

CANADA / JUDGMENT

# R v Williams

2025 NSPC 45

## COURT

Nova Scotia Provincial Court

## DECIDED

23 December 2025

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R v Williams Court Provincial Court Date 2025-12-23 Citation 2025 NSPC 45 Docket 8920950, 8920951, 8920957, 8920959 Judge/Registrar/Adjudicator Atwood, Del W. (Honourable Judge) Document Type Decision Decision Content PROVINCIAL COURT OF NOVA SCOTIA Citation: R v Williams, 2025 NSPC 45 Date: 20251223 Docket: 8920950, 8920951, 8920957, 8920959 Registry: Port Hawkesbury Between: His Majesty the King v. Calder Brandon Richard Williams SENTENCING DECISION Restriction on Publication: 486.4 Criminal Code Any information that could identify the complainant shall not be published, broadcast or transmitted in any way. This document has been reviewed to remove information that would identify the complainant and may be reproduced in present form. Judge: The Honourable Judge Del W Atwood Heard: 2025: 19 and 23 December in Port Hawkesbury, Nova Scotia Charge: Sections 271, 266(b), 264.1(1)(b), 733.1 Criminal Code [Code] Counsel: Sandee Smordin for the Nova Scotia Public Prosecution Service Robyn Fougere, appearing for Barrie Dunn, counsel for Calder Brandon Richard Williams Order restricting publication — sexual offences 486.4 (1) Subject to subsection (2), the presiding judge or justice may make an order directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way, in proceedings in respect of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, 160, 162, 163.1, 170, 171, 171.1, 172, 172.1, 172.2, 173, 213, 271, 272, 273, 279.01, 279.011, 279.02, 279.03, 280, 281, 286.1, 286.2, 286.3, 346 or 347, or (ii) any offence under this Act, as it read from time to time before the day on which this subparagraph comes into force, if the conduct alleged would be an offence referred to in subparagraph (i) if it occurred on or after that day; or

(b) two or more offences being dealt with in the same proceeding, at least one of which is an offence referred to in paragraph (a). Mandatory order on application

(2) In proceedings in respect of the offences referred to in paragraph (1)(a) or (b), the presiding judge or justice shall

(a) at the first reasonable opportunity, inform any witness under the age of eighteen years and the victim of the right to make an application for the order; and

- (b) on application made by the victim, the prosecutor or any such witness, make the order.
- Victim under 18 — other offences (2.1) Subject to subsection (2.2), in proceedings in respect of an offence other than an offence referred to in subsection (1), if the victim is under the age of 18 years, the presiding judge or justice may make an order directing that any information that could identify the victim shall not be published in any document or broadcast or transmitted in any way. Mandatory order on application (2.2) In proceedings in respect of an offence other than an offence referred to in subsection (1), if the victim is under the age of 18 years, the presiding judge or justice shall
- (a) as soon as feasible, inform the victim of their right to make an application for the order; and
- (b) on application of the victim or the prosecutor, make the order. Child pornography
- (3) In proceedings in respect of an offence under section 163.1, a judge or justice shall make an order directing that any information that could identify a witness who is under the age of eighteen years, or any person who is the subject of a representation, written material or a recording that constitutes child pornography within the meaning of that section, shall not be published in any document or broadcast or transmitted in any way. Limitation
- (4) An order made under this section does not apply in respect of the disclosure of information in the course of the administration of justice when it is not the purpose of the disclosure to make the information known in the community. By the Court: Synopsis
- [1] Following a two-day trial, Calder Brandon Richard Williams was found guilty by the Court on 26 November 2025 of sexually assaulting AL contrary to § 271 of the Code (case 8920951). The Court found also that the evidence led at trial substantiated Mr Williams' guilty pleas to:
- One count of assaulting AL, contrary to ¶ 266(b) of the Code (case 8920950);
  - One count of uttering threats to burn personal property of AL, contrary to ¶ 264.1(1)(b) of the Code (case 8920957); and
  - One count of breaching a keep-the-peace condition of a probation order, contrary to § 733.1 of the Code (case 8920959).
- [2] The prosecution seeks a sentence of two-years' imprisonment (less remand credit), a three-year term of probation, and a number of ancillary orders.
- [3] Defence counsel seeks a time-served sentence; alternatively, defence seeks a 7-month conditional sentence order [CSO]. The prosecution opposes the imposition of a conditional sentence. Circumstances of the offences
- [4] In *R v Williams*, 2025 NSPC 41, the Court made the following findings of fact:
- AL (a 47-year-old female) and Mr Williams (40 years of age) had been in an intimate-partner relationship for seven months.
  - On 17 May 2025 AL travelled to the home of Mr Williams to spend a social evening.

