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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER BETWEEN:

HER MAJESTY THE QUEEN

- and -

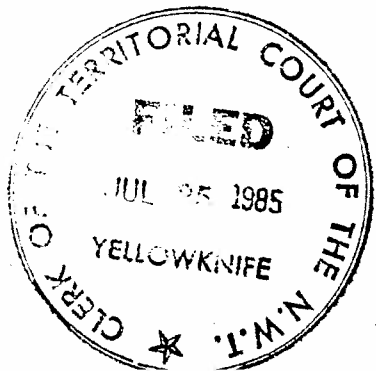
PETER LEE

Transcript of the Remarks on Sentencing delivered by
His Honour Judge R. M. Bourassa, in Frobisher Bay,
in the Northwest Territories, on April 9th, A.D.
1985.

APPEARANCES:

D. GATES, Esq.: Counsel for the Crown.

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



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MR. BOVARD: I am prepared to hear your sentence, Your Honour.

THE COURT: Are there any further comments from counsel?

MR. GATES: No, sir, other than that Miss Boillat, who I believe appeared before Your Honour at the time of sentencing on the last circuit, simply indicated when I spoke with her about this, the only additional comment she would wish to make was a suggestion to the Court that the warrant of committal might make some reference to the need for some psychiatric services being made available to Mr. Lee.

THE COURT: Thank you, Mr. Gates.

I have considered the matter to some length. I have gone over the presentence report that's been prepared, as well as the medical reports that were attached to it. It would be appropriate for me to make some findings on that matter as it was argued strenuously by counsel. I have also considered the cases referred to me by counsel.

Briefly, the facts involve Peter Lee attempting sexual intercourse on a child, a four-year old child. Surely, children, even in less than an ideal world, can look to adults for guidance and stability and direction, for succour and protection. This little girl looked up and found the accused virtually climbing onto her for sexual gratification. It is obvious from the facts that were entered in on the sentencing hearing, as well as the medical reports that have

1 been brought forward that there was some penetration.

2 This child was injured and was certainly uncomfortable, as
3 a result, for a period of time. Hopefully, at that young
4 age, this incident will disappear into the fog of lost
5 memories and have no further impact on her life as years go
6 by.

7 I am prepared to find that the young girl contracted
8 gonorrhoea from the accused. I have gone over the medical
9 report a number of times, and I conclude that the doctor's
10 conclusion, and I'm quoting:

11 "...it makes it highly unlikely that
12 she could have contracted gonorrhoea
from someone other than Peter."

13 fits within the very small area of doubt that's left
14 over. After being satisfied beyond a reasonable doubt, I accept
15 and I find that not only did he attempt sexual intercourse
16 with her, but as a result of his actions, she contracted
17 gonorrhoea.

18 Again, thankfully, there is apparently no permanent
19 injury or trauma related to that disease. The gonorrhoea,
20 itself, apparently was cured, and the doctors are of the
21 opinion that there will be no lasting repercussions, such as
22 sterility.

23 Needless to say, it's a horrible thing to visit on a
24 child of four years old. It is, unfortunately, something
25 that the Courts have had to deal with on occasions in the
26 past.
27

1 I am grateful to counsel for providing me with a
2 number of cases that are somewhat related to this matter,
3 by way of elucidating principles for the guidance of this
4 Court.

5 The aggravating factors in this case are that, firstly,
6 Peter Lee was in Loco Parentis with the child; that is to
7 say, he was an individual, whether by blood or by habit, that
8 this young child looked to as being in a parental or guiding
9 role. He was left to babysit this child, which makes the
10 situation, in my view and in the view of the Courts past,
11 very aggravating.

12 Next, the accused comes from a very sad background.
13 The Court is now dealing with a man who has been virtually
14 in and out of jails for his whole adult life. He has
15 numerous convictions, better than 20, which include all
16 of the, although I hate to use the word "normal" offences that
17 one finds, such as break and enter and mischief and matters
18 such as that, but it also includes a number of offences for
19 assault: dangerous use of a firearm; possession of
20 narcotics.

21 This accused person is not like many who have come
22 before the Court for sexual offences, who were apparently
23 acting out of character or acting in a way that is not
24 particularly compatible with their antecedents. This
25 accused, from the presentence report -- and it's obvious
26 from his criminal record -- has been on one unending cycle
27

1 of antisocial conduct, for years.

