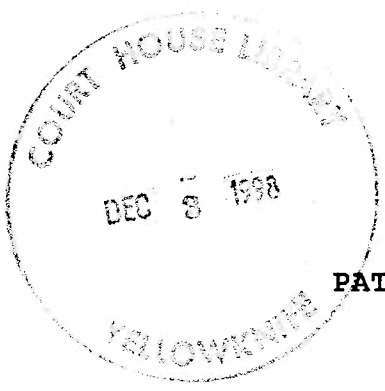


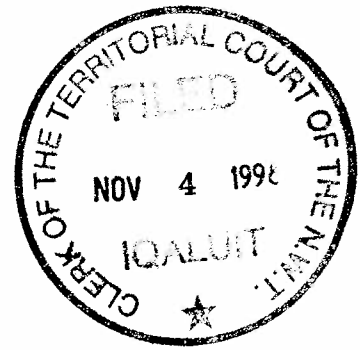
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- vs. -



PATRICK AULA

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Transcript of the Sentencing Hearing before The Honourable Judge B.A. Browne, at Hall Beach in the Northwest Territories, on Wednesday, October 21, A.D., 1998.

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APPEARANCES:

Ms. D. Robinson: Counsel for the Crown  
R. Gorin, Esq.: Counsel for the Accused

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Charge under s. 348(1)(b) of the Criminal Code of Canada

1 THE CLERK: Patrick Aula.

2 THE COURT: Patrick Aula has pled guilty to a  
3 charge of break and enter into a dwelling house and  
4 commit a sexual assault in that place. The guilty plea  
5 was entered the last time that we were here. The case  
6 was adjourned for a presentence report, and I  
7 understand that in the last couple of days, Mr. Murray  
8 of Regional Social Services has prepared a report, and  
9 I've had an opportunity to review that report.

10 Are we ready to go ahead with sentencing then?

11 MR. GORIN: Yes, Your Honour.

12 THE COURT: Ms. Robinson?

13 MS. ROBINSON: Your Honour, on the 8th day of May  
14 of this year, here in Hall Beach, the RCMP received a  
15 call from the Hall Beach health centre advising that  
16 they received a report that a three-year-old child had  
17 been sexually assaulted.

18 The police attended at the health centre and spoke  
19 first with the child's mother, who advised that at  
20 6 a.m. that morning, her daughter had come into her  
21 bedroom and had told her that she had been sexually  
22 assaulted by a man. Her mother had went out to the  
23 living room where the child usually sleeps and found a  
24 male person, Patrick Aula, sitting on the couch in her  
25 living room. She asked him what he was doing, and he  
26 told her that he wanted a smoke. He then got up and  
27 left the residence.

1           Now, the mother told police that she knew Patrick  
2           Aula but that there was no reason for him to be in her  
3           residence that night. She had shut the door before  
4           going to bed, and everyone in their family was  
5           sleeping.

6           After Patrick Aula had left her house, she noticed  
7           a pool of semen on the blanket that was next to her  
8           daughter and that her daughter had been using to sleep  
9           with. Later on that day, she took her daughter to the  
10          nursing station, and as I said, the nurses contacted  
11          the police. The child was asked what happened, and, in  
12          her own language, advised that she had been assaulted  
13          that morning and that she did not know the man.

14          Later on that evening, police approached  
15          Mr. Aula. He was asked about his involvement in the  
16          matter, and he stated, pretty much off the top, I am  
17          guilty. He was taken back to the detachment, and,  
18          after the usual cautions, was asked if he wished to  
19          provide a statement, which he did. He admitted that he  
20          had entered the home of this family, that he had been  
21          looking for a smoke, that he entered the living room  
22          and saw the three-year-old child sleeping on the couch,  
23          and admitted that he had had sexual intercourse with  
24          the child. He indicated that he withdrew his penis  
25          from the child and ejaculated on the couch, and that  
26          when he left, the little girl was crying and had been  
27          crying while he'd had intercourse with her. He said

1           that he didn't know why he did this but that he was  
2           sorry, this was not supposed to happen. Indications  
3           were that he had not been drinking at the time that the  
4           incident occurred.

5           Those are the facts.

6           MR. GORIN:                   The facts are admitted. My client  
7           was not drinking at the time of the incident, he was  
8           under the influence of hashish.

