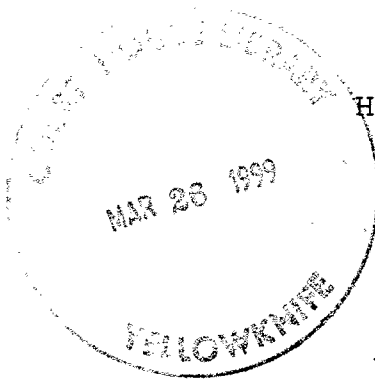


IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:



HER MAJESTY THE QUEEN

- v -

ALLISTAIR PERYOUAR

Transcript of the Reasons for Sentence
held by The Honourable Judge R. M. Bourassa,
sitting in Yellowknife, in the Northwest Territories,
on Tuesday, the 2nd day of March, A.D., 1999.

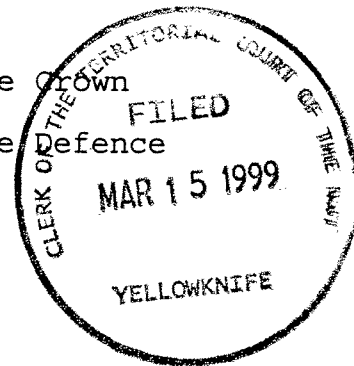
APPEARANCES:

Ms. S. Aitken:

Counsel for the Crown

Ms. T. Foster:

Counsel for the Defence



**Ban on Publication of Complainant / Witness
Pursuant to Section 486 of the Criminal Code**

1 THE COURT: Well, the issue, is what sentence
2 should I impose for a sexual assault and an assault on
3 a small child by this man? The Courts have often said
4 that the duty of the Court is to personalize a sentence
5 and look at the particular offender, the particular
6 offences, and try and craft a sentence that is
7 appropriate to both. I will do so.

8 In terms of background, the accused has two prior
9 convictions for assault and other than that, there is
10 nothing in his background before me that is untoward or
11 noteworthy.

12 The assault on the child and the circumstances
13 surrounding that offence: In my respectful view, they
14 are particularly despicable. Firstly, the accused used
15 his power to compel his spouse to falsely admit to this
16 crime which resulted in her being charged and then
17 exploited her fear of him to avoid the consequences for
18 that conduct. It was only when she spoke honestly to
19 the police was the truth found out.

20 I am told that the accused struck the baby because
21 it was being "bad". I ask: How can a
22 one-and-a-half-year-old child be "bad"? The accused
23 clearly struck the child hard. What a terrible thing
24 to do. This was not for correction. It was just anger
25 on Peryouar's part, turned upon a small baby. I take
26 into account that he has pleaded guilty but clearly
27 with him being in custody, and his spouse is prepared

1 to testify militates, to a degree, the guilty plea.

2 The charge of sexual assault is unusual in that it
3 involves coercion and force on a woman who is fully
4 cognizant and conscious of what is going on. The
5 accused sought to demean her. He used her fear of him,
6 his strength and size for his own criminal sexual
7 purposes. He used force in getting what he wanted and
8 caused some injury to her. A few years ago before the
9 Supreme Court of Canada disapproved of benchmark
10 sentencing, Mr. Justice Richard of the Supreme Court of
11 the NWT in R. v. Kendi indicated that a sentence of two
12 years would be appropriate for a sexual assault
13 involving intercourse with an unconscious woman. The
14 Court of Appeal of Alberta indicated that three years
15 would be appropriate for a sexual assault generally.
16 Crown is asking for two and a half years. Defence is
17 joining Crown in that submission.

18 I consider the guilty plea and certainly, that is
19 a mitigating factor, and defence is quite accurate in
20 describing the situation and I intend to give as much
21 weight as I can to that as a mitigating factor.

22 I may very well be wrong, but it seems to me that
23 sentences for sexual assault, by that I mean rape, have
24 changed over the years. If I recall correctly,
25 sentences of five years to seven years were usually
26 imposed in the seventies for sexual assault and now,
27 there is case law suggesting two years is adequate.

1 Sexual assault in the Northwest Territories is a
2 terribly common offence. It happens almost on every
3 circuit and almost in every community, and it is
4 something that has to be deterred.

5 Here, the accused acted as a sexual predator. He
6 had a plan in mind. He used a ruse to get the woman
7 into his house and, as I indicated, used his strength
8 and size to get what he wanted. Her protestations were
9 clear. She struggled. She repeatedly said "no." I am
10 not saying that a woman has to do that, but I am saying
11 that the accused should have seen that and responded.
12 She clearly and unequivocally wanted nothing to do with
13 him, and she made that clear to him.

14 Applying the law as I understand it as best I can
15 taking into account what has been said on his behalf
16 and position of Crown and defence, stand up, please,
17 Mr. Peryouar. Is there anything you want to say before
18 I impose sentence?

19 THE ACCUSED: I'm wondering what's the
20 father-in-law she is talking about? I didn't put -- I
21 didn't jerk her to the -- I didn't jerk her to the
22 wall, and I don't know what -- I don't know what sore
23 back and sore chest she is talking about honestly,
24 honestly. God's our only witness. I don't know what
25 she is talking about.

26 Yes, I learned from my mistakes. I missed two
27 funerals, yeah, because I would have been part of a

1 search and rescue, so I learned a lesson. Once I heard
2 about my cousin, yeah, I learned a lesson. She says,
3 well, I know you did. I says, well, after I do my
4 sentence, after I do my time -- and I'm going to be
5 thinking about the brick walls all the time so I'm not
6 going to go back. I made a promise on that. She says,
7 I know you're going to make that -- yeah, I know you're
8 going to keep that promise. I talk about it with my,
9 couple of my friends there in remand, talk about it and
10 tell them -- tell them I, you know, have learned from
11 my mistakes. They asked me what I'm charged for, and I
12 told them. I really learned from my mistakes.

13 THE COURT: Is there anything else?

14 THE ACCUSED: That's it.

15 THE COURT: Okay. On the charge of assault on
16 your child, four months in jail. On the charge of
17 sexual assault, three years, two months consecutive.

18 MS. AITKEN: Sir, in relation to the matters
19 that are set for trial March 22nd, I would ask for a
20 Form 19 warrant for the trial date.

21 THE COURT: Okay.

22 MS. AITKEN: Thank you.

23 MS. FOSTER: Thank you. I have nothing
24 further.

25 THE COURT: Thank you, Ms. Foster.

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Certified pursuant to Practice
Direction #20 dated December 28, 1987

Tara Taylor

Tara Taylor, CSR(A), Court Reporter