

CANADA / JUDGMENT

R. v. Camille

2025 BCSC 1575

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 1575 R. v. Camille

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Camille,

2025 BCSC 1575

Date: 20250513

Docket: 99528-2

Registry: Kelowna

Rex

v.

Joseph Brian Camille

Restriction on publication: s. 486.4(1) C.C.C.

Before: The Honourable Justice B. Hardwick

Oral Reasons for Sentence

Counsel for the Crown:

J. Young, Articled Student

Counsel for the Accused:

J. Hogg, K.C.

Place and Date of Trial:

Kelowna, B.C.

May 2, 2025

Place and Date of Sentence:

Kelowna, B.C.

May 13, 2025

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[1] THE COURT: As described by now Chief Justice Marchand in *R. v. Smith*, 2022 BCCA 405, at para. 26:

[26] Sentencing is a highly individualized process. Sentencing judges have "front-line" experience, see and hear all the evidence and submissions in person, and are generally familiar with the circumstances and needs of the local community. As a result, sentencing judges have broad discretion to impose a fit sentence

[2] In this case, Mr. Joseph Camille was convicted of a single count of sexual assault contrary to s. 271 of the Criminal Code (R.S.C., 1985, c. 46) [Code] on October 18, 2024. The conviction followed a judge-alone trial before me on a three-count indictment dated November 20, 2023 (the "Indictment"). Mr. Camille was acquitted of the first two counts of sexual assault contrary to s. 271 of the Code, involving a different complainant and convicted of the third

count on the Indictment involving the victim who I referred to and will continue to refer to by the pseudonym "Claire". The index offence took place on July 20, 2021.

- [3] Broadly stated, the offending conduct took place during the course of an Indigenous healing session in which Mr. Camille was providing one-on-one Indigenous healing services to Claire. Mr. Camille's particular style of Indigenous healing involves a physical touching component, which Claire consented to. During this particular healing session, however, I found beyond a reasonable doubt that Mr. Camille touched Claire without her consent for a sexual purpose. In so finding, I stated that I simply did not believe the evidence of Mr. Camille about what occurred during the July 2021 session with Claire.
- [4] Following Mr. Camille's conviction, a Gladue Report was ordered. The Gladue Report, dated March 27, 2025, and filed with the court on April 7, 2025, was prepared by Sam Anglum of the BC First Nations Justice Council. It has been read and considered by this Court, and I shall return to the Gladue Report in detail in due course given it necessarily factors significantly into the exercise of my discretion as the sentencing judge.
- [5] The Crown submits that in this case, I should impose a custodial sentence of 15 to 18 months, followed by an 18-month period of probation with certain conditions which, in my view, are generally quite standard, with the possible exception of a weapons prohibition and a further restriction on practicing any Indigenous healing or cultural ceremony with a female person unless there are one or more other persons present during that ceremony.
- [6] The Crown further seeks an ancillary order under s. 490.012(3) of the Code that Mr. Camille be registered in the Sex Offender Registry pursuant to the Sex Offender Information Registration Act, S.C. 2004, c. 10 [SOIRA], for a period of 10 years. There are two other ancillary orders sought by the Crown, one of which is mandatory under the Code, and the other of which is obviously unopposed.
- [7] Counsel for Mr. Camille strongly suggests that a conditional sentence order ("CSO") is appropriate. The duration and term of the CSO were not the focal point of the defence's submissions, although I understood the gist of his submissions to be that Mr. Camille should be placed under strict house arrest conditions which would confine him to his rural farm property located at [redacted], Kamloops, B.C., unless otherwise permitted by this Court or his CSO supervisor for a term of at least six months. Counsel for Mr. Camille did not oppose a term of probation following the CSO, except as to stress the lack of any basis for the proposed weapons prohibition. Counsel for Mr. Camille further strongly opposes the proposed order under s. 490.012(3) requiring that Mr. Camille be registered in the Sex Offender Registry in the specific circumstances of this case.
- [8] The Crown concedes that a CSO is available and does not assert that Mr. Camille serving his sentence in the community would endanger the public but maintains that having regard to the sentencing principles set forth in the Code, a custodial sentence is appropriate.

Circumstances of the Offence

- [9] I outlined the circumstances of the index event in fairly significant detail in my oral reasons for judgment delivered on October 18, 2024 (the "Trial Reasons"). At present date, the Trial Reasons have not been published. I am accordingly going to summarize certain portions of the Trial Reasons with the acknowledgement that the paragraph numbers in any subsequent published versions of the Trial Reasons might vary slightly from the unpublished version I am relying upon for sentencing purposes. There will also, by necessity, be certain edits for grammar, punctuation, and the like required for the purposes of publishing, but the portions of the Trial Reasons relevant for the purposes of sentencing start at para. 9 of the Trial Reasons, wherein I describe the general background to the offence as follows.
- [10] By way of a factual overview, the uncontradicted evidence is that in 2021, "Jessica", the pseudonym given to the other complainant, and Claire, were both employees of the Ki-Low-Na Friendship Society in Kelowna, British Columbia (the "Society"). Jessica was a new employee to the Society in 2021. Claire had been an employee of the Society for several years. Specific evidence was led as to their respective dates of employment, but citing these in the reasons for judgment might effectively identify the complainants, which would potentially defeat my efforts to ensure strict compliance with the publication ban.
- [11] During the course of their employ, Jessica and Claire both attended sessions with the accused Mr. Camille, commonly and respectfully referred to as "Buckles" at the Society's downtown offices. Mr. Camille also provided services at other locations, as I will summarize briefly, but Counts 1, 2, and 3 involve sessions Mr. Camille had at the Society's office in downtown Kelowna. This is, again, not a controversial fact.
- [12] Mr. Camille is, and as I will explain in more detail, an Indigenous healer, and was brought to the Society in or about 2018 for the purposes of providing Indigenous healing services on a periodic basis. By 2021, his attendances were approximately monthly. Mr. Camille was not an employee of the Society, but he held a certain position of trust as an Indigenous healer. The point about Mr. Camille holding a certain position of trust was not contradicted by any of the material witnesses who testified at trial.
- [13] Turning back to the Indictment, it is alleged that in the course of providing his Indigenous healing services to Jessica and Claire as set forth above, Mr. Camille sexually assaulted both complainants contrary to s. 271 of the Code. As I will further detail in my review of the evidence, both Jessica and Claire were fully clothed during their sessions with Mr. Camille and consented to certain physical contact with Mr. Camille in the course thereof. It is the nature of the certain specific aspects of this physical contact in the three identified visits that underlie the Indictment.
- [14] Dealing specifically with the circumstances of the index offence now, I detailed Claire's evidence starting at para. 45 of the Trial Reasons as follows.

