

**R v Noelie Goodwin**

**29 October 2003, 12 November 2003  
Angel ACJ, Mildren J & Priestley AJ  
[2003] NTCCA 9**

The respondent Goodwin pleaded guilty before the Supreme Court in Alice Springs to having sexual intercourse with the victim without her consent.

The respondent, a first offender, was a 17-year-old married Aboriginal male. The victim was a 25-year-old international student who was part of a tour group visiting Uluru. The respondent, accompanied by his 3-year-old nephew, approached the victim at the base of the rock and offered to show her waterholes in the area. She followed him away from the track. He showed her two waterholes. As she was leaving to rejoin the group, the respondent grabbed her from behind and tried to kiss her. She objected and attempted to run away. He then used his hand to cover her mouth, pushed her to the ground and put one of his hands around her throat, despite her vigorous struggles and verbal objections. He placed a finger into her vagina and moved it in and out. He then had forcible penile-vaginal sexual intercourse with her until he ejaculated and finally ran away with the 3-year-old after hearing voices and footsteps.

He was sentenced to 3 years and 4 months imprisonment to be suspended after 12 months. An operational period of 2 years and 4 months was fixed.

The Crown appealed to the Court of Criminal Appeal on the ground that the sentence was manifestly inadequate given the seriousness of the offence. The Crown also argued that the sentencing judge erred in suspending the sentence rather than fixing a non-parole period.

In a unanimous judgment, the Court of Criminal Appeal applied the well-established principle that in serious offending, the youth of the offender is not the prevailing consideration in sentencing. Further “ ... *if a young offender commits a criminal offence like an adult then that justifies sentencing him or her in a fashion more akin to an adult. Where crimes of considerable gravity are committed the protective function of the criminal court would cease to operate unless denunciation, general deterrence and retribution are significant sentencing considerations even in respect of juveniles*”. The Court cited the serious and adult nature of the offence, the respondent’s reason for the offence; ‘*my wife don’t give me any sex, that’s why*’, his persistence in securing his end, the fact that he was living in an adult married relationship and was about to become a father, and the fact that he was nearly an adult legally, as reasons for treatment more akin to an adult. The Court also considered significant the respondent’s lack of remorse for the victim, his failure to accept responsibility for the offending and the consequent risk of re-offending, and the fact that the offence occurred in the presence of the respondent’s three year old nephew.

The Crown appeal was allowed and the sentence quashed. In lieu thereof, a head sentence of 6 years imprisonment was imposed and a non-parole period of 4 years and 3 months was fixed.