

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

F. R.

Transcript of the Reasons for Sentence by The Honourable
Chief Judge R.D. Gorin, at Behchok^z in the Northwest
Territories, on March 30th A.D., 2012.

APPEARANCES:

Mr. M. Lecorre: Counsel for the Crown
Mr. J. Bran: Counsel for the Accused

Charge under s. 271 Criminal Code of Canada

Upon direction of the presiding Judge, this transcript
has been modified to identify Accused and/or Victim by
initials pursuant to Section 486.4 of the Criminal Code

1 THE COURT: This particular matter was
2 adjourned over to today's date so that I could
3 deliver my reasons for sentence in the same
4 community from which the offence arose.

5 Are there any further things that counsel
6 would like to say before I pass sentence?

7 MR. LECORRE: Nothing further from the
8 Crown, Your Honour.

9 THE COURT: Mr. Bran?

10 MR. BRAN: Yes, Your Honour, just very
11 briefly. This matter was dealt with back in
12 December. There was a trial in this community
13 and Mr. R. was found guilty.

14 Since that time, I understand that Mr. R.
15 has been continuing to assist his mother on a
16 day-to-day basis as noted in the pre-sentence
17 report. He is the primary caregiver due to
18 her lack of eyesight and I understand that he
19 has continued to do that and has essentially
20 been staying out of trouble and has not been
21 consuming any alcohol since his last period of
22 consumption which is referenced in the
23 pre-sentence report.

24 THE COURT: Thank you, and just to be
25 clear, which community is he now residing in?

26 MR. BRAN: He is residing in
27 Yellowknife where his mother has moved, I

1 believe that was in August of last year, and
2 Mr. R. moved with her as he is her primary
3 caregiver.

4 THE COURT: That's what I thought, I
5 just wanted to be sure, thank you.

6 MR. BRAN: Thank you.

7 THE COURT: F. R. comes before this
8 Court to be sentenced for a sexual assault
9 that he committed on June 22nd of last year in
10 the community of Behchok. He was convicted
11 after trial so there is not the mitigating
12 effect of a guilty plea. He is now 26 years
13 of age. He was 25 at the time that he
14 committed the offence. He is of Tli Cho
15 descent. He has no criminal record.

16 The offence in question occurred when the
17 accused entered the room where his victim was
18 sleeping in the bed that she normally slept in
19 when staying at her grandmother's home. He
20 penetrated his victim's vagina digitally while
21 she was sleeping. When she awoke and
22 objected, he left the room that she was in and
23 went into another room in the house where he
24 fell asleep. The victim testified that the
25 accused's pants were partway down at the time
26 that she observed him. He was heavily
27 intoxicated at the time.

1 The Crown states that the maximum jail
2 term of 18 months would be appropriate, along
3 with a probation order. The Crown is opposed
4 to a conditional sentence. Defence counsel
5 argues for a conditional sentence in the range
6 of eight to ten months. Had the Crown
7 proceeded by way of indictment, Section 742.1
8 of the Criminal Code would prohibit the
9 imposition of a conditional sentence.
10 However, the Crown has proceeded summarily and
11 therefore a conditional sentence is not
12 prohibited by Section 742.1.

13 Sentencing is a highly subjective
14 exercise. I have to take into account many
15 different factors and, where they compete with
16 each other, balance them. Ultimately the
17 question that I have to answer is what is a
18 fit and proper sentence in this case having
19 regard to the circumstances of the offence and
20 the circumstances of the accused.

21 The fundamental purpose of sentencing is
22 set out in Section 718 of the Criminal Code
23 which provides that the fundamental purpose of
24 sentencing is to contribute, along with crime
25 prevention initiatives, to respect of the law
26 and maintenance of a just, peaceful and safe
27 society by imposing just sanctions. These

1 just sanctions must have one or more of the
2 following objectives:

3 to denounce unlawful conduct; to deter the
4 offender and other persons from committing
5 offences; to separate offenders from society
6 where necessary; to assist in rehabilitating
7 offenders; to provide reparations for harm
8 done to victims or to the community; and to
9 promote the sense of responsibility in
10 offenders and acknowledgement of the harm done
11 to victims and to the community.