- [45] Claire's July 20, 2021 visit is the key visit as it relates to Count 3 of the Indictment. By this point in time, Claire had seen Mr. Camille four to five times. Whether it was four or five times is immaterial, but it was at least four, and that was not contradicted. Claire had developed respect for Mr. Camille as a healer by the time of the July 2021 visit. Reference to similar fact evidence omitted.
- [46] On this, and I am specifically referring to the July 2021 visit that underlies Count 3 of the Indictment, Claire indicated that Mr. Camille asked her to take her hair down. It was in a braid as she often wears it. She asked why. Mr. Camille said he was going to work on her head. He also asked her to wave her hair. She asked why. Ultimately, Claire was not comfortable with this and did not do so. This was the first time Mr. Camille had ever asked her to take down her hair. It was a normal thing for him in the previous four to five visits to work on her head, but that had never been requested of her, and her hairstyle was not materially different than it had been previously.
- [47] During the course of this session, Mr. Camille noted how serious Claire was and said she needed a professional tickler. Claire said clearly, based on her evidence, she did not need a professional tickler, and that was "not why we are here."
- [48] There was some further conversation which Claire detailed in her evidence about tickling. There was then a conversation wherein Mr. Camille suggested that she, meaning Claire, hated men. Claire indicated she had done a lot of work in her own trauma healing. She does not recall ever telling Mr. Camille that she hated men, and very adamantly denied ever feeling that way about men.
- [49] Mr. Camille was asking for feedback regularly during this session, at least three different times, in a context that had never come up before. The treatment then proceeded in the usual fashion, with the work on her head not being obstructed by the fact that her hair remained in the braid. However, Mr. Camille only spent a few minutes on her head, which was somewhat different than her previous experiences. He then moved on to the neck and the shoulders. There were pressure points on the neck, mostly on the right side due to her particular circumstances. She does not take issue with that. There were pressure points applied on the collarbone on both sides. Mr. Camille told her he was removing a blockage. She does not recall any further conversation during that portion of the treatment and does not take issue with it.
- [50] Mr. Camille then moved to the back of her knees. There was a pressure point there and a significant amount of pain. There was some conversation between the parties, and Mr. Camille told her that there was a lot less blockage from the last session. Up to this point, she was sitting. She then moved to her stomach.
- [51] Important in the overall context is the evidence of Claire that Mr. Camille was smiling in a way that made her feel somewhat uncomfortable. We then proceed back to the point where Claire is laying down on her stomach. Again, like Jessica, she was fully clothed. Mr. Camille did work on her calves first, and there were certain pressure points. Claire was okay with

this. Mr. Camille then moved his treatment to her inner thighs. Mr. Camille, in her previous four to five sessions, had never done this before. He did pressure points more than halfway between the knees and the groin on her inner thighs. She said, 'Ow,' but did not say anything further. Mr. Camille said, according to Claire, that 'This is what it's like when you are removing blockages.' He did not explain to her the significance of why they needed to find pressure points on her inner thighs on this occasion, when it had not been relevant before. In fact, Claire had been improving in her health, generally speaking.

- [52] Mr. Camille moved up a bit to pressure points on the top of her hips and then to her back. The conversation during her hip and back was the same thing. 'We are removing blockages.' Mr. Camille pressed the top of her hips and said he was releasing pressure. There were several non-controversial points on her back, including the upper back. The conversation was generally about these pressure points.
- [53] Claire then moved over to laying on her back at Mr. Camille's request. He touched her clavicle. He then said he was going to do some work on her broken heart. She found this odd. She denies she told him she had a broken heart or any such related issues. She said he repeated, 'I'm going to fix your broken heart.' She confirmed again she did not have a broken heart. He just proceeded. She did not respond or raise a complaint. Mr. Camille put pressure on the middle of her chest between her breasts, and he came in contact with her breasts. There was a lot of pressure in the middle of her chest, she described. She said he was helping her with her broken heart. But again, she felt this was odd. He then put his hands on her breasts. This had never been done before. She described a cupping motion over her breasts. Although she did not expressly object, she then made a distinct clearing motion from her throat, and Mr. Camille then moved on.
- [54] He moved on to Claire's stomach area. Claire has some certain issues in this regard. I do not wish to violate her privacy, but it had come up in prior sessions and it was an area of particular discomfort for her. He continued on with it, potentially without her consent. This does not, however, form part of the section 271 allegation. It simply provides context for the fact that this particular session was different, in Claire's view, from the previous sessions that she had had with Mr. Camille, which she found to be positive and had caused her to develop a respect for him.
- [55] There was a little bit of conversation, to use Claire's wording, at the time they ended the session. There was an odd reference to a kissing booth that did not have any particular context in relation to an Aboriginal healing session. She said she was not interested in a kissing booth. He said that they were done. Mr. Camille then, according to Claire, came towards her, smelled her neck, and kissed her. She says in her evidence, "I told him specifically, 'I did not say you could do that,'" and she left the room. Claire described him as having an expression of a half-smirk.