- Mr Williams occupied most of the time in the basement playing video games and consuming beverage alcohol. AL was upstairs with Mr Williams' grandmother for part of the evening doing meal preparation.
  - AL eventually went downstairs; she consumed a non-impairing amount of alcohol.
  - AL eventually fell asleep on Mr Williams' bed.
  - She woke up to find Mr Williams hitting her forehead with his hand.
  - Mr Williams accused AL of sleeping with other people. He was jealous, enraged and aggressive; his emotions were amplified by the disinhibiting and releasing effects of alcohol intoxication.
  - Mr Williams pulled down AL's leggings, and intentionally touched her vagina and clitoris directly with one of his hands.
  - AL did not consent to this. It violated her sexual integrity. Mr Williams intended it.
  - AL tried to get up. Mr Williams pinned her down on the bed.
  - AL told Mr Williams to get off. He responded by calling her a "bitch".
  - Mr Williams intentionally squeezed AL's right breast, enough for it to hurt. A bruise developed later on. AL did not consent to this and it violated her sexual integrity. Mr Williams intended it.
  - AL was able to push Mr Williams off. He then came behind her and grabbed her torso. However, because he was drunk and uncoordinated, AL was able to get free.
  - AL ran out of the house, heading for her car; Mr Williams grabbed her and threw her against his car. AL screamed at Mr Williams to let her go.
  - AL was able to kick Mr Williams and drive away.
  - Mr Williams then began texting AL constantly. He threatened to burn her personal effects if she did not return and pick them up.
  - AL went to the hospital as her back, torso and head hurt from what Mr Williams had done to her.
  - Mr Williams was subject to a valid probation order from the Province of Alberta (Trial Exhibit 1); this order included a keep-the-peace condition, which he breached by committing the ¶ 266(b), 264.1(1)(b), and 733.1 offences. Offence seriousness
- [5] Mr Williams' attack upon AL violated her right to personal safety and her sexual integrity. His threat to burn her personal effects compounded these injuries. AL submitted to the Court a victim-impact statement [VIS] describing profound physical and emotional injuries, as well as a significant financial loss.

- [6] All sexual assaults are inherently violent and serious. In *R v JJW*, 2012 NSCA 96 at ¶ 16-21 [JJW], the Court appeared to follow a line of authority classifying as “major sexual assault” those cases that involved sexual assault with intercourse. While that classification was in line with the jurisprudence at the time, it has been overtaken by *R v Friesen*, 2020 SCC 9 at ¶ 143 [Friesen], which held that sexual touching may be no less harmful to victims than violence involving penetration. Harm to victims is not dependent on the type of physical activity involved.
- [7] Although Mr Williams was on probation at the time he assaulted, sexually assaulted and threatened AL, his status as a probationer cannot be treated as an aggravating circumstance, as he has been charged with breach of probation and will receive a sentence for it. Treating the breach as an aggravating circumstance in relation to the ¶ 266(b), § 264.1(1)(b) and § 271 counts would lead to a double penalty, which is impermissible: *R v Stewart*, 2016 NSCA 12 at ¶ 27; *R v Eisener*, 2023 NSPC 42 at ¶ 16; *R v Macdonald*, 2019 NSPC 14 at ¶ 11. Circumstances of Mr Williams
- [8] Mr Williams is 40 years of age.
- [9] The Court has received a pre-sentence report [PSR] dated 6 November 2025.
- [10] Mr Williams’ childhood and adolescence were mostly unremarkable. He was raised by his mother and his maternal grandmother. He enjoys the full support of his family.
- [11] He achieved primary and secondary educational milestones with well-above-average results.
- [12] He has completed two vocational programs in compulsory-certified trades, and has obtained a number of certificates.
- [13] He has lived with his grandmother for most of his adult life, apart from periods of time when he has worked in Western Canada. His plan is to return there once his court obligations are concluded.
- [14] He has been diagnosed with ADHD, but is not receiving pharmacotherapy or clinical treatment for it.
- [15] Mr Williams has experienced chronic alcohol-use disorder since age 16. He has participated in AA meetings and has received therapy through Addiction Prevention Treatment Services. He has continued with programming while on remand. I find that Mr Williams’ substance-use disorder played a central role in his conduct on 17-18 May 2025. Based on the contents of the PSR, the biographical history provided by his family, and his lack of record for violence, I find his actions—actuated by the disinhibiting and releasing effects of beverage alcohol—to have been out of character for him, which reduces his moral culpability. Alcohol-use disorder is not a moral failing; rather, it is a treatable medical condition.
- [16] Although found guilty following a trial, Mr Williams continued to deny guilt during his interview with the PSR author. Nevertheless, in his allocution to the Court, he expressed profound regret and remorse for his conduct. This may reflect an increasing self-awareness