12 Section 718.1 of the Criminal Code sets
13 out the fundamental principle of sentencing
14 where it states that a sentence must be
15 proportionate to the gravity of the offence
16 and the degree of responsibility of the
17 offender. As the majority of the Supreme Court
18 of Canada stated in R. v. Ipeelee [2012]
19 S.C.J. No. 13, a case decided one week ago
20 from today:

21 The fundamental principle of
22 sentencing (i.e., proportionality)
23 is intimately tied to the
24 fundamental purpose of sentencing
25 - the maintenance of a just,
26 peaceful and safe society through
27 the imposition of just sanctions.

1 Whatever weight a Judge may wish
2 to accord to the various
3 objectives and other principles
4 listed in the Code, the resulting
5 sentence must respect the
6 fundamental principle of
7 proportionality. Proportionality
8 is the sine qua non of a just
9 sanction. First, the principle
10 ensures that a sentence reflects
11 the gravity of the offence. This
12 is closely tied to the objective
13 of denunciation. It promotes
14 justice for victims and ensures
15 public confidence in the justice
16 system.

17 So it is through the sanctions which are
18 proportional to the gravity of the offence and
19 the degree of responsibility of the offender
20 that therefore the sentence contributes to
21 respect for the law and maintenance of a just,
22 peaceful and safe society.

23 The facts in this case are indeed serious.
24 The accused in this case sexually assaulted
25 his vulnerable sleeping victim in the bed that
26 she usually occupied at her grandmother's
27 house. He and the victim are cousins and have

1 the same grandmother. He apparently was
2 staying there at the time of the incident. He
3 assaulted her in a place where she was
4 entitled to feel safe and secure. He
5 digitally penetrated her vagina and it was
6 obvious to me from the victim's reaction, when
7 she recounted the crime in court, that she
8 found and continues to find the assault very
9 troubling. His pants were observed to be
10 partway down and it seems, although I don't
11 think it is certain, that he was preparing to
12 engage in sexual intercourse with the victim.

13 The digital penetration which occurred
14 amounted to a gross violation of the victim's
15 physical integrity. The gravity of the
16 offence committed by the accused is high.

17 As far as his moral blameworthiness is
18 concerned, he may have been heavily
19 intoxicated at the time but that is not a
20 mitigating factor. However, he comes before
21 the Court with no prior convictions related or
22 otherwise. There is not, therefore, the same
23 moral blameworthiness that would be present
24 had he previously been convicted of and
25 sentenced for crimes and then committed the
26 crime before the Courts today: see Arcand,
27 264 C.C.C. (3d) 134; 40 Alta. L.R. (5th) 1999,

1 [2011] 7 W.W.R. 209, 499 A.R. 1, 2010 Carswell
2 Alta 2364.

3 He was convicted after trial, so there is
4 not the mitigating effect of a guilty plea,
5 early or otherwise.

6 I have referred to both the fundamental
7 purpose and the fundamental principle of
8 sentencing. There are other principles that
9 must be considered as well. For the most
10 part, they are set out in Section 718.2 of the
11 Code.

12 Firstly, in subparagraph (a), the section
13 lists a number of specific aggravating and
14 mitigating factors.

15 Of note, subsection (a)(iii) of
16 Section 718.2 provides that "evidence that the
17 offender, in committing the offence, abused a
18 position of trust or authority in relation to
19 the victim"...shall be deemed to be an
20 aggravating circumstance.

21 I agree with the Crown that due to the
22 familial relationship between the accused and
23 his victim and the fact that they were both
24 sleeping at their grandmother's house, the
25 accused to some extent abused a position of
26 trust when committing the crime on which he is
27 now being sentenced. However, also of

1 particular importance in this case, subsection
2 (e) of 718.2 states all available sanctions
3 other than imprisonment that are reasonable in
4 the circumstances should be considered for all
5 offenders with particular attention to the
6 circumstances of aboriginal offenders.