Circumstances of the Offender

- [15] Mr. Camille was born in June of 1955. He is accordingly 69 years of age at present and will shortly turn 70 years of age. I also dealt with the circumstances of Mr. Camille in some detail in the Trial Reasons. My findings of fact remain relevant for the purposes of sentencing, with the same caveat regarding paragraph numbering and grammatical and stylistic edited required for any future publishing.
- [16] Starting at para. 16 of the trial reasons:
- [16] Mr. Camille is an Indigenous person with strong and persistent ties to his culture. His historical family circumstances are unfortunately consistent with that which many Aboriginal children of his generation had to endure. Mr. Camille, despite these challenges, became a functioning member of his community and, as noted, remained connected to his Indigenous culture. In this regard, I accept that Mr. Camille has two adult sons who he testified he primarily raised on his own.
- [17] His youngest son had significant health issues as a toddler. During one attendance at hospital, the situation was particularly grave, according to the evidence of Mr. Camille. Mr. Camille testified that he reached out to the creator and asked him to save his son and take him instead. Following this, Mr. Camille's son fortunately had a positive recovery. It was this experience, however, that Mr. Camille says led him into the realm of Indigenous healing.
- [18] Unlike a conventional medical practitioner, there are no formal qualifications to be an Indigenous healer. That said, it is not being challenged that Mr. Camille has performed services as an Indigenous healer in various communities. He testified to providing services in four provinces in Canada and four states in the United States of America over a number of years. He has attended conferences and provided many services for many Indigenous organizations. I use the latter term loosely as, in my view, a detailed review of Mr. Camille's work experience is not material and, he has, as noted, not been cross-examined on this point. I thus accept that Mr. Camille fairly holds himself out as an Indigenous healer and that people choose voluntarily to see him in this regard as such.
- [19] As with all types of healing, whether traditional, non-traditional, or conventional, parties may or may not consider the treatment they receive to be of benefit. In most cases, this subjective assessment informs whether they wish to continue with the treatment and for how long. I conclude this is very apt as it relates to Mr. Camille because but for the allegations of sexual assault, I accept that Mr. Camille fairly holds himself out as an Indigenous healer and that certain individuals felt that the treatment that they received from him was quite helpful to them.

- [20] Quite importantly in this regard, Indigenous healing services are performed differently by each individual healer. This was consistent in all of the evidence. The differences in the manner of providing the services does not render one manner superior and another inferior. It is a matter of personal preference of the individual receiving the treatment as to what works for them, having regard to their personal circumstances.
- [21] As an Indigenous healer, Mr. Camille personally addresses effectively four aspects of the participant or patient's health; spiritual, mental, physical and emotional, also referred to as psychological at one point in the evidence, but that is a distinction without a difference when viewed in context.
- [22] Mr. Camille testified that he has a healing protocol that focuses heavily on physical touch, with attention to certain pressure points and an overall goal to remove negative energy from the individual participating in the treatment session, [not relevant evidence omitted regarding a third-party witness]. Mr. Camille had certain areas where he focused specific attention and assigned his own non-medicinal terminology to them.
- [23] Two examples that were mentioned on multiple occasions during the course of evidence were "beaver dams", an area on the back of the neck near the baseline of the hairline, and "pain pockets", an area in close proximity to the armpits which, in my non-expert opinion, that based upon the visual demonstration, appear to be close to the axillary lymph nodes. This is not an exhaustive definition of the pressure points which Mr. Camille focused on under his protocol, but they were the two that had the greatest continuity in the evidence.

Gladue Report

- [17] As stated by Mr. Anglum in the preamble section, the Gladue Report explores the systematic background factors and cultural connections unique to Indigenous persons that are present in Mr. Camille's personal circumstances (the "Gladue factors"). The Report identifies relevant information from birth to present and places Mr. Camille's Gladue factors within the overarching conceptual and historical context of colonialism. The Report is intended to provide relevant information to assist me in considering Mr. Camille's moral blameworthiness and his prospects for rehabilitation and crafting a fit sentence.
- [18] I now turn to address the most salient portions of the Gladue Report. Mr. Camille was born and raised on the Kamloops Indian Reserve 1 ("KIR 1"), and has lived there for substantially all of his life. Indeed, Mr. Camille's family has lived on KIR 1 for several generations. Sometime between the ages of four and six, Mr. Camille contracted tuberculosis and was subsequently hospitalized at the Coqualeetza Indian Hospital in Sardis, British Columbia, for approximately one year. Following his release from hospital, he attended the Kamloops Indian Residential School ("KIRS").
- [19] Mr. Camille then survived attending KIRS for approximately six years between the ages of six and 12 and survived residing there again for approximately one year when he was about 15 years of age, after running away from the family farm on KIR 1 due to family conflict and

violence. Mr. Camille's experiences at KIRS were traumatic, including sexual, physical, emotional, and mental abuse. Although Mr. Camille preferred not to recount that trauma to Mr. Anglum, Mr. Camille's Independent Assessment Process file regarding his experiences at KIRS was shared by his counsel for the purposes of the preparation of the Gladue Report and relied upon accordingly.

- [20] Mr. Camille's parents are also reported to have survived KIRS, but as they never spoke of their experience to him before their passing, Mr. Camille was not able to share any specific details, such as even the length of their respective time at KIRS.
- [21] Aside from attending KIRS, Mr. Camille grew up on the family ranch on KIR 1. He had six full siblings, three of whom are now deceased. His family was poor, and food was scarce. His father was a hardworking man who sometimes pushed his values in this regard to the point of manifesting them into verbal and physical abuse in the household, including towards Mr. Camille.
- [22] For Grades 11 and 12, Mr. Camille lived with a non-Indigenous family in the Kamloops area who also had a farm property. During this period of stability, Mr. Camille was able to graduate from Kamloops Senior Secondary and assist that family with farm operations, something he enjoyed. Following graduation from high school and some brief cross-Canada travel connected to his Indigenous culture, Mr. Camille resumed living on KIR 1 and pursued a carpentry career. Specifically, from the ages of 19 and 20, Mr. Camille attended Cariboo College to achieve his carpentry ticket. Mr. Camille subsequently became a member of the United Brotherhood of Carpenters and Joiners Union Local 1540 and primarily worked in commercial and industrial carpentry jobs.
- [23] In addition to his carpentry work, Mr. Camille travelled extensively across this province, the province of Alberta, and the western United States of America to participate in rodeos, his passion being horses. Mr. Camille continues to maintain a very strong connection to horses.
- [24] Mr. Camille married the first of his three wives at the age of 22. Together, they had three biological children, who, by my calculation, are all now in their forties. The demise of that marriage and the resulting termination of any relationship with those children until their adulthood was very distressing and resulted in Mr. Camille entering an extended period of chronic alcoholism and substance abuse.
- [25] Following a stint living on an uncle's ranch property in the Cache Creek area of BC and focusing on traditional land-based healing ceremonies in his mid-thirties, Mr. Camille was able to achieve and sustain sobriety. Mr. Camille thereafter returned to Kamloops and built his current home on a plot of land situated on KIR 1, that his father willed to him. He continued to be primarily employed in carpentry jobs through his union and also helped build houses for members of his community living on KIR 1.

