PERSONNELLE DE L'INFRACTION
The informant has reasonable and probable grounds to believe
and does believe that
Le dénonciateur a des motifs raisonnables de croire que

STATE THE OFFENCE INDICIER L'INFRACTION
W H
Aklavik, NWT

on and between the 1st day of February A.D. 1990 and the 5th day of March A.D. 1990 at or near the Town of Fort Smith in the Northwest Territories, did have sexual intercourse with M H while knowing that M H was his sister contrary to Section 155 of the Criminal Code.

SIGNATURE OF INFORMANT - SIGNATURE DU DÉNONCIATEUR

JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX

APPEARANCE NOTICE PROMISE TO APPEAR RECOGNIZANCE

GARDER DE COMPARAÎTRE PROMESSE DE COMPARAÎTRE ENGAGEMENT

Confirmed by:
Confirmé par: JUDGE OF THE PEACE JUGE DE PAIX DATE

1 THE COURT: Would you stand, please? I have listened
2 carefully to what the lawyers have said. I have read the
3 exhibits in sentencing. I've noted certain parts of the
4 reports that seemed relevant to me, particularly with
5 reference to Exhibit S-4.

6 It's clear that your mother had some effect, and I'm
7 referring to page 3 of the exhibit, in the development of
8 this relationship you had with your sister. You were to
9 take care of your sister. That caring relationship, as the
10 lawyers have referred to, grew out of that; and also
11 protective relationship was necessary because of the way
12 your father acted in the home. And this comes out again in
13 the psychiatric report, Exhibit S-3, this evolution of the
14 relationship between you and your sister.

15 And there are a number of reasons for being sympathetic
16 towards you. In particular, there is no violence or
17 coercion. To me the most important matter, and I already
18 referred to it in speaking to your lawyer, is the fact that
19 the relationship arose at the time your sister was 14 and
20 you were 26. At that point in time you were in a position
21 of dominance, not in a physical sense, but she certainly
22 looked to you for protection and trust. And in Society's
23 view you abused this trust.

24 I think you must go to gaol. I don't think you have to
25 go in for any lengthy time because it's clearly not in your
26 interest in the sense of punishing you, but it certainly is
27 in the interest of Society in general.

(SENTENCING)

I, Ray W. Oxley, Court Reporter, hereby certify that I attended the above Trial and took faithful and accurate shorthand notes, and the foregoing is a true and accurate transcript of my shorthand notes to the best of my skill and ability.

Dated at the City of Calgary, Province of Alberta, this 1st day of November, A.D. 1990.

Ray Oxley per [Signature] (C.M.)
 Ray W. Oxley
 Court Reporter