9           THE COURT:                Representations to sentence, Ms.  
10          Robinson?

11          MS. ROBINSON:            Yes, Your Honour. My friend and I  
12          have a joint submission for your consideration, but  
13          I'll just file the record to complete the information  
14          that the Court has.

15          Mr. Aula's record is somewhat dated, but it does  
16          include a conviction in 1985 for theft under. In 1994,  
17          he was before the Court in May for assault with a  
18          weapon and failing to comply with a recognizance. The  
19          sentence of the Court at that time was 60 days in  
20          custody and probation for six months. Later on that  
21          year, in June of 1994, he was convicted of a second  
22          count of assault -- pardon me, a simple assault  
23          conviction -- for which he received a suspended  
24          sentence and probation for nine months.

25          MR. GORIN:                The record is admitted.

26          THE COURT:                Thank you.

27

**EXHIBIT NO. 1: CRIMINAL  
RECORD**

1 MS. ROBINSON: Your Honour, it is a joint  
2 submission that Mr. Aula should receive a lengthy and  
3 significant period of incarceration for this offence,  
4 and defence counsel and the Crown are joining in  
5 recommending a period of five years in custody in a  
6 penitentiary.

7 As Crown, I think the range is appropriate for the  
8 following reasons: First of all, this act constitutes  
9 a serious sexual assault, perhaps the most serious that  
10 the Court encounters within the charge of sexual  
11 assault itself. This was a case of full intercourse,  
12 as admitted by Mr. Aula. So, I think even in those  
13 circumstances, we'd be looking at a significant and  
14 lengthy period of penitentiary time, and I would  
15 suggest it would have been in the range of four years.

16 There are some aggravating factors in addition to  
17 that that I think the Court can take into account. One  
18 is the age of the child, three years old, which makes  
19 this a rather horrifying act under those circumstances;  
20 and secondly, Your Honour, Mr. Aula entered a residence  
21 before committing this act. At the risk of not being  
22 overly dramatic, I think this constitutes perhaps a  
23 parent's worst nightmare: That you're in your own  
24 home, it's nighttime, you've secured your house, you've  
25 put your children to bed, you've gone to bed, and  
26 something like this happens: That a man who has no  
27 business being in your house enters your home and

1 assaults your three-year-old daughter in such a  
2 fashion.

3 For those aggravating factors, I think we're  
4 looking here at a sentence starting perhaps at six  
5 years and more.

6 There is also the fact that Mr. Aula, while his  
7 record is not related, is not coming before the Court  
8 for the first time. He has been involved in crimes  
9 involving physical injury to other persons in the  
10 past.

11 Certainly, mitigation can be factored in in the  
12 sense that Mr. Aula has admitted to this, and that has  
13 certainly saved the family of this three year old from  
14 having to come to court and saved the Court and the  
15 administration of justice from having to do a full  
16 inquiry into the circumstances of this matter.

17 It's for those reasons, Your Honour, that we have  
18 arrived at a range that we're proposing, which is five  
19 years, but having regard to the circumstances, this  
20 being one of the more serious and shocking incidents  
21 that comes before this Court, we ask the Court to  
22 consider the range that I'm suggesting.

23 THE COURT: Thank you. Mr. Gorin?

24 MR. GORIN: Yes, Your Honour, this is a joint  
25 submission requesting that Mr. Aula receive a  
26 penitentiary term of imprisonment of five years. It's  
27 the submission of the defence that taking into account

1 all of the aggravating features already mentioned by my  
2 friend, the fact that this was full intercourse with a  
3 three-year-old child and it occurred within the context  
4 of a break and enter, and also taking into account the  
5 mitigating factors such as Mr. Aula's very early guilty  
6 plea and his full and complete cooperation with the  
7 police, five years is appropriate.

8 As far as his personal circumstances are  
9 concerned, he's 33 years old, he's single. He does  
10 have a daughter who is about six or seven years old who  
11 lives with the mother. He has a Grade 8 education, and  
12 he's gone to Arctic College. He's taken the Co-op  
13 carpentry course in Hall Beach as well. He has, in the  
14 past, worked as a construction worker. He is not  
15 working now. He last worked on May 8th, 1998, working  
16 for about four months.