- [26] Mr. Camille's second marriage, which occurred after his return to living on KIR 1, was very brief and did not produce any children. In his late thirties, Mr. Camille married his third wife. They shortly thereafter had two sons, Clyde and Wyatt. After the breakdown of that marriage, when Clyde and Wyatt were approximately two and four years of age respectively, Mr. Camille obtained sole guardianship of his sons and raised them effectively as a single parent. I addressed this in the Trial Reasons. Clyde, now 27, and Wyatt, now 24, reside with Mr. Camille in the residence he built on KIR 1, as noted above, and together they attend to the ranch duties on that property.
- [27] Again, as noted in my Trial Reasons and repeated above, it was through childhood health difficulties suffered by Wyatt that Mr. Camille developed, or perhaps came to recognize, that he had a special spiritual connection with the Creator. This manifested itself in recurring vivid dreams from the eyes of an old man who healed horses by releasing energy blockages he could see inside them. Mr. Camille described these recurring dreams as involving energy transfer between the wild horses and the humans to help the humans heal. Consistent with this, Mr. Camille emphasizes that his connection to his culture is largely rooted in his deep connection to horses.
- [28] In his early forties, Mr. Camille began taking seriously his gift of what he generally described to Mr. Anglum, using his own words, of "extracting people's pain". This resulted in him being asked to do private healing sessions for clients throughout Canada and the United States, hosting public healing clinics in various Indigenous communities, and speaking at large events such as rodeos and Elders gatherings. Mr. Camille acknowledged to Mr. Anglum that it is difficult to describe the depths and the nature of his healing work, but explained that over the years, it developed into a principled approach to healing people who experience the same types of trauma he has, namely living with grief, addiction issues, and childhood physical, mental, and sexual abuse. Mr. Camille's awareness and recognition of these traumas and their lasting legacy factors into my assessment of moral blameworthiness in due course.
- [29] Finally, although Mr. Camille has some hearing loss requiring him to wear hearing aids and has also experienced some memory loss, his present physical and mental health are generally good and stable.
- [30] On the basis of all the information collected and in assessing the specific Gladue factors present in the concentric circles of Mr. Camille's community, family, and personal life, Mr. Anglum identified the following:
- a) trauma from surviving KIRS;
 - b) physical and mental abuse within the family;
 - c) poverty;
 - d) mental health and addiction; and

- e) disconnection from traditional Indigenous culture and language during childhood and adolescence.
- [31] Having regard to the nature of the offence, the background circumstances affecting Mr. Camille's life, and suggestions from available family and community supports, Mr. Anglum suggested the following healing options for the Court's consideration:
- a) land based healing;
 - b) ceremonial trauma programming; and
 - c) programs and services through Four Circles Justice Society, including the Healthy Relationships Program, Peacemaking Circles, and otherwise managed and supported through a Gladue caseworker.
- [32] Before leaving the commentary regarding the Gladue Report, I do note that nothing contained within the Report indicates any acknowledgement by Mr. Camille of having committed the index offence or any remorse for the offending conduct. Very clearly, Mr. Camille is under no obligation to provide either. The fact that he exercised his Charter rights to be presumed innocent and to have a fair trial is in no way to be held against him in this process. All that the court can and will draw from this observation of the Gladue Report is that remorse is not a mitigating factor that Mr. Camille can rely upon in my analysis of the relevant principles of sentencing, and that the programming and services recommended in the Report are for Mr. Camille's personal benefit, as opposed to addressing what motivated the offending conduct.

Mr. Camille's Criminal Record

- [33] Mr. Camille has a criminal record, which the Gladue Report does not address. That record, which is admitted, lists three convictions contrary to the Code. Two convictions are for alcohol related driving offences in 1981 and 1982, respectively. These fall directly during the period when Mr. Camille very candidly admits to suffering from alcoholism and substance abuse. I further expressly rejected any suggestion made in the course of evidence at the trial that alcohol had any role in Mr. Camille's offending conduct. The third conviction for fraudulently taking a horse is from May of 1986, almost exactly 41 years ago, was put into context by defence counsel, and ultimately resulted in a suspended sentence and probation.
- [34] In my view, Mr. Camille's criminal record is so dated and so unrelated to the index offence as to be irrelevant for my purposes as the sentencing judge herein. I thus consider him effectively to constitute a first-time offender.

