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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER:

HER MAJESTY THE QUEEN

VS

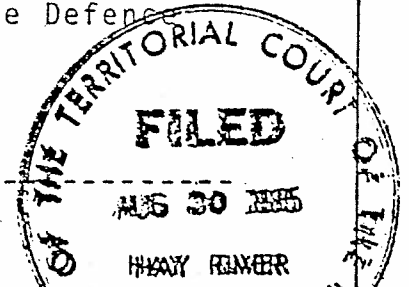
GERALD MELVIN BOND

Transcript of Proceedings of Facts and Sentencing
held before His Honour Judge R. M. BOURASSA, sitting
at Hay River in the Northwest Territories on Monday,
August 19, A.D. 1985.

APPEARANCES:

MR. J. SUTTON Counsel for the Crown

MR. S. SHABALA Counsel for the Defence



1 THE CLERK OF THE COURT: Gerald Melvin Bond.

2 THE COURT: This is a matter for sentencing on break, enter,
3 and committing a sexual assault.

4 You can sit down, Mr. Bond.

5 Mr. Sutton, may I hear the facts.

6 I take it Counsel have received copies of the
7 Presentence Report.

8 MR. SUTTON: Yes, Your Honour.

9 MR. SHABALA: Yes.

10 THE COURT: Any objections to any portions of the Report,
11 Mr. Sutton?

12 MR. SUTTON: I have none, sir.

13 MR. SHABALA: Perhaps--there is a comment with respect to
14 a psychological report being prepared. It's indicated that
15 my client didn't disclose the contents. Unfortunately, he
16 doesn't know what those contents are.

17 THE COURT: That's your only comment on the Presentence
18 Report?

19 MR. SHABALA: That's correct, sir.

20 THE COURT: The facts, then, Mr. Sutton.

21 MR. SUTTON: On the 2nd of August, 1985, at Hay River, an
22 individual by the name of Gilmore was at a house of the
23 Anglican Pastor. She was housesitting there for him. She
24 was asleep in a basement bedroom. This is at 3:00 in the
25 morning.

26 She heard the doorbell ring and someone knock-
27 ing at the front door. That woke her up. So it took her a

1 few minutes to get up and get going to investigate; but when
2 she went downstairs, she put her housecoat on over her pajamas.
3 That was before she came upstairs to investigate from the
4 basement.

5 As she was coming upstairs, she heard glass
6 breaking in the basement; so she immediately called the
7 R.C.M. Police. A lone male person, the accused, Gerald
8 Melvin Bond, walked upstairs to where she was and tried to
9 have a conversation with her. She told him that he was not
10 welcome and that he should leave immediately. She told him
11 to get out, and they both walked towards the front door.

12 At the front door, the accused told her that
13 he wanted to have sexual intercourse with her. She told him
14 again, this time more forcefully, that he had to get out of the
15 house. He grabbed her by the hair and told her to take off
16 her clothes. She didn't do that and was struck in the face
17 by the accused and again told to take off her clothes. Again,
18 she didn't comply, and he hit her again. At this time, he
19 also grabbed the front of her pajamas stating that if she
20 didn't cooperate, he would punch her face in and raised his
21 fist as if to strike another blow. At this point, she was
22 officially threatened and afraid; and she took off her pajama
23 top. He then took off her pajama bottoms and forced her onto
24 the couch.

25 While on the couch, he caressed her breasts
26 and asked her to perform fellatio on him. She managed to talk
27 him out of that idea, and he performed cunnilingus on her at

1 that point.

2 Two Police Officers arrived, saw that the rear
3 basement window had been smashed, and saw a red motorcycle
4 helmet by the window. One Police Officer went to the rear
5 door, and the victim Gilmore came down and opened the door.
6 The Police Officer went upstairs and into the kitchen area
7 where he found the accused, arrested him and placed him in
8 handcuffs, advised him of his right to Counsel. When he was
9 arrested, his zipper was in a down position; but apart from
10 that, he was fully clothed.

11 Samples of his breath were demanded and given.
12 The analysis of those samples of his breath were 120 milligrams
13 percent and 120 milligrams percent.

14 There was no sexual intercourse. The accused
15 gave a statement to the Police indicating that he was aware
16 of what he did and that he broke into the house with the
17 intention of committing a sexual act and then leaving.

18 Those are the circumstances.

19 THE COURT: Are those facts admitted as true?

20 MR. SHABALA: Yes, sir. Just a preliminary matter: In
21 order to protect the complainant in this matter, I would
22 request a ban on publication.