and acknowledgement of responsibility for the harm that he caused AL on 17-18 May 2025. Although Mr Williams maintains his innocence, this not an aggravating factor: R v Campbell, [1977] NSJ 443 (AD). Rather, it is the absence of a mitigating factor and may—not must—be seen as diminishing the prospects of rehabilitation: R v Gilliatt, 2023 NSSC 304 at ¶ 39. While a refusal to accept culpability might be indicative of an increased risk to re-offend—see R v SPP, 2025 NSSC 216 at ¶ 22—that sort of risk assessment is fact-driven. The facts before the Court show that Mr Williams has no record for violence, sexual violence, or intimate-partner violence; consequently, I assess his risk of reoffending as in the lower range. His alcohol-use disorder does not render him characteristically violent.

- [17] However, Mr Williams does have a criminal record for other things: Offence date (dd/mm/yy) Charge Sentence imposed 8/7/06 Refusal \$800 fine; 12 mo probation; 12 mo prohibition. 4/3/07 Bail breach \$300 fine. 27/9/06 Resist \$400 fine; 12 mo probation. 21/09/13 Over .08 \$1200 fine; 12 mo probation; 12 mo prohibition. 30/1/20 Impaired \$2000 fine; 12 mo probation; 2 -yr prohibition. 11/12/23 Over .08 \$2000 fine; 12 mo probation.
- [18] None of these involves violence or threats of violence.
- [19] Mr Williams was denied bail, and has been in custody for 220 days. Allowing for credit under § 719(3.1) of the Code—as permitted by R v Carvery, 2014 SCC 27 at ¶ 22 and R v Summers, 2014 SCC 26 at ¶ 34, 71, 88—Mr Williams is entitled to a remand credit of 330 days. Statutory range of penalty
- [20] All of the charges before the Court were prosecuted summarily.
- [21] None of the charges before the Court would attract a mandatory-minimum penalty.
- [22] The ¶ 266(b), 264.1(1)(b), and 733.1 charges would fall under the general-penalty provisions of § 787 of the Code: a fine of not more than \$5000, or a term of imprisonment of not more than two years less a day, or both.
- [23] The § 271 charge, prosecuted summarily, carries a maximum term of imprisonment of 18 months. The 18-month maximum was brought into the Code in the Criminal Law Amendment Act, SC 1994, c 44, s 19, in force 15 February 1995 in virtue of the Act. It is noteworthy that, when § 787 of the Code was amended by SC 2019 c 25 s 316 (in force 19 Sept 2019 in virtue of § 406) to increase the general penalty for summary-conviction offences from a maximum of six months to a maximum of two years less a day, the 18-month maximum penalty for a summary-offence § 271 charge was left unchanged by the legislator.
- [24] Sexual assault is a “primary designated offence” under § 487.04 of the Code (sub verbo “primary designated offence”, ¶ (a)(xi.3)) for the purposes of DNA collection. It is a primary offence under § 490.011 (sub verbo “primary offence”, ¶ (a)(xvii)), and may attract a SOIRA order of up to 10 years, unless the Court is satisfied that one of the exempting circumstances in § 490.012(3) applies.

- [25] Mr Williams does not have a record for intimate-partner violence, so that the increased-maximum-penalty provisions in § 718.3(8) of the Code do not apply in this case.
- [26] While the Court permissibly exercises a discretion to impose consecutive sentences for the charges before the Court, none of the criteria in § 718.3(4) that pull in favour of consecutive sentencing is applicable in this case.
- [27] With the exception of the § 733.1 count, the charges may attract a discretionary weapon-prohibition order under ¶ 110(a) of the Code.
- [28] One or more of the following penalties would be legal sentences for each of the charges:
- A discharge: § 730;
  - A suspended sentence: ¶ 731(1)(a);
  - Fines: § 734;
  - A term of imprisonment: § 718.3, 787; including an intermittent sentence: § 732; or
  - A conditional sentence: § 742.1. The 1996 reform of Part XXIII of the Code
- [29] The sentencing provisions of the Code were amended 3 September 1996 by SC 1995, c 22, § 6. As explained in *R v Gladue*, 1999 CanLII 679 (SCC), [1999] 1 SCR 688 at ¶ 39 and 48 [Gladue], this was part of the first significant reform of sentencing principles in the history of Canadian criminal law. The reforms helped carry into effect the legislator's intention to reduce the use of prisons for non-violent persons, and its resolve to expand the use of restorative-justice principles in sentencing. See also, *R v Proulx*, 2000 SCC 5 at ¶ 15 [Proulx].
- [30] It will be useful to explore those provisions in some detail. Core sentencing principles—proportionality and individualization
- [31] Proportionality is the fundamental purpose of sentencing; a sentencing must reflect the gravity of the offence and the degree of responsibility of the person who commits it: § 718.1 This requires a sentencing court to take into account the correctional imperative of sentence individualization: *R v Knott*, 2012 SCC 42 at ¶ 47; *R v Lacasse*, 2015 SCC 64 at ¶ 58; *R v Boudreault*, 2018 SCC 58 at ¶ 58.
- [32] As the sentencing project does not operate with a precise seriousness-culpability point scale and is not an exact science, cases may admit of more than one particular sentence: Martin Vaclair, Tristan Desjardins & Pauline LaChance, *Traité général de preuve et de procédure pénales* 32 ed (Éditions Yvon Blais, 2025) at 1258. Core sentencing principles—restraint—but not at all costs
- [33] When first enacted, ¶ 718.2(d)-(e) directed sentencing courts that persons being sentenced should not be deprived of liberty if less restrictive sanctions may be appropriate in the circumstances; furthermore, all available sanctions, other than imprisonment, that are reasonable in the circumstances shall be considered for all offenders.