Letters of Reference and Support

- [35] Mr. Camille tendered a binder of letters of reference and support which were entered into evidence for the purposes of sentencing. I will group the letters into two categories:

- a) letters, all but one of which predate Mr. Camille being convicted of the index offence, which speak to his skills as an Indigenous healer and a horse clinician and his respected position as an elder; and
 - b) recent letters from two individuals who indicate their willingness to participate in or continue to participate in, as the case may be, traditional sweat lodge healing ceremonies and horse therapy, one of whom, Mr. Daniel Gaspard, participated in the Gladue Report.
- [36] In respect to the first category of references, Mr. Camille's skills in this regard were not challenged by the Crown and were, in fact, accepted by this Court. Even Claire testified at trial as to Mr. Camille's reputation as a talented healer and the benefits she felt she had received from her healing sessions with Mr. Camille prior to July 20, 2021.
- [37] In respect of the second category of references, the support letters lack, in my view, certain insight into the proceedings before this Court. In the letter from Mr. Ferguson, dated April 30, 2025, he refers to Mr. Camille being charged with sexual assault. Mr. Camille has been convicted of the offence of sexual assault after a trial. There is a distinct difference. Mr. Ferguson also speaks to the stress and emotional hardship this ordeal has caused for Mr. Camille, without any apparent recognition of any wrongdoing by Mr. Camille.
- [38] Mr. Gaspard, in his letter dated March 7, 2025, does not even mention these proceedings beyond perhaps very indirectly, in stating that he wants to "support my friend in his time of need", even though Mr. Gaspard is clearly aware of Mr. Camille's conviction, given his participation in the preparation of the Gladue Report.
- [39] As a final note regarding the letters of reference tendered on behalf of Mr. Camille, I have chosen to disregard a letter dated March 11, 2025, from Freida Mclean, which contains a statement that is very disrespectful to Claire, given Mr. Camille's conviction. I have done so solely on the basis of defence counsel's representation to the Court that this letter, which is the second letter provided by Ms. Mclean in support of Mr. Camille, was included in the exhibit binder in error.

The Victim and her Victim Impact Statement

- [40] The victim, Claire, is an adult Aboriginal female. Claire was an outreach worker for the Society at the time of the index offence. Her job duties included helping clients at the Society secure housing, assisting those clients in obtaining basic supports for food insecurity, and acting as an advocate to help navigate through the systems when necessary. Claire's work, in broad terms, often involved assisting very vulnerable persons in the community.
- [41] Although it was not dealt with in detail in her evidence at trial, Claire did explain in the context of rejecting Mr. Camille's suggestion during the subject treatment session that she hated men, that she had already done a lot of work in her own trauma healing as of July of 2021 that included spiritual and Indigenous healing.

- [42] Claire attended at the sentencing hearing and read her own victim impact statement to the Court on May 2, 2025. In her brief but meaningful statement, Claire explained that the offence took away her sense of safety and security, left her feeling isolated and alone, and has resulted in her being diagnosed with post-traumatic stress disorder, for which she is presently undergoing treatment. Claire feels anger and resentment towards Mr. Camille for violating her rights and causing her significant hardship, including losing trust in her spiritual practices. Significantly, Claire describes the ripple effect of the offending conduct not just upon herself, but upon her family, her friends, the people she serves during her time at work, and the people she does not get to serve when she has to take time off work to deal with the aftermath of the assault.
- [43] Claire expresses hope that Mr. Camille will take responsibility for his actions and make amends for the harm that they have caused. "Amends," she clearly stated, does not mean contacting her, "but instead means balancing his life to reflect the gifts that are gifted to us." She further wishes the best for Mr. Camille, "as we all take our place in this world to serve for the highest good of all."

Principles of Sentencing

- [44] The Code provides guidance with respect to the purpose of sentencing and the principles to be applied in determining a just sentence. The principles of sentencing that apply in this case are set out in s. 718 to 718.2 of the Code. Section 718 sets out the purposes and objectives of sentencing as follows:

718 The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by opposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of harm done to the victims or to the community.

- [45] Section 718.1 sets out the fundamental principle that:

718.1 A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[46] This requires full consideration be given to both the seriousness of the offence and the moral blameworthiness of the offender. Gladue factors may have an impact on an assessment of the latter.

[47] Section 718.2 requires the sentencing judge to consider any mitigating or aggravating circumstances relating to the offence or the offender. It also requires sentencing judges to impose sentences similar to what has been previously imposed on similar offenders for similar offences in similar circumstances. The same section also cautions sentencing judges to exercise restraint in sentencing and to give due consideration to sanctions less restrictive than imprisonment, if appropriate.

[48] Of significance are ss. 718.2(iii) and (iii.1), which provide that the following are statutorily aggravating factors:

718.2 (a)(iii) evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim,

(iii.1) evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation.

[49] Section 718.04 requires that:

... where a court imposes a sentence for an offence that involved the abuse of a person who is vulnerable because of personal circumstances -- including because the person is Aboriginal and female -- the court shall give primary consideration to the objectives of denunciation and deterrence of the conduct that forms the basis of the offence.

[50] While all principles, purposes, and objectives are to be considered, in this case, attention is directed to several enumerated sections specific to Mr. Camille's situation. These include the two statutorily aggravating factors under s. 718.2 which I have identified, the direction to give primary consideration to the principles of denunciation and deterrence, and the need to pay particular attention to the circumstances of this Indigenous offender in considering all available sanctions.

Impact of the Gladue Factors

[51] The purpose of s. 718.2(e) is to ameliorate the serious problem of overrepresentation of Indigenous persons in the population of incarcerated individuals in Canada, and to encourage sentencing judges, such as myself, to resort to a restorative approach to sentencing. It directs me to undertake the sentencing of Mr. Camille as an Indigenous offender individually, but also differently, because the circumstances of Indigenous people are unique. I must therefore consider the unique systematic or background factors that may have played a part in bringing Mr. Camille before the court and the types of sentencing procedures and sanctions that may be appropriate in the circumstances because of his heritage. It does not mean that a custodial sentence will automatically be reduced for Indigenous offenders. The sentence to be imposed must depend upon all the factors that

must be taken into account in each individual case: see *R. v. Gladue*, 1999, 1 SCR 688.