7 Ipeelee, the recent Supreme Court of
8 Canada decision to which I have already
9 referred, explains and clarifies what it held
10 in R. v. Gladue, [1999] 1 S.C.R. 688, 13 years
11 ago. The Court also makes observations of
12 common errors that have been made in the
13 aftermath of Gladue by both trial Courts and
14 Courts of Appeal.

15 At paragraphs 59 and 60 of Ipeelee, the
16 majority states:

17 59. The Court held,
18 [in R. v. Gladue] therefore, that
19 Section 718.2(e) of the Code is a
20 remedial provision designed to
21 ameliorate the serious problem of
22 overrepresentation of aboriginal
23 people in Canadian prisons and to
24 encourage sentencing Judges to
25 have recourse to a restorative
26 approach to sentencing (Gladue, at
27 para 93). It does more than

1 affirm existing principles of
2 sentencing; it calls upon Judges
3 to use a different method of
4 analysis in determining a fit
5 sentence for aboriginal offenders.
6 Section 718.2(e) directs
7 sentencing Judges to pay
8 particular attention to the
9 circumstances of aboriginal
10 offenders because those
11 circumstances are unique and
12 different from those of
13 non-aboriginal offenders (Gladue,
14 at para 37). When sentencing an
15 aboriginal offender, the Judge
16 must consider:
17 (a) the unique systemic or
18 background factors which may have
19 played a part in bringing the
20 particular aboriginal offender
21 before the courts; and
22 (b) the types of sentencing
23 procedures and sanctions which may
24 be appropriate in the
25 circumstances for the offender
26 because of his or her particular
27 aboriginal heritage or connection

1 (Gladue, at para 66). Judges may
2 take judicial notice of the broad
3 systemic background factors
4 affecting aboriginal people
5 generally but additional
6 case-specific information will
7 have to come from counsel and from
8 the pre-sentence report (Gladue,
9 at paras 83-84).

10 60. Courts have, at times,
11 been hesitant to take judicial
12 notice of the systemic and
13 background factors affecting
14 aboriginal people in Canadian
15 society (see, e.g.,
16 *R. v. Laliberte*, 2000, SKCA 27,
17 189 Sask. Reports 190). To be
18 clear, courts must take judicial
19 notice of such matters as the
20 history of colonialism,
21 displacement, and residential
22 schools and how that history
23 continues to translate into lower
24 educational attainment, lower
25 incomes, higher unemployment,
26 higher rates of substance abuse
27 and suicide and, of course higher

1 levels of incarceration for
2 aboriginal peoples. These
3 matters, on their own, do not
4 necessarily justify a different
5 sentence for aboriginal offenders.
6 Rather, they provide the necessary
7 context for understanding and
8 evaluating the case-specific
9 information presented by counsel.
10 Counsel have a duty to bring that
11 individualized information before
12 the Court in every case, unless
13 the offender expressly waives his
14 right to have it considered. In
15 current practice, it appears that
16 case-specific information is often
17 brought before the Court by way of
18 a Gladue report, which is a form
19 of pre-sentence report tailored to
20 the specific circumstances of
21 aboriginal offenders. Bringing
22 such information to the attention
23 of the Judge in a comprehensive
24 and timely matter relevant manner
25 is helpful to all parties at a
26 sentencing hearing for an
27 aboriginal offender, as it is

1 indispensable to a Judge in
2 fulfilling his duties under
3 Section 718.2(e) of the Criminal
4 Code.

5 At this point, I will add that in this
6 case I have the benefit of a very thorough and
7 helpful pre-sentence report which the author,
8 after being requested to do so by this Court
9 on December 21st of last year, advised that
10 she would address the case-specific
11 information referred to in the foregoing
12 passage. She undertook to address the Gladue
13 factors that I have requested she address and
14 she has succeeded admirably in that
15 undertaking.