- [34] In *Gladue* at ¶ 31-33 and 36, the Court held that the statutory requirement that sentencing courts consider all available sanctions other than imprisonment was more than merely a codification of existing law. Rather the provision was to be seen as remedial whereby imprisonment was to be a sanction of last resort.
- [35] However, ¶ 718.2(e) now states that such restraint must be “consistent with the harm done to victims or to the community”. That clause was added to the Code by the Victims Bill of Right Act, SC 2015, c 13, s 24, in force 23 July 2015 in virtue of § 60(1) of the Act. As a result, a sentencing court must consider not only the circumstances of an offence and the degree of responsibility of the criminal actor; it must consider victim impact. At the same time, ¶ 718(a) of the Code was amended by adding the requirement that sentencing courts consider the need to denounce the harm done to victims caused by unlawful conduct.
- [36] Mr Williams and AL had been in an intimate-partner, trust-bound, relationship; it resulted in significant victim impact, as recorded in AL’s victim-impact statement. These are factors that have been definitively identified by the legislator as rendering Mr Williams’ conduct more serious: § 718.04, 718.201 and 718.2(a)((ii), (iii) and (iii.1). I am satisfied that these aggravating factors have been proven beyond a reasonable doubt.
- [37] The application of restraint criteria does not oust consideration of the other principles of sentencing in § 718-718.2; there is no such thing as a restraint-at-all-costs principle: *Proulx* at ¶ 96. Put another way, restraint and rehabilitation do not trump deterrence and denunciation. All principles and objectives of sentencing must be considered by a sentencing court in arriving at a fit sentence: *R v Howell*, 2013 NSCA 67 at ¶ 16. General principles—denunciation and deterrence
- [38] Denunciation is closely tied to the gravity of the offence and the need to communicate our society’s condemnation of acts that infringe our basic moral values: *R v Hilbach*, 2023 SCC 3 at ¶ 70.
- [39] Denunciation and deterrence are the chief factors for sentencing courts to consider in imposing sentences involving sexual violence: *JJW* at ¶ 32.
- [40] As noted earlier, the legislator has recognized statutorily the increased vulnerability of female victims, and the aggravating nature of breach-of-trust-intimate-partner violence: ¶ 718.2(a)(ii)-(iii.1) and § 718.201; therefore, the Court must give primary consideration to the objectives of denunciation and deterrence of Mr Williams’ conduct: § 718.04.
- [41] The legislator’s prioritization of denunciation and deterrence for specific classes of offences against vulnerable victims places limits on the discretion of sentencing courts, such that it is no longer open to them to elevate other sentencing objectives to an equal or higher priority: *Friesen* at ¶ 102, 116. The epidemic of intimate-partner violence

