

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN

- and -

STEPHEN JAMES BOONE



Transcript of the Reasons for Sentence of His Honour
Judge R. M. Bourassa, sitting at Yellowknife in the
Northwest Territories, on Thursday, November 15th,
A.D., 1990.

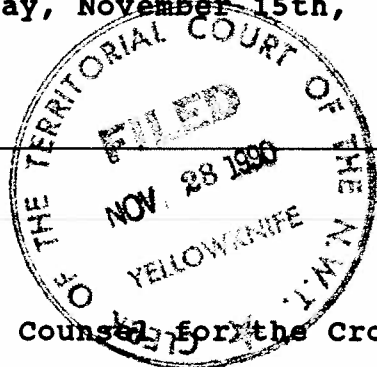
APPEARANCES:

MR. M. RODYCH:

Counsel for the Crown

MR. J. BRYDON:

Counsel for the Defence



(Charges Under Section 271 of the Criminal Code)

1 THE COURT: The accused is convicted of three
2 counts of sexual assault on nine and ten year old
3 girls. The Crown has elected to proceed by way of
4 summary conviction which means the maximum sentence on
5 each count is six months in jail, or a \$2,000 fine or
6 both.

7 The goals of sentencing have been elucidated in a
8 number of cases. Courts don't sentence in the
9 air. Sentencing is not for vengeance sake; it is not
10 designed to give anyone a "pound of flesh".

11 The purposes or aims of sentencing are to deter
12 individuals, this particular individual, as well as
13 others, from similar conduct; it is also to
14 rehabilitate if that's appropriate. It is also to
15 denounce the conduct, and the sentence is to be
16 reflected in the application of those principles as
17 expounded upon in other cases or similar cases.

18 The law is very clear that those who cannot
19 protect themselves will be protected by the law and by
20 the courts as far as it can after the fact. I take
21 that to mean that denunciatory and deterrent sentences
22 ought to be imposed in situations such as
23 this. However, that does not automatically mean jail
24 sentences.

25 The law, as I understand it, and reflected upon it
26 in R vs Mountain where a little girl who was asleep
27 was touched in the vaginal area by a drunken accused,

1 a jail sentence is unusual, or I should say perhaps
2 not common for that kind of momentary touching.

3 There have been cases where that kind of momentary
4 touching that we were speaking of here have resulted
5 in jail sentences, but they aren't as common as are
6 dispositions such as fines, or probation orders.

7 I agree with Defence counsel that the court,
8 while it may have the authority to order counselling,
9 it has no power to force people to take counselling if
10 they don't want it. And secondly, ordering
11 counselling when such counselling doesn't exist or is
12 simply unavailable amounts to naught. In any event,
13 the accused gives no indication of an amenability of
14 counselling.

15 The decision this court must make today for these
16 three offences is whether or not a jail sentence ought
17 to be imposed, keeping in mind what we are trying to
18 accomplish by imposing a jail sentence, and keeping in
19 mind what we know we are not supposed to do with jail
20 sentences, which is wreak vengeance on an accused. As
21 I said, there is no pound of flesh to be got here.

22 However, having said that, it is my view that the
23 primary purpose in sentencing this accused is to deter
24 him. Secondly, to deter any others who might be
25 similarly inclined.

26 I find the circumstances of the sexual assaults
27 to be disturbing. These three little girls were

1 preyed upon. They were, to a degree, sought out, and
2 their naivety and their innocence exploited by this
3 man. They were seduced in a most callous fashion. By
4 that I mean that their innocence, their playfulness,
5 their ignorance, was used against them by a 38 year
6 old who should know better.

7 Mr. Boone is not remorseful and blames the
8 children. I hope I have made it clear to him that I
9 find no fault in their conduct, nothing in their
10 action that would in any way justify the sexuality or
11 the sexual context or the sexual elements that he
12 himself injected into these encounters.

13 That this would happen in a public swimming pool
14 is, I believe, aggravating. That this would happen at
15 all is aggravating, but that it would happen in our
16 swimming pool, that parents can't even let their
17 children go to a swimming pool without worrying about
18 this happening is aggravating. We pride ourselves in
19 this community that it is a nice little town, a good
20 and safe place to raise children. And then this kind
21 of thing happens in a swimming pool right out in front
22 of everyone. I find that aggravating. I find it
23 distressing that parents cannot now have any
24 confidence that their children can go to the public
25 swim without worrying about some accused coming along,
26 and I will paraphrase the accused's words, "copping a
27 feel".

1 THE ACCUSED: I didn't use those words.

2 THE COURT: Each one of the counts before me by
3 and of itself I don't believe merit a term of
4 imprisonment, but the three offences together indicate
5 a course of conduct, and in the circumstances
6 described at trial indicate to me that a jail sentence
7 is required. Mr. Boone has to be deterred.

8 I have to take into account, and I do, that he
9 has no record. He has never been convicted of
10 anything. The allegations, or more accurately, the
11 innuendoes at trial about something in the past has no
12 weight in my mind in imposing sentence. The courts do
13 not impose sentences based on innuendo or the
14 like. It is irrelevant.

15 I have to deal with these three offences and the
16 circumstances involved. I want to make it clear that
17 children can go to the swimming pool and be free to
18 swim to their heart's content without worrying about
19 molestation or sexual assault.

20 I want it clear to the accused that he is never,
21 ever, to do this again, and if he does he can expect
22 the harshest treatment. I want to make it clear that
23 the court will and can protect little children in
24 circumstances such as I've heard here, and I want to
25 make it clear that the courts will ensure as far as
26 they can that Yellowknife is and will continue to be a
27 safe place and a good place to raise children.

1 I cannot allow, and I do not allow the
2 distastefulness of these assaults to overwhelm the
3 sentencing considerations that I must take into
4 account.

5 As I have said and I will say it again,
6 vengeance, a pound of flesh and that kind of thinking
7 plays no role in this room.

8 In some ways, the sentence I am going to impose
9 seems inadequate. In other ways, I don't see that I
10 can go further in law given the exact touching that
11 was involved.

12 Mr. Boone, on each count I am going to sentence
13 you to one month imprisonment consecutive. In
14 addition to that, I am going to place you on probation
15 for one year following your release. You are to keep
16 the peace and be of good behavior--

17 THE ACCUSED: I do anyway.

18 THE COURT: You are not to attend or enter the
19 Ruth Inch Memorial Swimming Pool at any time in that
20 one year. You are to report to a probation worker
21 once a month or more on if required.

22 THE ACCUSED: May I leave the Northwest Territories
23 after the 90 days?

24 THE COURT: You may certainly leave, Mr.
25 Boone. Your probation order will follow you,
26 however. You will have to make arrangements to have
27 that transferred to whatever other jurisdiction you

1 are going to.

2 THE ACCUSED: May I serve my sentence outside of the
3 Territories.

4 THE COURT: Mr. Brydon will explain the details of
5 that.

6 MR. BRYDON: Thank you, Your Honour.

7 MR. RODYCH: Thank you, sir.

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9 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

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11 Certified a correct transcript,

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Laurie Ann Young

Laurie Ann Young
Court Reporter

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