16 At paragraph 73 of the majority's judgment
17 in Ipeelee, the Court explained how Gladue
18 principles can impact on the fundamental
19 principle of sentencing - proportionality.

20 I think that this paragraph is very
21 important:

22 73. First, systemic and
23 background factors may bear on the
24 culpability of the offender, to
25 the extent that they shed light on
26 his or her level of moral
27 blameworthiness. This is perhaps

1 more evident in Wells where
2 Iacobucci J. described these
3 circumstances as "the unique
4 systemic or background factors
5 that are mitigating in nature in
6 that they have played a part in
7 the aboriginal offender's
8 conduct". (Wells, at para 38
9 (emphasis added)). Canadian
10 criminal law is based on the
11 premise that criminal liability
12 only follows from voluntary
13 conduct. Many aboriginal
14 offenders find themselves in
15 situations of social and economic
16 deprivation with a lack of
17 opportunities and limited options
18 for positive development. While
19 this rarely - if ever - attains a
20 level where one could properly say
21 that their actions were not
22 voluntary, and therefore not
23 deserving of criminal sanction,
24 the reality is that their
25 constrained circumstances may
26 diminish their moral culpability.
27 As Greckol J. of the Alberta Court

1 of Queen's Bench stated, at para.
2 60 of R. v. Skani, 2002 ABQB 1097,
3 331 A.R. 50, after describing the
4 background factors that led to
5 Mr. Skani coming before the Court,
6 "[f]ew mortals could withstand
7 such a childhood and youth without
8 becoming seriously troubled".
9 Failing to take these circumstances
10 into account would violate the
11 fundamental principle of
12 sentencing - that the sentence
13 must be proportionate to the
14 gravity of the offence and the
15 degree of responsibility of the
16 offender.

17 I note that the Court places emphasis on those
18 last nine words. The quote continues:

19 The existence of such
20 circumstances may also indicate
21 that a sanction that takes account
22 of the underlying causes of the
23 criminal conduct may be more
24 appropriate than one only aimed at
25 punishment per se as Cory and
26 Iacobucci J. state in Gladue, at
27 para 69:

1 In cases where such factors
2 have played a significant role, it
3 is incumbent upon the sentencing
4 Judge to consider these factors in
5 evaluating whether imprisonment
6 would actually serve to deter, or
7 to denounce crime in a sense that
8 would be meaningful to the
9 community of which the offender is
10 a member. In many instances, more
11 restorative sentencing principles
12 will gain primary relevance
13 precisely because the prevention
14 of crime as well as individual and
15 social healing cannot occur
16 through other means.

17 At paragraph 74, the Court explains that
18 in order for sanctions to be effective and
19 appropriate, they may need to be tailored to
20 aboriginal values.

21 74. The second set of
22 circumstances - the types of
23 sanctions which may be
24 appropriate - bears not on the
25 degree of culpability of the
26 offender but on the effectiveness
27 of the sentence itself. As Cory

1 and Iacobucci JJ. point out, at
2 para. 73 of Gladue: "What is
3 important to recognize is that,
4 for many if not most aboriginal
5 offenders, the current concepts of
6 sentencing are inappropriate
7 because they have frequently not
8 responded to the needs,
9 experiences, and perspectives of
10 aboriginal people or aboriginal
11 communities". As the RCAP
12 indicates, at page 309, the
13 "crushing failure" of the Canadian
14 criminal justice system vis-à-vis
15 aboriginal peoples is due to
16 "fundamentally different world
17 views of aboriginal and
18 non-aboriginal people with respect
19 to such elemental issues as the
20 substantive content of justice and
21 the process of achieving justice".
22 The Gladue principles direct
23 sentencing Judges to abandon the
24 presumption that all offenders and
25 all communities share the same
26 values when it comes to sentencing
27 and to recognize that, given these

1 fundamentally different world
2 views, different or alternative
3 sanctions may more effectively
4 achieve the objectives of
5 sentencing in a particular
6 community.