- [42] The Mass Casualty Commission Report, released in 2023, found that gender-based, intimate partner and family violence is an epidemic that affects a disproportionately large number of women and girls: Mass Casualty Commission, *Turning the Tide Together: Final Report of the Mass Casualty Commission Executive Summary and Recommendations* (2023) at 163, online at: <https://masscasualtycommission.ca/files/documents/Turning-the-Tide-Together-Executive-Summary.pdf> [MCCRES].
- [43] The MCCRES identified the need for mobilizing a whole-of-society response to gender-based, intimate-partner, and family violence. The MCCRES described at length the complexity of the problem and the multifaceted nature of the needed response.
- [44] Significantly, among the lessons learned highlighted in the MCCRES at 168 is that: [m]andatory arrest and charging policies and protocols for offences arising from intimate partner violence should be abolished and replaced by a new women-centred framework that focuses on violence prevention rather than a carceral response. [Emphasis added]
- [45] While informative, the recommendations of the MCCRES do not allow sentencing courts to re-order statutory priorities. Therefore, it remains the case that the Court must give primary consideration to the objectives of denunciation and deterrence of Mr Williams' conduct: § 718.04. Parity
- [46] Along with proportionality, sentencing courts are required to consider the principle of parity so that "similar offenders who commit similar offences in similar circumstances receive similar sentences": Friesen at ¶ 31; Code ¶ 718.2(b). When intermediate or apex authorities have determined that sentences have been deflated—or inflated—because inaccurate perceptions about an offence or an offender, parity requires conformity with sentences that are deemed proportionate: Friesen at ¶ 87. Sentencing courts that have the benefit of updated and revised sentencing principles are obligated to apply them. "To sentence in a matter that breathes new life into dated or defunct societal values would distort the expressive function of the criminal justice system": *R v Sheppard*, 2025 SCC 29 at ¶ 70-71.
- [47] Trying to tease out true parity from reported cases is a challenging exercise, as no two cases are completely alike. Even when a reported sentencing decision is factually dissimilar to a case before the court, it might still be mined for useful principles.
- [48] The prosecution brought the following cases to the attention of the Court: Citation Summary of facts Sentence imposed *R v PKG*, 2025 NSSC 302 The accused was sentenced for sexually assaulting, choking and assaulting his wife. He was also sentenced for a constellation of violence charges involving his children. I do not consider this to be a valid parity case. The charges were prosecuted indictably (which had an inflationary effect on the sentence), and the accused had inculcated into his family a culture of violence. 36 months for sexual assault; 6 months consecutive for choking; 3 months concurrent for the assault. *R v SFM*, 2022 NSSC 90 [SFM] The accused was found guilty following trial of two counts of sexually assaulting his wife and one count of assault. The charges were prosecuted indictably. One

count involved at least 10 instances of forced intercourse over a 4-year marriage, accomplished through coercive intimidation. The second count involved the complainant being compelled for perform oral sex on the accused. The assault count involved two instances of physical violence: a blow to the victim's face, which caused a black eye; the second was a kick to the victim's hip, which caused her to fall, but without injury. SFM was a member of the Muslim community, and the sentencing judge had access to an IRCA. SFM was described positively in his PSR. His record consisted of two prior findings of guilt for assault on his first wife, and two bail-breach counts; all had resulted in discharges. I do not consider this a valid parity case. The charges were prosecuted indictably, involved prolonged conduct of a higher level of sexual degradation, and SFM had a record for intimate-partner violence. 3 yr 3 mo for the first count of 271; 18 months concurrent for the second; 30 days concurrent for the assault charge. *R v Fardy*, 2024 NSSC 211 [Fardy] Fardy sexually assaulted three young women, and committed an assault against one of them. I do not find this a valid parity case. The charges were prosecuted indictably, and the accused was a serial predator. Sentenced to a total of 58 months, less a 10-month remand credit. Sentence of one-month imposed for the assault. *R v SRM*, 2023 NSPC 33 The accused was found guilty of offences of: sexual assault, assault causing bodily harm, assault, uttering threats to cause death, uttering threats to damage property, all involving an intimate partner. He was also found guilty of threatening to harm his intimate-partner's daughter. I do not find this a valid parity case. The conduct of the accused involved a persistent and continuing pattern of violent and depraved conduct of a far greater degree of seriousness than in *Mr Williams'* case. Further, the § 271 count was prosecuted indictably, which had a significant inflationary effect on the sentence. 5 years for sexual assault. 6 months consecutive for assault causing bodily harm. 6 months consecutive for assault. 6 months consecutive for death threats. 2 months consecutive for property threats.

- [49] The following cases were cited by the defence: Citation Summary of facts Sentence imposed *R v LP*, 2022 NSPC 23 LP was convicted of sexual assault following a 3-day trial, touched the bare breast and inserted his finger into the vagina of an 18-year-old female second cousin while she was asleep. LP had no record, and presented with a favourable PSR. The prosecution proceeded summarily. While this case is a summary-conviction analog, I do not consider it to be a useful parity case, as it did not implicate intimate-partner violence. 18 month CSO. *R v Holland*, 2022 ONSC 1540 The accused was charged with an indictable count of sexual assault. He was the owner of a night club. He lured a female patron into a secluded area and penetrated her vagina with his finger. The court found as unconstitutional the provisions of the Code that barred access to a CSO. An appeal from conviction was later dismissed: 2024 ONCA 106. I do not consider this to be a useful parity case, as it did not implicate intimate-partner violence. 8 month CSO. *R v Tuffs*, 2012 SKCA 6 The prosecution appealed a sexual-assault sentence of 18-months' probation. The accused attempted to forcibly kiss a casual acquaintance. The charge was prosecuted indictably. It is not clear that this is a valid parity case, as it does not implicate intimate-partner violence; however, it does underscore the imperative of denunciation and deterrence. At the time, a CSO was not a

legal sentence in virtue of § 742.1 of the Code as it read at the time of the offence, and given the definition at the time of “serious personal injury offence” in § 752 of the Code. Appeal allowed and one-year term of imprisonment imposed.

