

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. R.M. - 2015 NSSC 189

**Date:** 20150713

**Docket:** Cr. No. 426521

**Registry:** Halifax

**Between:**

Her Majesty the Queen

v.

R.M.

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**LIBRARY HEADING**

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<p><b>Restriction on Publication: s. 486.4</b> <b>Sentencing Decision</b></p>
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**Judge:** The Honourable Justice Robert Wright

**Heard:** July 13, 2015 in Halifax, Nova Scotia

**Oral Decision:** July 13, 2015

**Written Decision:** July 27, 2015

**Subject:** Sentencing for convictions of sexual assault, invitation to a minor to engage in sexual touching, and attempted incest.

**Summary:** A horrific pattern of sexual abuse was perpetrated by the offender against his daughter over a span of some eight years, when she was between the ages of 6 and 14. The offender denied at trial that any of the alleged sexual acts ever happened but was convicted on all counts. There were several aggravating factors present. In addition to those deemed under s.718.2 (namely, abuse of a person under 18, abusing a position of trust or authority, and the significant impact on the victim), the Court took into account the scope

and magnitude of the sexual offences committed. The sexual activity consisted of most everything short of actual penetration (which was attempted) against a vulnerable child which escalated as the victim got older and which occurred dozens upon dozens of times over an eight year period. The offender manipulated his daughter into these acts through guilt if she refused him and grooming in a premeditated way. As for mitigating factors, there are none to found in this case. Both Crown and defence counsel recommended a sentence of imprisonment of six years overall with the usual ancillary orders.

**Issue:** Whether the Court should accept the joint submission made by counsel or to depart from it, keeping in mind that in this case the joint submission on sentence did not arise from a plea bargain?

**Result:** The range of sentence for sexual offences in similar circumstances is between mid to upper single digit penitentiary terms (see **R. v. D.(D.)** 2002 O.J. No. 1061 which has been affirmed and applied by the Courts in this province). The coincident submission here of six years imprisonment was not a true joint recommendation because it was not accompanied by a plea bargain and hence was deserving of less weight by the Court. While the recommended term of six years imprisonment was considered to be on the low side because of the many aggravating factors present here, the Court ultimately accepted it, being within the established range of sentence for the subject offences.

The offender was therefore sentenced to a term of six years imprisonment for sexual assault, one year for invitation to engage in sexual touching (to be served concurrently) and six years for attempted incest (to be served concurrently). All of the ancillary orders requested were granted as well.

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