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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER:

HER MAJESTY THE QUEEN

VS

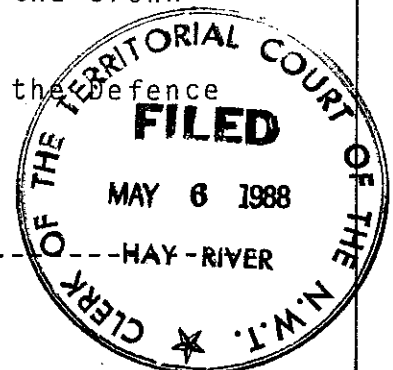
FREDERICK VOYAGEUR GIBOT

Transcript of Proceedings of Reasons for Sentence
given by His Honour Judge R. W. HALIFAX, sitting at
Fort Smith in the Northwest Territories on Wednesday,
April 20, A.D. 1988.

APPEARANCES:

MR. R. PEACH Counsel for the Crown

MR. L. SEBERT Counsel for the Defence



1 THE COURT: We are dealing this morning with a sentenc-
2 ing on an offence of sexual assault, which the Crown has
3 elected to proceed by summary conviction which makes the
4 maximum penalty one of six months in jail and/or a fine up
5 to \$2,000.

6 These cases are always difficult consider-
7 ing the age of the victim and the age of the accused; and
8 the Court must take into consideration the aims of sentenc-
9 ing: namely, general deterrence, that the sentence must be
10 such that other people will not be inclined to get involved
11 in the kind of situation that is before the Court today, as
12 well as specific deterrence to deter this accused from get-
13 ting involved in this kind of situation in the future. The
14 Court also must consider the protection of society generally,
15 and the sentence should be such that the values of society
16 are enforced and society's negative view of this kind of
17 behavior is enforced. As well, there has to always be the
18 consideration of rehabilitation of the accused; and the
19 sentence should not be such that he be completely crushed
20 and that any future rehabilitation might be destroyed.

21 Taking those basic aims into consideration,
22 there are several areas in this case that the Court must
23 take into consideration as well: firstly, the accused's
24 antecedents, in other words, his life experience. He is
25 aged 65. He has a medical condition. His financial situa-
26 tion should also be considered. Then, the Court must also
27 look at the circumstances of the offence and the type of

1 offence that is involved. The accused's previous record is
2 another consideration as is the age of the victim and the
3 effect of this type of experience on the victim. The Court
4 should also take into consideration the fact that the
5 accused has plead guilty to the offence at first instance.

6 The accused is a person in his mid 60s who
7 is retired. He is now living in another community in a
8 Senior Citizens Home with his wife. He is a diabetic and,
9 at the time of this offence, had not been taking his medica-
10 tion and had been consuming alcohol over a period of several
11 weeks. There have been medical repercussions as a result,
12 loss of a leg, and continuing problems. There is also, as
13 the accused indicated yesterday, at the time, because of his
14 financial situation and his business going bad, that he had
15 some suicidal considerations at the time.

16 The offence is one of a sexual nature and
17 occurred on three different occasions over the period in
18 question. There was a friendship developed over a period of
19 time between the young girl and the accused, and she would
20 visit on numerous occasions to his place of business which
21 also had living quarters attached. The accused took advant-
22 age of that situation after a period of time. It should
23 further be noted that there was no force involved in the
24 sexual assaults; and basically, the young girl did what the
25 accused requested. Also, it should be noted that the young
26 girl was paid a few dollars after these incidents and was
27 told to keep quiet by the accused.

1 The accused does have a previous criminal
2 record: 1970, a conviction for indecent assault on a
3 female. Although somewhat dated, it is still a related type
4 of situation.

5 Now, the victim at the time was 12 years
6 old. As the circumstances alleged yesterday, she had been
7 involved in other similar situations in the past. However,
8 the other situation that was raised is somewhat different in
9 that, in that case, the sexual nature of the offence was
10 minor when compared to the circumstances of this offence.
11 The long-term effect of this type of situation on the victim
12 one can only speculate; but for a 12 year old girl to be
13 involved in this kind of situation, there is no doubt going
14 to be some negative effect on her over the rest of her life;
15 the extent, of course, we cannot be sure.

16 The accused did plead guilty at first
17 instance in his first appearance before the Court which, of
18 course, saves society the expense of a trial and has saved
19 the victim the hardship of having to give evidence about a
20 situation of this nature.

21 Now, I do have to take into consideration
22 as well the fact that this was not one isolated situation
23 but actually was three incidents over the period of time
24 involved.

25 For a person of Mr. Gibot's age to take
26 advantage of a 12 year old girl, regardless of her reputation,
27 is just not acceptable behavior in our society. The fact

1 that Mr. Gibot was having medical problems and was not
2 taking his medication and consuming alcohol may be a partial
3 answer as to why this type of thing occurred, but it is not
4 an excuse for this kind of behavior. In our society,
5 children, and particularly young children, are entitled to
6 protection from this kind of behavior by adults, particularly
7 when there is some form of friendship developed; and an adult
8 takes advantage of that friendship to sexually involve a
9 12 year old girl.

10 The circumstances indicate that there were
11 three incidents where the accused had the victim masturbate
12 for him in his residence when nobody else was there. The
13 circumstances indicate that prior to these incidents occur-
14 ring, the victim had been plied with candy and other things
15 and had received some minor pocket money for doing the
16 favours. One can only speculate; but obviously, the young
17 girl will be of the view that if you provide sexual gratifi-
18 cation to people, she may be able to earn some money, which
19 is not what our society wishes to be taught to young girls
20 12 years old.

21 Having said that and considering this matter
22 overnight, considering the position of the accused and the
23 fact that this matter has proceeded summarily so there is a
24 limit as to the maximum penalties, in balancing both the
25 considerations in favour of the accused in mitigation but
26 also the considerations of the aggravating circumstances, I
27 have come to the conclusion that a jail term is necessary.

1 It seems to me that the Court must firstly enforce protec-
2 tion of young people and particularly young girls not to be
3 taken advantage of in this nature.

4 The sentence, in my view, should not be one
5 of great length considering the effect that it is obviously
6 going to have on the accused considering his medical situa-
7 tion.

8 Under the circumstances, I sentence the
9 accused to three-months imprisonment.

10 Considering his age, the fact that he has
11 left the community and seems to have his life in order again
12 after this unfortunate time period, it is my view that a
13 Probation Order following the jail term will not be necessary.

14 Now, I appreciate that this may cause a bit
15 of a hardship on the accused at this stage and maybe on his
16 family; but in this type of situation, protection of the
17 public, in my view, is the main consideration.

18 That will be all.
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22 Certified a Correct Transcript:
23

24 Margaret Andruniak

25 Margaret Andruniak
26 Court Reporter
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