- [50] I have considered the following additional cases: Citation Summary of facts Sentence imposed R v Murray, 2023 NSSC 62 [Murray] Summary conviction appeal. The prosecution appealed a 90-day intermittent sentence followed by probation. Murray had been found guilty of putting his penis inside victim’s mouth without her consent. He pulled her head towards his penis. Accused had no prior criminal record. He was employed and supported a young family. He had been on bail for 2 years without breaches, and had accepted counselling. I find this to be a reasonable, summary-conviction offence comparator. Sentence increased to the 18-month maximum, followed by a two-year term of probation. R v Preston, 2021 NSSC 316 Preston was convicted of sexual assault following a trial. He was 19 year old and had no prior record, and his antecedents were positive. Preston and victim were on date and being intimate consensually. Preston then forced unprotected vaginal intercourse upon the victim. Preston was assessed at moderate risk to reoffend. He acknowledged that he had mental health issues and sought treatment long before events that gave rise to the offence. He did not take his treatment as seriously as he should. He had supportive mother. 2 years imprisonment and 2 years probation. The charge was prosecuted indictably. 2-year federal term followed by 2-year term of probation. R v Percy, 2021 NSSC 353 Guilty plea to sexual assault. Accused assaulted his close friend and forced vaginal intercourse, pinned her down, slapped her in the face and hit her arm. The victim could not free herself as the accused was physically much larger and stronger than she was. Aggravating factors included that the offence was major sexual assault, accused restricted victim’s breathing, victim was assaulted in her own home, victim had expectation of security given that she had been very close friends with accused for 15 years, and victim experienced physical and emotional harm. Mitigating factors included that accused had no criminal record prior to this offence, he pleaded guilty, and recognized seriousness of the offence. Risk of sexual re-offending is in the moderate to moderate-high range. While the facts are somewhat similar to Mr Williams’ case, Percy was an indictable prosecution, with a resultant inflationary effect on the sentencing range. Joint recommendation for 5 years imprisonment (consecutive to time serving on another sexual offence). R v Simpson, 2017 NSPC 25 Simpson was convicted of a sexual assault following a trial. Victim went on first date with Simpson and during that date she consensually performed oral sex on him. Several months later, Simpson contacted her; they went out for dinner and then went to Simpson’s home. The victim allowed Simpson to remove some of her clothing and she performed consensual oral sex on him. Later, despite the victim’s objections, Simpson had unprotected vaginal intercourse with her. Accused was 43 years old, married and was father of young daughter. He was employed with the navy. No prior criminal record. Subject to release conditions for three years. This case is not an exact comparator factually, and involves a charge that was prosecuted indictably. Three-year term of imprisonment. Range of penalty

- [51] In my view, none of the charges before the Court would admit of purely probationary sentences, given the authorities which I have reviewed, and given the primacy of denunciation and deterrence.
- [52] Taking into account the outcome in *Murray*, I find the range of penalty for the § 271 offence to be 16-18 months imprisonment.
- [53] Having considered the outcomes in *Fardy* and *SFM*, I find that the appropriate penalty for the ¶ 266(b) and 264.1(1)(b) charges to be one month imprisonment for each count.
- [54] The choice of consecutive or concurrent sentencing is governed by legal principles, with the selection of consecutive sentencing being informed primarily by § 718.3(4) of the Code. As noted previously, none of the charges before the court engages a consecutive-sentence mandate. The general rule is that offences that are so closely linked to each other as to constitute a single criminal adventure may, but are not required to, receive concurrent sentences, while all other offences are to receive consecutive sentences: *Friesen* at ¶ 155; *R v Campbell*, 2022 NSCA 29 at ¶ 29-35. Courts have recognized that even manifold offences might be part of “a single criminal adventure”: *R v Laing*, 2022 NSCA 23 at ¶ 53-54; “one continuous criminal act”: *R v Oldham*, 1975 CanLII 2403, 11 NSR (2d) 312 (NSCA) at ¶ 13 (a principle recognized but not applied in that case, as *Oldham*'s offences were done a week apart); “one single criminal enterprise”: *R v Brush*, 1975 CanLII 2409, 13 NSR (2d) 669 (NSCA) at ¶ 9; “part of a linked series of acts within a single endeavour”: *R v Potts*, 2011 BCCA 9 at ¶ 88, leave to appeal refused, [2011] SCCA No 172.
- [55] As the § 271 and ¶ 266(b) counts were part of a single transaction, I consider that concurrent sentences would be appropriate.
- [56] The ¶ 264.1(1)(b) charge was disconnected temporally and circumstantially from the sexual assault and the assault: Mr Williams’ threatening text was sent at least two hours after the physical violence, and AL was long gone from Mr Williams’ presence. It should attract a consecutive sentence.
- [57] The breach-of-probation charge falls in the 1-to-3 month range: *R v Young*, 2014 NSCA 16. A breach of a court order will normally attract a consecutive sentence, even if the conduct that is the basis of the breach is connected directly to an offence for which a sentence is to be imposed: *R v Harvey*, 1993 NSCA 132; *R v BLL*; *R v JTF*, 1989 CanLII 9704 (NSCA); *R v McKenna*, 2014 NSPC 99 at ¶ 8-10, aff’d 2015 NSCA 58; *R v Lewis*, 2012 NLCA 11 at ¶ 78. Initial sentence calculation
- [58] Based on this range-of-penalty analysis, and adopting the methodology in *R v Adams*, 2010 NSCA 42 at ¶ 23-28 [Adams], the following is the first step in determining a sentence for each charge. It is not the sentence of the Court, and is not to be recorded on the information or in JEIN:
- Sexual assault (case 8920951): 18-month prison term;

