

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER BETWEEN:

HER MAJESTY THE QUEEN

- and -

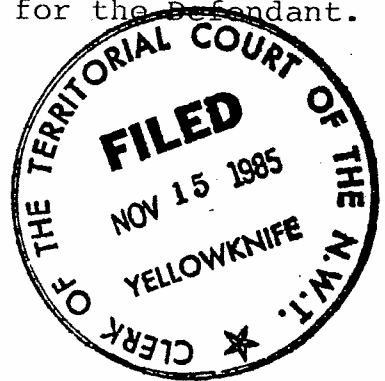
SEEMEEGA KOOTOO

Transcript of the Oral Judgment of His Honour Judge
R. M. Bourassa, sitting at Frobisher Bay, in the
Northwest Territories, on August 13th, A.D. 1984.

APPEARANCES:

Ms. N. BOILLAT: Counsel for the Crown.

J. BOVARD, Esq.: Counsel for the Defendant.



1 THE COURT: Seemeega Kootoo is convicted of a very serious
2 offence, that of sexual assault. I am basically disregarding
3 his criminal record. There is only one conviction in 1981.
4 As far as I am concerned, it has no bearing on any of my
5 deliberations, and full mitigation is available to him.
6 This seems to be another situation where, from the
7 probation report, an honest, trustworthy, hard-working,
8 responsible individual gets drunk and commits a serious
9 offence; and it's quite difficult to balance the seriousness
10 of the offence against the background and future prospects
11 of the accused.

12 I don't think probation is appropriate, because I don't
13 think Seemeega needs any supervision. I don't think he
14 particularly needs any counselling. He is past the age where
15 really one would expect a drastic change in his life. He's
16 lived his life up to the point, except for this incident,
17 without great event. It seems that emotional circumstances,
18 emotions and drinking got the better of him on this one
19 occasion.

20 I take into account the factors raised by defence counsel
21 and in the pre-sentence report, which I might note, is very
22 complete and thorough, that the accused is basically honest,
23 he's been co-operative, he appears to be remorseful, he has
24 a very positive background, and he has pleaded guilty at the
25 first instance. All those factors go to the mitigation of
26 sentence, including the virtual absence of a criminal record.

27 The one issue that I'm left with, I find the worst aspect

1 of this case is that surely to goodness a woman can go to
2 sleep in her own house without worrying about some man trying
3 to have sexual intercourse with her. It's terrible that a
4 woman can't lie down and go to bed in her own house without
5 this happening.

6 I could, perhaps, understand it more easily if Seemeega
7 had been an invitee or if he'd been in the house drinking at
8 a party and happened upon the victim asleep, but here he
9 goes out to her house, invites himself into the house, and
10 seeing her asleep, decides to commit the offence. I think
11 that's a very aggravating factor. I think it's such an
12 aggravating factor that it outweighs a lot of other factors.

13 I conclude that for the sake of deterrence, general, not
14 specific deterrence -- I don't think a jail sentence will
15 have any great positive effect on Seemeega in deterring him --
16 a jail sentence is necessary.

17 Seemeega appears to have been a victim of alcohol and his
18 emotions at the time. I only hope that as a result of all
19 this, he learns to stay away from alcohol, because that
20 always seems to be the downfall of so many.

21 I am sure you have been sitting here all night and have
22 heard that everyone who's before the courts was drunk when
23 they committed their offence.

24 It has to be understood that people can't walk into other
25 people's houses and commit sexual assault on sleeping
26 women. That is just something that is grossly unacceptable.
27 And I think the sentence imposed must be one that is going to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

deter that class of person who might be inclined to do something like this. If anyone else is ever in the same position as this accused, they're going to have to think twice before they run away with their feelings into someone else's house.

I regrettably, therefore, have come to the decision that a jail sentence is called for. I am going to attempt to make it as lenient as I can, under all the circumstances, taking into account all that I said, but it has to be understood that this is unacceptable.

Taking into account what your lawyer said on your behalf, the pre-sentence report and the particular facts that I've referred to, I am going to sentence you to 60 days imprisonment, and I am certainly prepared to recommend that you be considered eligible for work release at the earliest available opportunity.

(SENTENCING REMARKS CONCLUDED)

Certified a correct transcript,

Debra J. Chipperfield
Debra I. Chipperfield,
Court Reporter.