

**IN THE TERRITORIAL COURT OF YUKON**  
Before His Honour Judge Chisholm

REGINA

v.

FREDDY ANDREW DICK

Appearances:  
Joanna Phillips  
Malcolm E.J. Campbell

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR SENTENCE**

[1] CHISHOLM J. (Oral): Mr. Freddy Dick has entered a guilty plea to an offence, contrary to s. 271 of the *Criminal Code*.

[2] On June 3, 2015, he assaulted J.L. in J.L.'s residence. Mr. Dick was in the residence by invitation. Mr. Dick had consumed a significant amount of alcohol. He sexually assaulted J.L. by pulling down his pants, striking him on the buttocks, holding him down forcefully, and by digitally penetrating his anus.

[3] The Crown seeks a period of imprisonment of 18 months, plus a lengthy probationary term. The defence suggests that a period of incarceration of 12 months is more appropriate.

[4] Mr. Dick is 45 years of age and he is a member of the Ross River Dena Council. He attended part of his education in Whitehorse and resided at Yukon Hall. I am advised by his counsel that Mr. Dick's parents both attended residential school and Mr. Dick was raised, as I understand it, by relatives and not by his parents.

[5] He comes before the Court with no criminal record. And, again, according to the information that I have received today, he has a decent employment history as a general labourer.

[6] He commenced drinking alcohol and abusing alcohol in his early teens. He advises the Court that on the night of this sexual assault that he was heavily intoxicated and does not remember the event. I am told that he has been sober for, according to Mr. Dick, three or four months before today's date.

[7] I have been referred to the decision of *R. v. Rosenthal*, 2015 YKCA 1, a 2015 decision of the Yukon Court of Appeal. In that case, the Court of Appeal overturned a lower court decision where an individual, who had been convicted after trial of sexual assault of a sleeping victim, received a suspended sentence. The Court of Appeal, as I say, reversed that sentencing decision and imposed a period of imprisonment of 14 months, plus a firearms prohibition.

[8] Sentencing is an individualized process. I have considered a number of factors here today, including ss. 718 to 718.2 of the *Criminal Code*; the *Gladue* factors that I find are present with respect to Mr. Dick; and the fact that he has expressed his remorse in court, in addition to having taken responsibility with respect to this matter. I

also take into account that this was a very serious matter, and it can be inferred that psychological harm was occasioned by the actions of Mr. Dick on J.L.

[9] So clearly, general and specific deterrence are important factors for the Court to consider in matters of this nature. On balance, in my view, an appropriate sentence is a period of incarceration of 12 months, followed by a one-year probation order.

[10] The terms of the probation order will be that he:

1. Keep the peace and be of good behaviour;
2. Appear before the court when required to do so by the court;
3. Notify the Probation Officer, in advance, of any change of name or address, and, promptly, of any change in employment or occupation;
4. Have no contact directly or indirectly or communication in any way with J.L., except with the prior written permission of his Probation Officer and with the consent of J.L., in consultation with Victim Services;
5. Not attend at any known place of residence, employment, or education of J.L., except with the prior written permission of his Probation Officer and with the consent of J.L., in consultation with Victim Services;
6. Report to a Probation Officer within two working days upon his release from custody and thereafter, when and in the manner directed by his Probation Officer;

7. Attend and actively participate in all assessment and counselling programs as directed by his Probation officer, and complete them to the satisfaction of his probation officer for any issues identified by the Probation Officer, and provide consents to release information to his Probation Officer regarding his participation in any program he has been directed to do pursuant to this order.

[11] There are ancillary orders that flow from an offence of this nature. There will be a firearms prohibition, pursuant to s. 109 of the *Criminal Code* for a period of 10 years.

[12] There will be a DNA order. Mr. Dick will provide samples of his bodily substances for the purpose of DNA analysis and recording, and he will be subject to the Sex Offender Registry regime for a period of 20 years.

[13] There will be a victim surcharge in the amount of \$200, payable forthwith.

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CHISHOLM T.C.J.