- Assault (case 8920950): one-month prison term;
- Uttering threats to burn property (case 8920957): one-month prison term;
- Breach of probation (case 8920959); two-month prison term.

[59] The Court will now progress to the second Adams step and deal with the issue of consecutive/concurrent sentencing. Again, this is not the final sentence of the Court. It is not to be recorded on the information or in JEIN.

- Sexual assault (case 8920951): 18-month prison term starting point.
- Assault (case 8920950): one-month prison term to be served concurrently to case 8920951.
- Uttering threats to burn property (case 8920957): one-month prison term, to be served consecutively.
- Breach of probation (case 8920959); two-month prison term to be served consecutively.

[60] The total notional sentence at this point would be a custodial term of 21 months. A last look satisfies me that this duration is not unduly harsh or excessive. CSO eligibility

[61] The Court has excluded the imposition of purely probationary sentences. The Court believes that the appropriate total sentence would be a 21-month term of imprisonment, given the statutory primacy of denunciation and deterrence. This calculation has been completed prior to reckoning remand credit, in accordance with *R v Fice*, 2005 SCC 32 at ¶ 14-28.

[62] As the sentence being contemplated for Mr Williams is less than two years, and as none of the offences before the Court is excluded statutorily from the CSO provisions in ¶ 742.1(b)-(f) of the Code, the Court shall proceed to determine whether a CSO would be consistent with the fundamental purposes and principles of sentencing, and would not endanger the safety of the community. Accordingly, the principles of sentencing in § 718-718.3, and, specifically, the victim-and-denunciation-and-deterrence-centric provisions of ¶ 718(a), 718.2(a)(ii)-(iii.1), 718.04 and 718.208 may now be assessed comprehensively: Proulx at ¶ 60.

[63] I consider Mr Williams to be a suitable candidate for a community-based sentence as he would not pose a risk to community safety:

- He has stable housing with his grandmother where he may serve a term of house arrest and be subject to appropriate monitoring.
- He does not have a record for violence, sexual violence or intimate-partner violence.
- Although it might be said that the sentencing process was rendered somewhat unanchored by the majority opinion in *R v Cope*, 2024 NSCA 59, the majority did, at ¶ 82, zero in on a key point: when there is a proven connection between a person's offending conduct and a mental-health condition, a carceral outcome may have an outsized impact. This was recognized earlier in *R v Bertrand Marchand*, 2023 SCC 26 [Bertrand Marchand]. Consequently, following Bertrand Marchand at ¶ 73, I find that Mr Williams' alcohol-use

disorder—which I found to be significantly implicated in his criminal conduct—should be regarded as reducing his moral culpability: it led him to uncharacteristic violence. The risk of Mr Williams’ reoffending violently or sexually violently can be managed in the community through appropriate programming; Mr. Williams’ has accepted clinical help for alcohol-use disorder in the past. The gaps in his record suggest that it has been effective—albeit with some relapses. He is prepared to accept counselling going forward.