2 In offences such as this matter, with the facts that
3 are before me, a denunciatory sentence is called for.
4 The law makes that very clear. The law also makes it clear
5 that the sentence imposed by the Court should not be one
6 that crushes the accused, and there should always be a hope of
7 rehabilitation and reformation. However, having said that
8 and after hearing the facts and looking at the accused's
9 presentence report and his record, I am of the view that
10 at this point in Mr. Lee's career, the Court must be
11 concerned about the protection of the public. It is one
12 thing to commit a break and enter at the Bay or one of the
13 other common targets. It is something totally different
14 in terms of antisocial conduct to commit an offence against
15 a small child, such as I've heard.

16 I note that in the Northwest Territories sentences for
17 what used to be called rape, now sexual assault, in
18 circumstances where there is absolutely no violence,
19 in circumstances where the victim is more often than not
20 unconscious because of the consumption of intoxicants,
21 sentences of 18 months to two years are common. Should the
22 sentence for this offender be any different? Is not the
23 sexual assault, forced attempted intercourse with a four-
24 year old child, meritorious, if I can use that word, of
25 something more significant than a two year imprisonment?
26 I believe it is!

27 I have gone over the cases provided me by counsel.

1 I recognize that there are a number of cases which have
2 disposed of incest related offences with less than a
3 penitentiary term. However, in many of those instances,
4 the problems are within the family, the problems are
5 unique, they don't seem to represent an ongoing continuing
6 antisocial conduct in the offender, such as we have here
7 today. Surely the Courts, in saying that offences against
8 children must be responded to by denunciatory sentences,
9 they mean sentences more severe than that handed out to an
10 adult when an adult victim is involved.

11 With respect to the accused's reformation and
12 rehabilitation, I am content to leave that to the adminis-
13 trative boards and agencies that are set up within the
14 corrections system. And that aspect of sentencing
15 has very little role and very little weight,
16 in my consideration. I don't think there
17 is anything the Court can do by way of reduction of sentence
18 that will achieve such reformation.

19 I am of the view that the Court must respond to this
20 case in a very firm fashion and one that is clearly under-
21 stood by all, no matter how unfortunate their antecedents, that
22 they can't start assaulting four-year old children.

23 In addition to the cases provided me by counsel, I have
24 also considered the case of John Samuel Ogilvie, a recent
25 decision of my brother, Judge Halifax, in Hay River, which
26 involved sexual assault within a family setting.

27 With respect to the gonorrhoea, having, of course,

1 ruled that I am satisfied beyond a reasonable doubt that
2 this accused transmitted the disease to the victim, I must
3 ask myself what do I do with that information, that fact.
4 While one is tempted to say that that is an aggravating
5 factor, and in some ways, I suppose it is -- but standing
6 beside the actual act, alone, it's of little consequence.
7 The act, itself, by itself, is so insidious, it can stand
8 alone as the most aggravating factor and doesn't require
9 any further complications in terms of arriving at the
10 sentence, such as the contraction of gonorrhoea. Of
11 course, had the small child been injured, seriously injured,
12 or had the disease taken its toll in terms of permanent,
13 damage, then, by all means, that would be an aggravating
14 factor.

15 I have attempted to balance all of the circumstances as
16 best I can. I have sought, in vain, for justification or
17 for some spark of hope, which would provide some mitigation
18 against a severe sentence, but I can find nothing. I can
19 only express the hope that the endorsement on the warrant
20 will be acted upon by those in authority and that somehow
21 the accused will respond, failing which there is very
22 little hope for him.

23 Once again, I can only say that the offence is a
24 terrible one and is totally and absolutely unacceptable.
25 The response by the Courts to offences such as this must
26 be no, no, a thousand times no!

27 Stand up, please, Mr. Lee. On this charge, I am going

1 to sentence you to 30 months imprisonment in Federal
2 Penitentiary.

3 I should also note that I will endorse the warrant,
4 strongly recommending that he be given psychiatric
5 counselling as may be required.

6 (REMARKS ON SENTENCING CONCLUDED)

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9 Certified a correct transcript,

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11 Debora I. Chipperfield

12 Debora I. Chipperfield,
13 Court Reporter.

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