7 I note that in this case the accused
8 presently resides in Yellowknife, but he does
9 so in order to assist in the care of his
10 mother. He is a longtime resident of this
11 community, he has close ties to this
12 community, and it is in this community that he
13 was born and raised and in this community that
14 the offence occurred.

15 The accused, notwithstanding his very
16 difficult background, has managed to stay out
17 of trouble up until June 22nd of last year
18 when he was 25 years of age. I think that if
19 it is possible to impose a sentence which
20 adequately addresses the fundamental principle
21 of sentencing and the fundamental purpose of
22 sentencing and keeps him out of jail - a place
23 where many of his fellow inmates would have
24 pro-criminal attitudes - such a sentence
25 should be imposed.

26 As stated, the accused is a 26-year-old of
27 Tli Cho descent with no criminal record. I

1 note that also given what the majority states
2 in paragraphs 81 to 83 of Ipeelee, it is
3 clearly no longer the case that an offender
4 must establish a causal link between
5 background factors and the commission of the
6 current offence before being entitled to have
7 those matters considered by the sentencing
8 Judge.

9 BehchokꞆ is an aboriginal community
10 located 110 kilometres away from Yellowknife.
11 It is also a community where much of the
12 population maintains traditional skills
13 including those required for trapping,
14 hunting, and the preparation of traditional
15 foods and clothing. The Tli Cho language is
16 still widely spoken in BehchokꞆ,
17 notwithstanding its proximity to Yellowknife
18 and the fact that it is accessible by road.

19 It is also a community that has some
20 significant social problems. Judging from the
21 size of the court dockets and the types of
22 charges which commonly come before this Court,
23 there appears to be a high incidence of
24 alcoholism and a growing incidence of the use
25 of illegal drugs. Court circuits to BehchokꞆ
26 are very busy when you consider their
27 frequency and length and the fact that the

1 entire community has the population of
2 approximately 2000 people.

3 The accused was an only child who grew up
4 up in a home where alcohol was abused on a
5 continual basis. He witnessed significant
6 violence. For example, as a young man he saw
7 his mother pushed on the floor by a man who
8 then attempted to stab her while urged to do
9 so by his girlfriend. He recalls that on that
10 occasion his father was too intoxicated to
11 help his mother. His father was an alcoholic
12 and the accused often went without enough food
13 or clothing. His parents often partied in the
14 family home late into the night and
15 subsequently Mr. R. would have difficulty
16 staying awake in school. He recalls being
17 disciplined by his mother by her tying his
18 hands to a rod that was used to hang clothes
19 for one or two hours at a time. This was done
20 in order to teach him to listen.

21 His mother has been alcohol-free for the
22 last 15 years. He is her sole caregiver and
23 is responsible for many of the household
24 chores. His mother and father separated when
25 he was 19. He maintains contact with his
26 father who is now in poor health. He advises
27 that his father hunted before he was born but

1 did not teach the skill to him because he was
2 drinking too much when the accused was young.
3 However, the accused was taught by his uncle
4 how to net fish, hunt caribou, and run a
5 trapline. He was also taught the survival
6 skills that are necessary to these activities.
7 He and his uncle go hunting once a month for a
8 week at a time to harvest food and earn an
9 income by trapping.

10 The accused feels that his culture is a
11 large part of who he is and stated to the
12 author of the pre-sentence report that his
13 culture is what keeps his people's life alive
14 and "keeps the spirit going", to use his
15 words. He states as well that his family
16 roots are connected to the land.

17 As stated, the accused comes from a
18 difficult background. It appears that he was
19 bullied in school. He states that sometimes
20 when he is intoxicated he thinks about suicide
21 because of the difficulties that he has had in
22 his life. On such occasions, he thinks about
23 killing himself because he doesn't want to go
24 through the harsh times anymore. Clearly
25 there are times when he drinks to excess. He
26 also uses marijuana although he advises that
27 he wants to quit.

