

PUBLIC PROSECUTOR

V

WILLIE GARAE

CHARGE

Attempted Rape

SENTENCE

The accused is sentenced to imprisonment for a term of 18 months. The sentence is calculated as follows. The sentence I would have imposed for this offence had the accused not been a first offender and had pleaded not guilty would have been imprisonment for 3 years. As a consequence of those factors, I would reduce the sentence to one of 2 years and 3 months. The accused had, as at 21 October 1994 spent 9 months in custody awaiting trial and I deduct that period from the sentence I would otherwise impose. As the period of 9 months I have deducted from the sentence was complete as at the 21st October, I direct that the sentence of 18 months commence from the 21st October 1994, thus giving the accused full credit for the time he has been in custody.

REASONS FOR SENTENCE.

This offence occurred on Christmas Day, 1992. The accused had been drinking and whilst walking along a road, he met the victim of his attempted rape as she was walking with others. The accused had liked the girl, who was only 15 years old at the time of the offence, and as a result of the courage he had gained from drinking he decided to make an approach to her. What he did was completely inappropriate and a violation of the girl's rights. He grabbed her and asked her to have sex with him. The girl did not wish to do so, but the accused persisted. He grabbed her breasts and forced her to the ground. Whilst on the ground, he again asked her to have sex. She still refused and resisted.

The others who had been with her went for help. In the meantime, the accused forced his victim to hold his penis and still tried to have sex with her. To her credit, the girl continued to struggle and when her father and others came along, the accused got up and fled.

Late there was a custom settlement. It must be realised that treating a woman in the way the accused did will not be tolerated by the Courts or by the community. This offence is another example of the abuse of women and it is an offence against all of the community. Such matters cannot be resolved with a disregard for rights of the

individual woman or for the need for behaviour like this to be stamped out, if the community is to be safe place where people can go about their business without being subjected to unprovoked attack. In particular, women are not to be regarded as second class citizens. They are equal with men and are to be treated with courtesy and respect, rather than with a thorough disregard for their rights. The accused knew that what he was doing was wrong, as was demonstrated by the fact that he ran away when the girl's father approached. I do not think that he however, recognizes that a community cannot be a safe and proper place if people are prepared to attack others like he did. This matter cannot be resolved by settling the matter between the families of the persons involved. the community through the Courts has a duty to protect all members of society and this cannot be done by a simple payment between the persons

The accused failed to appear on 2 occasions in the Magistrate's Court in respect of this matter. This was partly responsible for the delay in this matter coming on for hearing. I think that the accused probably regarded the matter as being at end once a custom settlement was reached. The community must learn that the Criminal law applies to all people and is for the benefit of society as a whole. Custom settlements can be taken into account by the Courts, but such settlements are not a substitute or an alternative method for dealing with criminal offences. In this case, I do not think the settlement that has been indicated to me in any way reflects the seriousness of this offence.

You have the right to appeal against the sentence in this matter. If you wish to do so, you must do so in writing, within 14 days of this date.


Judge

2 November, 1994