- [64] The cautionary notice delivered by the Supreme Court of Canada in Proulx at ¶ 41-45, addressed to persons serving CSOs, emphasises the fact that a CSO is authentically punitive, and so has a real reach into the realm of denunciation, deterrence and victim protection as matters of primacy.
- [65] CSOs place substantial restrictions on the liberty of the person serving the sentence.
- [66] The consequences of breaching a CSO are typically swift, severe and certain: arrest with reverse-onus bail, an accelerated breach hearing requiring balance-of-probability proof only, and a presumption of full collapse of the CSO with conversion to real custody should a violation be proven.
- [67] Furthermore, a CSO must be served to the order-expiry date; a person subject to a CSO is not entitled to earned remission or parole. These very points were made in *R v Hood*, 2016 NSPC 78 at ¶ 94, aff’d 2018 NSCA 18. The facts in *Hood* are very distinctive, and the case is not cited as a sentence comparator; rather, *Hood* serves as a warning post for persons who might regard CSOs as a get-out-of-jail-free card.
- [68] There is also a legislative-policy component in play here. After the CSO regime came into effect on 3 September 1996 (SC 1995 c 22 s 6, in force in virtue of SI/96-79), successive amendments restricted access to it:
- SC 2007 c12 s1, in effect 30 Nov 2007 in virtue of the Act, s2: serious personal injury offences and certain criminal-organization and terrorism offences excluded.
  - SC 2012 c1 s34 , in effect 20 Nov 2012 in virtue of SI/2012-48: a patchwork of indictable offences—including sexual assault, trafficking, break-and-enter, car theft, and others—excluded.
- [69] With a CSO-eligibility Charter challenge in the SCC still pending (decided later in *R v Sharma*, 2022 SCC 39, in a ruling against the Charter claimants) the legislator sought to re-establish wide access to CSOs, and did so in Bill C-5, 44th Parl, 1st Sess, enacted as SC 2022 c15 s14 , in force 17 Nov 2022 on Royal Assent.

- [70] This originated as a Government Bill—an embodiment of government policy: C Forcese & A Freeman, *The Laws of Government* (Toronto: Irwin Law, 2005) at 332—that presented to the legislator a clear choice to reopen access to CSOs, even for persons charged with very serious crimes, but who would not endanger the safety of the community. Parliament has the exclusive authority to legislate in matters of sentencing policy: Sharma at ¶ 61. In SC 2022 c15 s14, it did so in expanding CSO eligibility.
- [71] As stated in Friesen, sentencing courts must take into account decisions by the legislator to increase sentencing ranges for specific offences as reflecting an intent that such offences be treated more seriously.
- [72] However, that is not a one-way admonition. When the legislator expresses an intent to open up community-based sentences to persons who do not endanger public safety, even when charged with serious offences, sentencing courts should be reluctant to rigidly reimpose hardened categories of exclusion which the legislator determined should be lifted or not imposed at all. See also *R v RBB*, 2024 NSCA 17 at ¶ 14.
- [73] I am satisfied that allowing Mr Williams to serve his sentence in the community, under the terms of a CSO would be consistent with the fundamental purposes and principles of sentencing, and would not endanger the safety of the community. Remand credit
- [74] Mr Williams is entitled to a remand credit 330 days, which I will calculate as 11 months. That credit will be recorded in JEIN, and endorsed on information 889255. Final sentence
- [75] The final sentence of the Court will be as follows:
- Sexual assault (case 8920951): 7-month actual CSO, starting point sentence, which takes into account the 11-month remand credit.
  - Assault (case 8920950): one-month CSO term to be served concurrently to case 8920951.
  - Uttering threats to burn property (case 8920957): one-month CSO term, to be served consecutively.
  - Breach of probation (case 8920959); two-month CSO term to be served consecutively.
- [76] While a CSO may not achieve the same level of deprivation of liberty as an actual prison sentence (Proulx at ¶ 40), given the duration of house arrest the Court will be imposing in this case (which does not enjoy earned remission), an upward adjustment is not needed.
- [77] This results in a total CSO term of 10 months commencing immediately, followed by a two-year term of probation; the probation order will not commence immediately, but will commence immediately upon the expiry of the CSO. The terms will be as per the checklists which I have filed with the clerk of the Court. There will be a \$100 victim-surcharge amount for each count, to be paid within 12 months. There will be:
- a primary designated offence DNA order for the sexual assault count (case 892091);

- a discretionary 10-year SOIRA order in relation to the sexual-assault count (case 892091) as I do not find the exempting provisions of § 490.012(4) to have been made out: this was a serious offence, with significant victim impact upon an intimate partner;
- a § 110 weapon-prohibition order for 5 years in relation to the ¶ 266(b) count (case 8920950); and,
- a firearm-and-ammunition forfeiture order in relation to all charges; a draft order was submitted to the Court consented to by both counsel as to substance and form, and I have signed it as submitted.

[78] The Court is indebted to counsel for their thorough submissions. Atwood, JPC

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Prepared on 26 October 2026 · Esheria