23 THE COURT: I can't ban publication of my reasons or
24 sentencing here, unless you're aware of some section of the
25 Code--

26 MR. SHABALA: I thought it was already in effect--an Order
27 was previously made by His Honour Judge Halifax.

1 THE COURT: I know of no reason that I can ban publication
2 of what is transpiring here today.

3 MR. SHABALA: Is the Order of His Honour Judge Halifax still
4 binding, then?

5 THE COURT: I don't know what Order he made.

6 MR. SUTTON: Sir, I'm just looking for a section. It occurs
7 to me that there is one that prevents publication of the
8 identity of the victim.

9 THE COURT: Oh, yes, but not proceedings.

10 MR. SUTTON: That's as far as it goes, though.

11 MR. SHABALA: I'd request such an Order be given.

12 THE COURT: Are the facts admitted as true?

13 MR. SHABALA: Yes, sir.

14 THE COURT: Mr. Sutton, what do you say is the Crown's
15 position with respect to sentence?

16 MR. SUTTON: Your Honour, it's a serious offence in the
17 Crown's respectful submission. Perhaps, first, I'll give you
18 a copy of the Record of the accused.

19 MR. SHABALA: The Record is admitted.

20 THE COURT: Thank you.

21 MR. SUTTON: It's one of the more serious charges in the
22 Criminal Code, punishable by life imprisonment: break and
23 enter into a dwelling house. That would be without the
24 resulting particular act of this case. In my submission,
25 it's almost as serious a break and enter as the Court can be
26 faced with. It's very high, at least, on the scale of
27 offences as to seriousness of the offence.

1 The offender before the Court has a good
2 Presentence Report. To some extent, it's favourable; but he
3 does have a Criminal Record which shows, to some extent, a
4 predisposition to sexual conduct that's unlawful. In my
5 submission, that makes him a threat or danger to society; and
6 he needs to be specifically deterred.

7 Protection of the public in their homes in the
8 middle of the night from this type of assault is a serious
9 matter for the Court's consideration here; and in my submis-
10 sion, the general deterrence necessary to protect the public
11 from this type of break, entry, and assault is a significant
12 period of incarceration.

13 Those are my submissions, sir.

14 MR. SHABALA: As the Presentence Report indicates, my client
15 is 35 years of age. He has been a drifter for quite some
16 time. He does show remorse, and I understand he was coopera-
17 tive with the Police in this matter.

18 He does state that the drinking is the reason
19 for the offence, and he also believes that it would be bene-
20 ficial also to receive some psychological help.

21 Since his last appearance in this Court, he
22 has spent some time at Yellowknife Correctional Centre. I
23 understand he had to be put in a protective cell because the
24 inmates were giving him a hard time. Apparently, this was
25 because of a publication that was in the paper; and the other
26 inmates got wind of it and gave him a hard time.

27 My client is concerned that he's already 35

1 years old. He certainly doesn't want this offence to happen
2 again. He's hoping that perhaps--if he is going to spend
3 some time, he would request to pick up a trade in order to
4 further him in that respect and, of course, all the attendant
5 help which could be given to him. He doesn't feel that could
6 be acquired in the Yellowknife Correctional Centre. In this
7 regard, if Your Honour sees fit to impose a jail sentence,
8 you would perhaps make a recommendation that he be sent to
9 Fort Saskatchewan, which, I understand, is an institution to
10 deal with offenders who are serving two years less a day.

11 Those are my submissions, sir.

12 THE COURT: Did I understand you correctly, Mr. Sutton,
13 that the break and enter was committed with the intention in
14 advance of committing a sexual assault?

15 MR. SUTTON: Yes, sir.

16 THE COURT: Well, it is the Court's duty today to impose
17 a sentence on Gerald Melvin Bond with respect to an offence
18 of break, enter, and committing the indictable offence of
19 sexual assault.

20 The accused is 35 years of age. In the Pre-
21 sentence Report, it appears he is originally from Nova Scotia.
22 He has drifted around the Country, taking odd jobs here and
23 there and, accordingly, described as a jack-of-all-trades.
24 Alcohol--quoting from the Presentence Report--has been a
25 major problem all his life, and he was drinking at the time
26 of this offence; although, the levels indicated by the
27 Breathalyzer readings of 120 do not indicate gross intoxication.

1 The accused is before the Court. His previous
2 criminal convictions are of a related nature. In 1977 in
3 Strathmore, Alberta, he was convicted of indecent exposure;
4 and a fine of \$100 was imposed. In 1979 in Quesnel, British
5 Columbia, indecent assault for which he received a prison
6 term of nine months and Probation for a year. In 1982 in
7 Thompson, Manitoba, indecent act; and he was placed on
8 Probation for six months. In 1984 in Whitehorse, making
9 harassing telephone calls for which a fine and Probation was
10 imposed.