- [52] There are very obviously significant Gladue factors engaged in this matter by virtue of Mr. Camille's circumstances. I have laid those out above. However, Claire is also Aboriginal. As the Crown points out in its submission, this was not a matter of chance. Rather, it is a direct product of the offence which Mr. Camille chose to commit and the context in which he committed it. This, I accept, must affect the weight to be given to the Gladue factors in this case.
- [53] In this regard, I was referred to the recent decision of the Ontario Court of Justice in *R. v. King*, 2024 ONCJ 354, that also involved an Indigenous healer who was convicted of sexual assault contrary to s. 271 of the Code. As noted by defence counsel, King is certainly not binding authority on me. However, I consider the analysis of Justice Finnestad to be instructive given his detailed review of the relevant case authorities, including decisions from the Supreme Court of Canada and the British Columbia Court of Appeal, which are binding on me.
- [54] Specifically, I refer to the following paragraphs in King which address the interplay between s. 718.04 and s. 718.2(e):
- [12] Section 718.2(e) provides that all sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders. A relatively recent provision in s. 718.04 requires that primary consideration be given to denunciation and deterrence in circumstances where the victims of an offence are vulnerable, particularly where they are Indigenous women. The issue is thus the relationship between the provisions, and the effect of the operation of both in determining a fit and appropriate sentence.
- ...
- [16] The principles of s. 718.2(e) may be a significant consideration in a particular case. The Supreme Court of Canada noted that the systemic and background factors that have played a role in bringing the Indigenous person before the court may have a mitigating effect on moral blameworthiness, and that similarly, a different or alternative sanction might be more effective in achieving those primary sentencing objectives in a particular Indigenous community.
- [17] Nonetheless, while para 92 of *R v Friesen* states that the factors in Gladue and Ipeelee, 2012 SCC 13 must be considered, it also reinforces the Criminal Code provision that no other sentencing objectives can be elevated to a priority equal to or greater than, those of denunciation and deterrence in the circumstances of an offence against an Indigenous female victim.
- ...

- [23] While Gladue factors are important considerations in all aspects of sentencings, the weight to be given them does not exceed the weight to be given to achieving the goals of denunciation and deterrence in the case of Indigenous female victims. They may factor into how those goals are achieved but they are not the primary objective of a sentence for this offence.
- [55] Also instructive is the observation of Finnestad J. at para. 66 of King regarding the scope of the harm done:
- [66] The harm here has been done not just to three women, but to the Indigenous community. A safe and culturally appropriate haven for healing has been violated. Trust in one of the most respected roles of an Indigenous leader has been eroded. The application of Gladue principles may in certain circumstances result in a lesser sentence. They do not in this case. Mr. King by virtue of his own lived experience knew and understood exactly what the vulnerability of these women was, and exploited it for his own benefit. The harm done to the victims and the moral blameworthiness of Mr. King are exacerbated by the breach of trust within his community.
- [56] In *R. v. Nahanee*, 2021 BCCA 13, Justice Willcock stated that:
- [85] The effort at reconciliation that, in part, motivates the Gladue approach to sentencing, is not served by sentences that do not sufficiently deter violence against Indigenous children.
- [57] In *R. v. McDonald*, 2021 ABCA 262, the Alberta Court of Appeal adopted that language, saying that the comments about Indigenous children were equally applicable to Indigenous women: see paras. 29 and 30.

Sentencing Case Law

- [58] A starting point regarding sentencing for adult sexual assault convictions is the recent British Columbia Court of Appeal decision in *R. v. Maslehati*, 2024 BCCA 207. The sexual assault in Maslehati also involved a breach of trust but is highly distinguishable in terms of the offending conduct, which conduct was prolonged and highly intrusive. The offender in Maslehati was also not Indigenous, and accordingly, there were no Gladue factors to be considered pursuant to s. 718.2(e) of the Code.
- [59] Regarding sentencing principles generally, and in particular in considering the suitability of the 18-month CSO ordered by the sentencing judge following a finding of guilt after a judge-alone trial, Justice DeWitt-Van Oosten commented as follows.
- [1] In November 2022, Parliament amended the Criminal Code [] to reinstate the availability of conditional sentences for various offences, including adult sexual assault prosecuted by indictment. Conditional sentences had not been available in these cases since at least 2012.

...

- [3] Since the 2022 amendment, some judges have imposed conditional sentences for adult sexual assault prosecuted by indictment. Others have rejected this form of sentence. The fact of differing outcomes is understandable given the inherently individualized nature of sentencing. Judges have considerable latitude in determining a fit sentence.
- [4] In all cases of sexual assault, whether prosecuted summarily or by indictment, judges must impose a sentence that is 'proportionate to the gravity [seriousness] of the offence and the degree of responsibility [blameworthiness] of the offender': Criminal Code, s. 718.1. 'The goal in every case is a fair, fit and principled sanction': R. v. Parranto, 2021 SCC 46 at para. 10.
- [5] However, what amounts to a fit sanction is determined case-by-case and is informed by the circumstances surrounding the offence, the personal circumstances of the offender, relevant aggravating and mitigating factors, the community context in which the offence occurred, and the judge's application of various legal principles that govern the sentencing process. The individualized and contextual nature of sentencing means that no two cases will ever be exactly alike and importantly, even where there are similarities between cases, the outcomes may be different.
- [6] This Court has had two occasions since the 2022 amendment to consider conditional sentences in the context of adult sexual assault prosecuted by indictment.
- ...
- [9] In both appeals, the court stated that conditional sentences will 'rarely' be appropriate for sexual assaults with aggravating circumstances, such as penile penetration: T.H. at paras. 5, 60; Henry at para. 32.
- [10] This case involves another Crown appeal from a conditional sentence and provides a third opportunity to address the issue. The Crown asks the Court to provide greater clarity on when a conditional sentence may be a fit sentence. Parliament has reinstated conditional sentences. At the same time, the law on sexual assault has evolved, with a more in-depth understanding of the harmfulness and the wrongfulness of the offence. The Crown says any use of a conditional sentence must account for this context.
- [11] For the reasons that follow, I am of the view that in cases involving an adult sexual assault with aggravating circumstances, a conditional sentence will rarely be available, even for offenders without a criminal record.
- [60] Continuing with her analysis with respect to the generally applicable range for adult sexual assault convictions, DeWitt-Van Oosten J.A., held as follows, starting at para. 56:
- [56] It is appropriate to begin the analysis with a discussion of range specific to the type of offence committed here: a sexual assault against an adult that was prosecuted by indictment and for which there were aggravating circumstances.