17 He tells me he does not know why he did what he  
18 did. He has absolutely no idea. He tells me that he  
19 was feeling a lot of emotions during the time span that  
20 this happened due to the fact that he had recently lost  
21 his housing in the community. He was, as you have  
22 heard, under the influence of hashish at the time this  
23 incident occurred.

24 There is really not a great deal I can say about  
25 this case. Even though it is a very serious case, the  
26 factors are actually reasonably simple. I'm only  
27 suggesting that Your Honour consider endorsing the

1 Warrant of Committal with a recommendation that  
2 Mr. Aula receive counselling or other treatment while  
3 he is in custody to assist him in dealing with this  
4 sort of behaviour which brings him to court today.  
5 Thank you.

6 THE COURT: Mr. Aula, stand up, please. Is  
7 there anything that you want to add to what the lawyers  
8 have said in court today?

9 THE ACCUSED: No.

10 THE COURT: I'll invite the people who are  
11 sitting with me to make any comments that they want  
12 to.

13 Mr. Arnaryoark, do you want to say anything to  
14 Mr. Aula today?

15 MR. ARNARYOARK: No.

16 THE COURT: Mr. Kaunuk?

17 MR. KAUNUK: I would like to state that, just so  
18 you will know in the future, that a person should not  
19 molest a child or have intercourse with a child, and it  
20 affects not only the child, but the others. I'm not  
21 trying to put you down personally, but as you know,  
22 hearing things -- hearing children that have been  
23 molested, it's -- it hurts. My suggestion to you is  
24 that you do not repeat that offence.

25 Those are my comments.

26 THE COURT: Thank you. Just to start off, I'm  
27 going to say a few things, Mr. Aula. I'm prepared,



1 based on all of the information I've received, to agree  
2 with the proposed sentence that the lawyers have made  
3 in court today. The sentence will therefore be five  
4 years to be served in a penitentiary.

5 In taking that into account, I think by entering  
6 your guilty plea you've recognized what a horrible  
7 thing you did to that little girl, and your guilty plea  
8 is one way of taking some steps to do the right thing.

9 When I was listening to the lawyers talking and  
10 reading through this presentence report, I was thinking  
11 that sometimes people get doing nothing so much that  
12 they abuse drugs and get crazy ideas about what's right  
13 and what's not right, and my advice to you at the end  
14 of the day is that when you get back to Hall Beach --  
15 and I hope you get counselling while you're in the jail  
16 -- but when you get back to Hall Beach, get busy doing  
17 something. It's when we don't have much going on in  
18 our lives that horrible things can happen, and we lose  
19 track of what's right and wrong. I very much hope that  
20 you will get busy so that you never, ever are involved  
21 with drugs or alcohol to such an extent that you can do  
22 so horrible a thing to a little person.

23 Having regard to the cooperation with the police  
24 and the guilty plea, all of those things are very  
25 important in recognizing the sentence. People in the  
26 community may think that's a lengthy sentence, but  
27 Mr. Aula, on the other hand, has done a horrible thing

1 that that little girl will grow up with for many  
2 years.

3 One of the reasons that we impose lengthy  
4 sentences in cases like this is to make people in  
5 communities aware of the severe consequences of taking  
6 advantage of children in a sexual way. So, hopefully  
7 the message will be clear, after Mr. Aula is taken out  
8 of Hall Beach for an extended period of time, that if  
9 similar activities take place in the community, there  
10 will be very strong sentences, and the hope is that  
11 those sentences will stop that kind of inappropriate  
12 and completely destructive behaviour.

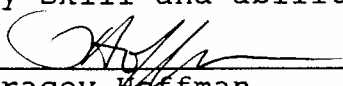
13 Mr. Aula, when you serve that sentence, I hope  
14 that you get as much help is available, and I will  
15 recommend you get psychiatric counselling and  
16 treatment. I also will make a recommendation that you  
17 get involved in as much job-skill training as possible  
18 so that when you come back here, you can pick up some  
19 of the jobs that are available and keep yourself busy.  
20 I don't think I have anything to add to that.

21 The sentence, then, is five years to be served in  
22 a penitentiary. Thank you, Mr. Aula.

23 (AT WHICH TIME THE PROCEEDINGS CONCLUDED)

24 .....

25 Certified correct to the best of  
26 my skill and ability,

27   
Tracey Hoffman,  
Court Reporter