

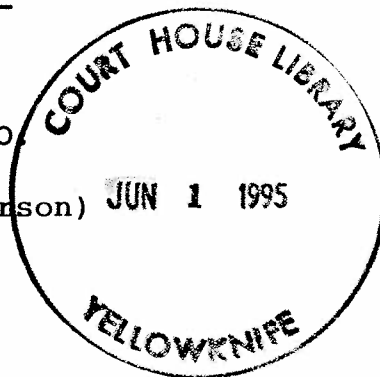
12 CR 13 001

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

HER MAJESTY THE QUEEN

- and -

G.G.M.O.
(A Young Person)



Transcript of the Reasons for Sentencing, held in Colville Lake, in the Northwest Territories, on the 2nd day of February, A.D., 1995. The Honourable Judge B.A. Bruser presiding.

APPEARANCES:

Mr. J. MacDonald

For the Crown

Mr. C. Rehn

For the Defence

(CHARGED UNDER SECTION 271 OF THE CRIMINAL CODE)

COPY

1 THE COURT: You are smiling again like it is
2 a great big fun time.

3 You were 15 when you committed this very serious
4 crime. You are now 16. You had been drinking at
5 the time. The Court is alarmed that the youth
6 worker has had to note that you believe alcohol
7 drinking is normal, that it is part of your lifestyle,
8 and that there is nothing wrong with drinking or
9 being drunk. The Court is also alarmed that the
10 victim Rita Kochon would hold a drinking party at
11 her home and pass liquor around to a 15 year old.
12 If this sort of thing is happening here in Colville
13 Lake, the Court urges the authorities, the child
14 welfare authorities, and the R.C.M. Police when they
15 are able to be here, to do whatever they can to crack
16 down on it. I believe that this is already happening.
17 Part of the point of saying this is that there is no
18 police detachment in Colville Lake.

19 You committed what we call in law a major sexual
20 assault. Some people call it rape. The victim was
21 vulnerable. Her husband was out of the community.
22 As I noted a moment ago, there is no police force
23 stationed here. Many people don't even have
24 telephones. I don't know if she had a telephone.
25 Probably not. The act was done to fulfill a selfish
26 and perverted sexual drive.

27 There is no record. You are normally a valued

1 member of the community, but one hopes that your value
2 in the community has nothing to do with your being a
3 fun guy to have at a drinking party.

4 The Chief has written a letter. He says that he
5 would be prepared to have you sent to the land with
6 himself. I have taken into account your evidence
7 that you prefer school over the land. I think that's
8 an attitude that you are entitled to have. I make no
9 judgment call as to which is better, but the Court
10 respects your view that education is, for you, better
11 than continuing full time on the land. If there is
12 custody whether be it secure or open, you will have
13 the opportunity to continue with your education.
14 The land will be there when you are free.

15 If you were being dealt with in adult court on the
16 same facts as a youthful first-time-adult offender,
17 I would sentence you to two years less a day, I
18 suspect. Perhaps longer, perhaps a little shorter,
19 depending on what the lawyers might have had to say.
20 The maximum period of custody, if there is any in this
21 case, which the Court can give is two years for a
22 young offender. In adult court for this crime you
23 could get ten years in the pen. Now think about that.

24 There will be custody. There will be custody
25 because this young offender is not getting the full
26 control, supervision, and guidance which he needs in
27 life. Secure custody is not necessary even though

1 defence counsel has quite fairly said that a short
2 period of secure might be in order followed by a long
3 period of open custody. To do that would interrupt
4 his education. It would be mean that G. would be
5 moving to at least two facilities. I don't know
6 that this young person who is generally doing well in
7 the community needs secure custody. In other words,
8 public protection does not, I believe, require that
9 he be locked up in a secure setting for even a short
10 period of time.

11 I note the offence occurred over one year ago.
12 There is nothing to indicate that he has been in any
13 difficulty with the law since then. The main
14 principle of sentencing, having arrived at the
15 decision that custody, open custody, is necessary,
16 will be that it not be so long as to be unfairly
17 harsh. Yet, it has to get the point across to G.
18 that this type of conduct which was fueled by his
19 drinking which he sees nothing wrong about, must stop
20 and not be repeated.

21 You are not allowed to drink until you are 19.
22 At 19 you can choose if you want to drink, but you do
23 not have to. There is no alcohol between now and 19.
24 If you had not consumed alcohol, if the complainant
25 had not given it to you that night, then you likely
26 would not be here and she likely would not have had
27 to come here. This probably would not have happened

1 to her. You do not do this type of thing when you
2 are sober.

3 There should be a signal of sorts to other people,
4 but it has to be of lesser importance. I hope the
5 message will go out to others in this community that
6 drinking parties in which young people are permitted
7 to drink are totally unacceptable and completely
8 against the law. What the adults are doing is
9 setting the young people up for conflict with the
10 law and helping to make criminals out of them. The
11 community ought to come to grips with it. The Court
12 has seen this happen here time and time again. The
13 population is under a hundred. I have heard before
14 it is about 85 when everyone is here.

15 Does the Crown know what the full population is
16 when the full community is here?

17 MR. MACDONALD: The Crown doesn't have a census,
18 sir, but about 85 people, I think, is correct.

19 THE COURT: The Court was here in July, in
20 September, we are now here again in February, and
21 we do Colville Lake matters in Fort Good Hope
22 virtually every time we are there, and all of this
23 for a community of only about 85 people, and part of
24 the problem has to do with the youth who are given
25 alcohol. I think I have said enough. The point is
26 made. The view of the Court is clear.

27 There will be a period of one year open custody

1 and it will be followed by a one-year probation
2 order. For the first time, G., the Court has your
3 attention. The probation is to begin upon your
4 release. It will have the following terms: You are
5 to keep the peace and be of good behaviour, you are
6 not to drink, you are not to have in your possession
7 any alcohol, you are to report to the youth worker
8 immediately upon your release and thereafter for one
9 year as directed, for that one year you will live
10 where directed by the youth worker, while under the
11 supervision of the youth worker, you will continue
12 successfully with any educational or training
13 programs as the youth worker may direct, you are to
14 take any counselling as the youth worker may direct
15 including alcohol abuse counselling and any sexual
16 abuse treatment that may be necessary. That type of
17 counselling is now available in Yellowknife. If you
18 are a suitable candidate, you are to have that type
19 of counselling. The warrant the committal will be
20 endorsed with the recommendations as to education,
21 alcohol counselling, and sexual abuse treatment.

22 There won't be any firearm prohibition. To do so
23 would be unfair. The use of firearms is very much a
24 part of what this community is all about. I mean
25 this in a lawful legitimate way. I think he ought
26 to be permitted to use firearms. I do not see that
27 he poses a risk to anyone including himself such

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that he not be permitted to have firearms, ammunition,
or explosive material.

Is there anything more from the Crown?

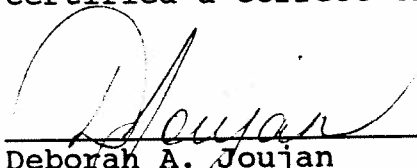
MR. MACDONALD: Nothing, sir.

THE COURT: Anything more from the Defence?

MR. REHN: No, sir.

(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

Certified a correct transcript,



Deborah A. Joujan
Court Reporter