- [57] A conditional sentence is only available for a term of imprisonment of less than two years. As such, before imposing this form of sentence, judges must preliminarily turn their minds to the nature and length of sentence that would ordinarily be appropriate in the circumstances. This assessment is informed by the generally applicable range. The proper analytical approach to s. 742.1 of the Criminal Code is explained in *R. v. Fice*, 2005 SCC 32:
2. . . . the requirement that the court must impose a sentence of imprisonment of less than two years before a conditional sentence can be authorized should be fulfilled by a preliminary determination of the appropriate range of available sentences. In the course of this determination, the judge need only exclude two possibilities: (a) probationary measures; and (b) a penitentiary term. The judge need not impose a term of imprisonment of a fixed duration in the first stage of the application of s. 742.1(a). Thus, it can be stated that the object of the requirement in s. 742.1(a) is to exclude categories of offenders from the conditional sentencing regime on the basis of the range of sentence that would apply to them. In particular, offenders for whom probation or a penitentiary sentence would be considered appropriate are barred from receiving a conditional sentence.
- [58] In *R. v. G.M.*, 2015 BCCA [...], this Court held that in 'serious sexual assault cases', denunciation and deterrence are 'paramount' and the generally applicable range of sentences is a penitentiary range of two to six years' imprisonment: at paras. 17, 22, 33. The term 'serious sexual assault' was not defined. However, it is clear from the reasons that the circumstances surrounding the offence in that case met the threshold.
- . . .
- [60] Having identified an applicable range of two to six years' imprisonment, the Court set aside a 90-day custodial sentence with two years' probation and increased it to 18 months' imprisonment and 18 months' probation (the maximum sought by the Crown on appeal). G.M. had:
- [19] perpetrated a serious sexual assault, disregarding clear and repeated requests to stop. In doing so, he demonstrated the kind of demeaning behaviour and contemptuous disregard for the personal integrity of others that the Court in [*R. v. Garrett*, 2014 ONCA 734] stressed required a clear denunciatory and deterrent sentence. It was, therefore, incumbent on the judge to impose a sentence focusing primarily on the principles of deterrence and denunciation.
- [61] The Court went on to say that: "The sentence imposed in [that case] should not be taken as a sentence within the appropriate or normal range. The sentence [was] dictated by the position taken by the Crown at the sentencing hearing": at para. 35, []. In other words, but for the Crown's position, the Court would have imposed a higher carceral term.
- . . .

- [63] Since G.M., the Supreme Court of Canada has released its decision in *Goldfinch*, *Friesen*, and other cases specific to the offence of sexual assault.
- [64] In *Goldfinch*, the Court took notice of society's "deepened" understanding of the harms caused by sexual violence:
- [37] . . . Throughout their lives, survivors [of sexual violence] may experience a constellation of physical and psychological symptoms including: high rates of depression; anxiety, sleep, panic and eating disorders, substance dependence; self-harm and suicidal behaviour. . . . The harm caused by sexual assault, and society's biased reactions to that harm, are not relics of a bygone Victorian era. [Internal references omitted.]
- [65] This enhanced understanding was reiterated in *Friesen* and held applicable to both child and adult sexual assault: at para. 118. In that case, the Court focused on recalibrating the analytical approach for sentencing specific to child sexual offences; however, it noted that "[a]ll forms of sexual violence, including violence against adults, are morally blameworthy [precisely] because they involve the wrongful exploitation of the victim by the offender -- the offender is treating the victim as an object and disregarding the victim's human dignity" at para. 89, emphasis added, citing *R. v. Mabior*, 2012 SCC 47 at paras. 45, 48.
- . . .
- [72] It is now generally recognized that all sexual assaults are "serious", irrespective of the nature of the physical acts involved. As aptly noted in *R. v. Merasty*, 2023 SKCA 33 at para. 23: [n]o matter what form it takes, a sexual assault is a forcible subjection of the victim to the assailant's sexual desires. . . .
- [73] Accordingly, rather than describe some sexual assaults as "serious" and other sexual assaults as something other than that, I consider it constructive when distinguishing between the cases for the purposes of sentencing to focus on the circumstances surrounding the offence at issue, including the nature of the sexual contact, its duration, the context in which it occurred, and the actual and reasonably foreseeable harms that flowed from it. The more aggravating the circumstances, the objectively graver the offence.
- [74] Circumstances that may be found to elevate the already-inherent seriousness of a sexual assault (and are therefore aggravating), include:
- § highly invasive, violative, and/or demeaning sexual conduct;
 - § prolonged duration and/or repeated occurrences;
 - § additional physical violence and/or physical injury;
 - § administering drugs or alcohol to incapacitate the victim or taking advantage of incapacity;
 - § threats and/or the use of a weapon;
 - § persistence in the face of communicated non-consent, or acts intended to overcome resistance;

- § more than one offender involved;
- § sexual assault in the presence of children;
- § the violation occurs in the victim's home;
- § planning and/or steps taken to facilitate the offence;
- § attempts to prevent disclosure or avoid detection;
- § age of the victim;
- § a particularly vulnerable victim;
- § actual and reasonably foreseeable harms that flowed from the offence, including significant impact on the victim; and
- § breach of trust.

See also, s. 718.04 of the Criminal Code, the "aggravating circumstances" enumerated in s. 718.2(a), and s. 718.201. A helpful discussion of relevant aggravating features can also be found at para. 78 of *R. v. Bear*, 2022 SKCA 69, albeit within the context of a starting point (as opposed to a ranges) approach to the sentencing.