1 If I were to fail to take into account the
2 case-specific factors to which I have just
3 referred, I would not be in a position to
4 adequately assess proportionality; for the
5 reasons articulated in *Ipeelee*, I would not be
6 in a position to assess his moral
7 blameworthiness. The unfortunate, and in some
8 cases shameful, historical factors that I must
9 take judicial notice of allow me to place the
10 accused's background information in context.

11 The crime he committed is serious. There
12 was no guilty plea. From what is stated in
13 the pre-sentence report, he still does not
14 accept that he committed the offence before
15 the Court. I think to some extent this may be
16 due to the amount of alcohol he advised the
17 author of the pre-sentence report he consumed
18 prior to the offence, and his apparent lack of
19 memory. Such an attitude is not uncommon with
20 accused persons who are unable to remember the
21 offence committed.

22 To some extent, the accused blames his
23 victim for charging him and proceeding with
24 the matter now before the Court. On the other
25 hand, he does say that he is very sorry for
26 the victim.

27 Given the serious nature of the crime, I

1 am satisfied that the principle of
2 proportionality requires that the accused be
3 imprisoned. I am satisfied that his
4 imprisonment is necessary, notwithstanding the
5 background information that I have referred to
6 as it relates to his moral blameworthiness.
7 However, as is clear from case law, which I am
8 bound by, I must still carefully consider the
9 Gladue principles when determining both the
10 type and duration of his imprisonment.

11 He has no criminal record. He has been on
12 process with conditions for an extended period
13 of time, and it appears that he has been under
14 that process without difficulty.

15 Under all of the circumstances, I find
16 that a conditional sentence is appropriate. I
17 think that all of the criteria set out in
18 Section 742.1 have been met.

19 I make no finding as to whether or not
20 cases of digital penetration fall within the
21 category of major sexual assault as
22 articulated in cases such as Sandercock and
23 Arcand. I do note that I have not been
24 provided with any cases which specifically
25 state that digital penetration on an adult
26 person amounts to a major sexual assault. I
27 am not aware of any such cases (although I am

1 certainly aware of cases that provide that
2 digital penetration of a child, a very young
3 person, does amount to a major sexual
4 assault).

5 There are prior cases where digital
6 penetration has been part of the sexual
7 assault where jail has not been imposed. For
8 example, there is the 1990 case of
9 R. v. G. A., [1990] NWTJ No. 1172, where
10 Justice Richard of the Supreme Court of the
11 Northwest Territories imposed a suspended
12 sentence. This sentence was imposed several
13 years before the availability of the
14 conditional sentence as a sentencing option.

15 There will be a conditional sentence in
16 this case. It will be for a period of 18
17 months. During that time, the accused is
18 ordered to comply with the following mandatory
19 terms:

20 You will have to keep the peace and be of
21 good behavior. You will have to appear before
22 the Court when required to do so by the Court.
23 You will have to report to his conditional
24 sentence supervisor within two working days
25 and thereafter when required by the supervisor
26 and in the manner directed by the supervisor.
27 You will have to remain within the

1 jurisdiction of the Court unless written
2 permission to go outside that jurisdiction is
3 obtained from either the Court or the
4 supervisor. And you will be required to
5 notify the Court or supervisor in advance of
6 any change of name, or address, and promptly
7 notify the Court or supervisor of any change
8 of employment or occupation.

9 Also, there will be the following
10 discretionary terms:

11 The accused is to abstain absolutely from
12 the consumption of alcohol or other
13 intoxicating substances and the consumption of
14 drugs except in accordance with a medical
15 prescription. He is to perform a total of 240
16 hours of community service work. That is to
17 be done at a rate of no less than 15 hours per
18 calendar month beginning April 1st of this
19 year. This work is to be done at the
20 direction of and to the satisfaction of his
21 conditional sentence supervisor. He is to
22 participate in all counselling directed by his
23 conditional sentence supervisor in his or her
24 discretion. Such counselling will include
25 drug counselling and alcohol counselling.

