

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: R. v. K. G. K. 2008 NSSC 184

Date: 20080529

Docket: CR. Am. 285575 & 285582

Registry: Amherst

Between:

Her Majesty the Queen

v.

K. G. K.

Restriction on publication: pursuant to s. 486.4 of the *Criminal Code*

Judge: The Honourable Justice J. E. Scanlan

Heard: 29 May 2008, in Amherst, Nova Scotia

Written Decision: 20 June 2008

Counsel: Mr. Bruce Baxter, for the crown
Mr. Jim O'Neil, for the defence

Publishers of this case please take note that Section 486.4 of the *Criminal Code* applies and may require editing of this judgment or its heading before publication. The subsection provides:

486.4(1) Subject to subsection (2), the presiding judge or justice may make an order directing that any information that could identify the complainant or a witness shall not be published in any document or broadcast or transmitted in any way, in proceedings in respect of

(a) any of the following offences:

(i) an offence under section 151, 152, 153, 153.1, 155, 159, 160, 162, 163.1, 170, 171, 172, 172.1, 173, 210, 211, 212, 213, 271, 272, 273, 279.01, 279.02, 279.03, 346 or 347,

(ii) an offence under section 144 (rape), 145 (attempt to commit rape), 149 (indecent assault on female), 156 (indecent assault on male) or 245 (common assault) or subsection 246(1) (assault with intent) of the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, as it read immediately before January 4, 1983, or

(iii) an offence under subsection 146(1) (sexual intercourse with a female under 14) or (2) (sexual intercourse with a female between 14 and 16) or section 151 (seduction of a female between 16 and 18), 153 (sexual intercourse with step-daughter), 155 (buggery or bestiality), 157 (gross indecency), 166 (parent or guardian procuring defilement) or 167 (householder permitting defilement) of the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, as it read immediately before January 1, 1988;

By the Court:

[1] The accused pled guilty to a number of offences including section 151, 152, 267(a), 271, 264.1(1)(a) and 159 of the *Criminal Code*. This sentencing proceeds based on a joint crown and defence recommendation. I don't know how else to describe your actions in relation to the children and the two adult female victims other than torture, plain and simple. The torture was physical, mental and sexual. Why? Not because these people did anything wrong. You did it because it gave you pleasure. The ideas, many of which came from the internet, were things that you thought best to bring to reality, without any regard for those around you, be they women or children, related to you by marriage, living in the neighbourhood, or children forced to live in your house because you happened to marry their mother, who was also your victim.

[2] How do I craft a sentence that expresses the denunciation in such a way that people who hear the sentence I impose indicates that this type of activity is completely unacceptable? How do I craft a sentence that's going to deter you? I would not want this type of activity by you visited upon any other victim, ever. How do I craft a sentence that's going to deter others?

[3] In terms of you personally, K. K., I am satisfied that you need a lot of time in terms of rehabilitation. It's not going to be easy to rehabilitate you so as to protect not just these victims, but others from you. I say that because that is one of the considerations that I must take into account, pursuant to section 743.6(2). I also have to take into account denunciation, specific and general deterrence and rehabilitation. From what I have read, it's going to take every bit of two years to rehabilitate you. In fact, I'm satisfied it will probably take four years and more to rehabilitate you. Maybe you'll never be rehabilitated. I don't know. How do you teach a person who has a thirst for torture, for sexual deviance with women and children, how do you teach them not to ever do it again? How do you deter them from never doing it again? I am convinced you were aware that if or when the victims ever complained to the authorities about the type of behaviour you engaged in and the pain and punishment you inflicted upon them, you must have expected that you would go to jail. How could anybody think they could torture people the way that you did, small children and women, and not go to jail in this society? I would hope that anybody who hears about this sentence will understand that if they come before this court, they will go to jail for this type of activity, plain and simple.

[4] About the only thing you have going for you, K. K., is the fact that you entered a guilty plea. You spared these children from ever having to testify in court. You spared these women from having to relive it yet again. I fully expect that means a lot to the victims. I am fully satisfied that is one of the main things that Mr. Baxter considered when he decided to recommend, as a joint recommendation as from your counsel and Mr. Baxter, a sentence which totals four years. Your counsel also now joins in the recommendation that you must serve at least half of your sentence before being released. That would only be two years. As I said, and my comments will go on to the prison as well, I would think it would take every bit of four years to rehabilitate you. I would be concerned if you were released into society before then at all, but I can't control the last two years. I can control the first two years. K. K. will not be released for a minimum of two years.

[5] We have one victim impact statement from Ms. M. It's clear that she's been traumatized. Why not? She was tortured. She was sexually assaulted. She was sodomized. She was humiliated. It was so routine, it happened so often she thought it was almost like it was normal. She couldn't even distinguish one event from the other, because it happened so often. Your neighbour, the things that you did to her. We don't have a victim impact statement, but I can only imagine what she will have to live with. She didn't want to report it to anybody. She didn't think they'd even believe her. And the children. How will they ever get over it? I expect they will never forget it. There's a question in my mind as to whether any of these people will ever fully recover. I suspect the whole story will never be told until the end of their lives, to see what impact it's had on them over the course of their lives. I can only say that the events as described by the crown in this case amounted to systematic torture. The facts are admitted by you. That included the number of times abuse occurred and all the surrounding circumstances. I can only describe these events as a systematic torture of these individuals, which would not be condoned or accepted in any society anywhere in the world.

[6] I would hope as well, K. K., this sends a message to you and others that just because you see some of this perverted stuff on the internet which supposedly happens, and they make these kinds of suggestions, you and others must understand that's not real life. You had better take your perverted fantasies someplace else, and not carry through with real people in the real world in this society, because it will not be accepted.

[7] The crown recommendation is for a total of four years. I can tell you, and I would tell others, if it wasn't a joint recommendation and if it wasn't for the fact that you entered a guilty plea, for me, as a judge sitting in this court, I would not

have imposed a sentence of four years. I would be prepared to sentence you for a much longer period of time. But I take into account the comments of the crown. I can understand why they would make a joint recommendation. This is experienced counsel, both crown and defence, and like I said, you spared all of the victims the ordeal, perhaps continuation of the torture, having to relive all of this in public, before a jury or a judge in this courtroom.

[8] I will impose a sentence, count 1, and I'm dealing with the counts in relation to the children, court file number 285582, count number 1, section 151, 6 months. Count 2, section 152, 6 months concurrent. Count 4, section 267(a), 6 months consecutive. Count 6, 267(a), 6 months concurrent. Count 9, section 267(a), 6 months concurrent.

[9] In relation to court file number 285575, and this is in relation to the two women, count number 1, section 267(a), 3 months consecutive. Count 2, 159, 15 months consecutive. Count 3, section 271, 15 months concurrent. Count number 5, section 267(a), 3 months consecutive. Count 6, 264.1(1)(a), 2 months concurrent. Count 8, 271, 15 months consecutive. Count 9, section 159, 15 months concurrent. The total should be 48 months.

[10] In addition, there will be a DNA order. A number of them were primary designated offences. I will sign a DNA order. I will also sign an order which requires you to be registered under the *Sexual Offender Information Registration Act* for 20 years. I am also concerned with all of the activities that were described in these offences and the total disregard you had for your victims and what you were doing to them. I am satisfied that for the rest of your life you should not be the type of person entitled to own or possess any firearms, ammunition or explosives. I impose a lifetime ban, not 20 years. In addition, there will be an order under section 161 in relation to a limitation on your right to have contact with children under the age of 14 years, and again that will be a lifetime ban.

J.