11 The accused, who had formed the intention to
12 commit a sexual assault, broke and entered, in the early
13 hours of the morning, the Anglican Pastor's home, found a
14 woman who was housesitting; and as a result of violence,
15 punching her in the face and threatening her with severe
16 bodily harm, she partially disrobed. He removed the rest of
17 her clothing, placed her on a couch, and sexually assaulted
18 her.

19 I agree with the Crown that this is one of the
20 worse examples; or at least, it is on that end of the scale
21 of a break and enter.

22 The Courts and the whole judicial system
23 promise the public that they will protect the public. It is
24 the way that system works, I suppose, that the only way of
25 protecting is by making an example of one individual who is
26 convicted but cannot stop people from committing offences
27 before the offences are committed. There is no provision in

1 law for the Police simply to arrest someone because they do
2 not like the look of them. The offence has to be committed;
3 and hopefully, by the sentence that is imposed, the public
4 will realize that they will find protection through the
5 Courts and that wrongdoers and offenders will be punished in
6 a meaningful way or sentenced, I should say, in a meaningful
7 way that may deter them as well as deter others.

8 In this case, we have the combination of the
9 sole, all-too-frequent crimes in the Northwest Territories:
10 break and enter, sexual assault, and the consumption of
11 alcohol.

12 In this case, a totally innocent woman was in
13 the wrong place at the wrong time. I am not attributing any
14 fault whatsoever to her. Awakened 3:00 in the morning and
15 sexually assaulted. I think the Court has to have that kind
16 of person in mind when it imposes sentence, that that kind
17 of person will be protected, that people can sleep safely in
18 their homes at night without fear of this kind of thing hap-
19 pening.

20 It has been a long, old saw in our legal
21 system that a person's home is their castle; and there is a
22 certain sanctity to the home. There is also a certain
23 sanctity to one's personal integrity; and in this instance,
24 the accused not only violated the sanctity of the home but he
25 certainly and grossly violated the integrity and sanctity of
26 the victim that was involved. To be subjected to such
27 indecencies and violence is totally unacceptable.

1 The accused has a history of sexual offences.
2 It would strike me--and I am only speculating because I have
3 nothing from Counsel in this regard--that he has a problem
4 that could possibly be addressed; but be that as it may, the
5 public has to be protected. Women like this particular
6 victim have to be protected, and they have to see that the
7 Courts are making the efforts to protect them.

8 The accused has had the opportunity in the past
9 to recognize any problems he may have with respect to sexual
10 desires and acting out.

11 There was premeditation in this particular
12 case. There was violence in the commission of the assault.

13 I accept in mitigation that the accused has
14 pleaded guilty at virtually the first available instance.
15 The offence occurred on the 2nd of August. He was apprehended
16 on that date. He was before the Court on the 6th of August
17 and pleaded guilty at that time. The matter was simply
18 adjourned to today's date for a Presentence Report. His
19 remorse and early plea of guilty certainly goes to mitigation.
20 It has relieved the victim of the ordeal of testifying in
21 both a Preliminary Inquiry and a Trial; although, I have to
22 note that it would appear that he was caught virtually in the
23 act by the Members of the R.C.M. Police. It appears that he
24 was almost inescapably caught.

25 I do not want to impose a sentence that is
26 going to crush the accused. I am aware and cognizant of a
27 number of decisions of the Supreme Court of the Northwest

1 Territories in dealing with sexual assaults involving inter-
2 course and the sentences that have been imposed in some of
3 those instances. Of course, the primary offence here is that
4 of break, enter, and the indictable offence of sexual assault.
5 There was violence involved as we have already noted.

6 The accused is not a Northerner. He is
7 reasonably sophisticated. He has been around the Country.
8 Alcohol was involved; but as I indicated earlier, there is
9 nothing before me that would indicate it was so involved as
10 to reduce any inhibitions he may have to the point of non-
11 existence. The victim was not involved with alcohol. The
12 accused has been cooperative with the Police. Generally
13 speaking, the Presentence Report is reasonably positive.

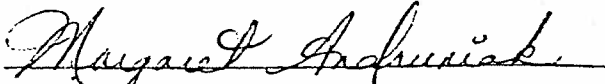
14 I am of the view that a significant term of
15 imprisonment is called for. The only thing that remains in
16 my mind is that women have to be secure in their knowledge
17 that they can sleep in their homes at night without someone
18 breaking in and beating them up for the purposes of sexual
19 gratification..

20 Stand up, please, Mr. Bond.

21 On this charge, I am going to sentence you to
22 four-years Federal penitentiary. I will endorse the Warrant
23 with the recommendation that you be considered eligible for
24 treatment with respect to any sexual problems you may have.

25 That is all.

26 Certified a Correct Transcript:

27 
Margaret Andruniak
Court Reporter