26 Also, he is to attend any approved drug or
27 alcohol treatment program that his conditional

1 sentence supervisor deems appropriate. He is
2 to have no contact with his victim, or attend
3 within 10 meters of her place of residence or
4 employment unless approached by the victim.

5 Also, there will be a term of house arrest
6 for the first 12 months of this conditional
7 sentence. For the first 12 months of this
8 conditional sentence, he will not be allowed
9 to leave his place of residence. The
10 exceptions to this term will be as follows:

11 He will be allowed outside of his
12 residence to, firstly, attend necessary
13 meetings with his conditional sentence
14 supervisor, to perform his assigned community
15 service work, to attend counselling or
16 treatment required by his conditional sentence
17 supervisor. As well, he will be allowed
18 outside of his home once a day between the
19 hours of 12 p.m. to 1 p.m. to perform
20 necessary errands. Finally, with the written
21 permission of his conditional sentence
22 supervisor, he will be allowed outside of his
23 residence for the purpose of attending
24 employment, and that written permission will
25 include and take into account the time
26 necessary to get to and from his place of
27 employment.

1 There will be a further probation order
2 following the conditional sentence. It will
3 be for a period of one year. That will also
4 include the statutory terms which will be
5 reviewed with the accused. He will also be
6 required to report to his probation officer
7 within 48 hours of the end of his conditional
8 sentence and thereafter as directed. He will
9 be required to attend any and all counselling
10 directed by his probation officer. He will
11 not be allowed to consume alcohol or any other
12 intoxicating substances except in accordance
13 with a prescription provided by a doctor. So
14 he will not be allowed to have any contact
15 with the victim during the probation order
16 with the same terms and conditions set out in
17 the conditional sentence. There will be the
18 same counselling provisions as well although I
19 will not include treatment provisions in the
20 probation order.

21 There will be no discretionary firearms
22 prohibition order pursuant to Section 110. I
23 have considered whether or not one should be
24 imposed but given the complete absence of a
25 criminal record and the fact that no weapon
26 was used in the commission of this offence and
27 also taking into account the nature of the

1 assault, although it is serious, I think that
2 such an order is not required.

3 There will be an order that the accused
4 comply with the provisions of the Sex Offender
5 Registry Act for a period of ten years from
6 today's date. Such an order is now mandatory.
7 My understanding is that it is indeed the case
8 that the current provisions dealing with SOIRA
9 orders are retrospective.

10 There will be a DNA authorization as the
11 offence falls within the category of a primary
12 designated offences of which I have no option
13 but to make such an order.

14 There will be a \$50 victim of crime
15 surcharge payable within 30 days of today's
16 date. Is that problematic, Mr. Bran?

17 MR. BRAN: That's reasonable, thank
18 you.

19 THE COURT: All right. Anything else,
20 counsel?

21 MR. LECORRE: No, Your Honour.

22 THE COURT: Well, I thank counsel for
23 their capable assistance in this matter.

24 THE COURT: Mr. Bran?

25 MR. BRAN: I am just wondering if there
26 was a residence requirement as part of the
27 CSO, there has been no address being

1 mentioned.

2 THE COURT: He will have to report, he
3 has got to stay in the Northwest Territories,
4 but no, I am not requiring that he live at any
5 particular place. The mandatory provisions
6 will require that he keep his conditional
7 sentence supervisor informed of his residence.

8 Thank you, counsel, I appreciate the very
9 capable work done prior to these proceedings.

10 I believe that that deals with the entire
11 docket.

12 MR. LECORRE: Yes, Your Honour.

13 THE COURT: Fine.

14 (ADJOURNMENT)

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18 Certified to be a true and
19 accurate transcript pursuant
20 to Rules 723 and 724 of the
 Supreme Court Rules,

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Lois Hewitt,
Court Reporter

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