- [75] This list of circumstances is by no means exhaustive. Moreover, whether the gravity of a particular sexual assault is elevated by aggravating circumstances, either singularly or in combination, requires an individualized and contextual assessment, and it will be up to the sentencing judge to make this determination: Wells at para. 45. Sexual assault under s. 271 of the Criminal Code is "broadly-defined" and covers a "wide spectrum" of conduct: Friesen at para. 91. It also occurs in a wide variety of circumstances. It is up to the sentencing judge to determine, factually, whether there are aggravating circumstances, what they consist of, and critically, the impact of those circumstances on the gravity of the offence and in the particular context of the case.
- [76] It is important to note that while the category of what might elevate the gravity of sexual assault is not closed, the law is clear about what cannot be included in that assessment, namely the personal circumstances of the offender. As explained in *R. v. Ellis*, 2022 BCCA 278, the gravity of an offence is focused on the harmfulness and the wrongfulness of the conduct (towards the victim and society at large), not the personal characteristics of the offender or their background or social context: at paras. 130-131, *R. v. Davies*, 2022 BCCA 391, at paras. 27-29. Personal circumstances that diminish an offender's moral blameworthiness or attract mitigating weight do not make the offence less grave.
- [77] The Crown says where a judge finds aggravating factors in an adult sexual assault prosecuted by indictment, a two-year penitentiary term represents the very bottom end of the applicable range post *Goldfinch* and *Friesen*, even for a first-time offender. Nor should two years or more of imprisonment be reserved for cases involving penetration. The seriousness of a sexual assault is not dictated by the existence or non-existence of

penetration: R. v. Hume, 2016 BCCA 230, at para. 40; R. v. D.N., 2018 BCCA 190 at para. 25; R. v. Nelson, 2018 BCCA 161 at para. 23; R. v. C.R.G., 2019 BCCA 463 at para. 20.

...

- [80] As I understand it, the Crown does not ask us to revisit the two to six year range per se. However, consistent with the approach taken by the majority in R. v. R.S., 2023 ONCA 608 [R.S.], the Crown says that within the already-established range, the sentences imposed for offenders without diminished moral blameworthiness or compelling mitigation should move upward. A two-year sentence should generally be reserved for cases at the very bottom end. The more aggravating the circumstances, the higher the sentence.
- [81] In R.S., a first-time Indigenous offender committed a sexual assault involving digital penetration, with the victim repeatedly saying "no". He grabbed her throat and squeezed hard. The victim "saw stars". The assault was interrupted by an upstairs neighbour. The Ontario Court of Appeal overturned a conditional sentence order of two years less one day, holding that the principles of deterrence and denunciation will normally require a penitentiary sentence in the three to five-year range for such an offence: at paras. 1-4.
- [82] Writing for the majority, Justice Huscroft noted that "[t]he evolution of the law is plainly in the direction of better appreciating the profound physical and psychological harm caused by sexual assault": at para. 22. He cited A.J.K. in support of that proposition. In the latter case, the Court stated that appellate courts have been "... called upon to chart a new course and bring sentencing ranges into 'harmony with new societal understanding of the gravity of certain offences and/or the degree of the responsibility of certain offenders' ... " at para. 72, quoting from para. 35 of Friesen, ...
- [83] I agree. As with child sexual assault, the penalties imposed for sexual assaults against adults must reflect society's contemporary understanding of the harmfulness and the wrongfulness of sexual violence, generally. It is not enough to simply acknowledge these harms. The sentences must actually take them into account, recognizing that the harmfulness and wrongfulness of sexual assault impact both the gravity of the offence and the offender's personal responsibility: Friesen, at para. 75. See also R. v. Kolola, 2021 NUCA 11 at paras. 28, 36, and the comments of Justice Trotter in R. v. Brown, 2020 ONCA 657 at para. 59.
- [84] I appreciate that sentencing ranges represent guidelines only. It is trite law that they are "not hard and fast rules". Consequently, a judge's decision to depart from the range will not, standing alone, constitute an error in principle: Friesen at para. 37; Parranto at para. 36.
- [85] Because of the individualized nature of sentencing, there will be cases in which a non-penitentiary term for an adult sexual assault with one or more aggravating circumstances is nonetheless found to be justified. A factual finding of diminished blameworthiness or compelling mitigation may provide a sound basis to depart from the G.M. range in prosecutions by indictment.

- [86] Sentencing ranges convey an appreciation of the gravity of the offence. With the applicable range in mind, the judge must then ". . . individualize the sentence in a way that accounts for both aspects of proportionality: the gravity of the offence and the offender's individual circumstances and moral culpability": Parranto at para. 44, . . .
- [87] An offender's "individual circumstances" may render a custodial disposition significantly harder for them than for somebody else: R. v. Hills, 2023 SCC 2 at paras. 135, 165. This can have a mitigating effect at sentencing.
- [88] An offender's "individual circumstances" might also reduce their moral culpability. For example, the evidence at sentencing may establish ". . . mental disabilities that impose serious cognitive limitations . . ." and ". . . manifestly [interfere] with the offenders' ability to reason and [compromise] their violational and decision-making capacity": G.J.M., at paras. 53-58. See also Ellis at para. 81.
- [89] Gladue factors (R. v. Gladue, [1999] 1 S.C.R. 688, 1999 CanLII 679), may also reduce moral culpability, and in accordance with s. 718.2(e) of the Criminal Code, justify a sentence outside of the generally applicable range. See for instance, the comments of Justice Paciocco in R.S. at paras. 53-64. See also, C.K., at paras. 104-106 and R. v. L.S.N., 2020 BCCA 109 at paras. 52-53.
- [90] Nothing said in these reasons is intended to detract from a full proportionality analysis in cases with heightened gravity. That analysis has been codified in s. 718.1 of the Criminal Code, is fundamental to every search for a fit sentence and is binding on all courts.
- [61] Finally, Justice DeWitt-Van Oosten addressed where CSOs fit within this range. In this regard, she said, starting at para. 109:
- [109] I accept, as did the Court in T.H., that it would be an error in principle for judges to instruct themselves that conditional sentences are not available in adult sexual assault prosecutions by indictment, or that they are precluded for sexual assaults involving a particular form of contact: T.H. at para. 60, citing R.S. at para. 78.
- [110] I also accept that a carefully crafted conditional sentence with punitive conditions can give meaningful effect to the principles of denunciation and deterrence: Wells at para. 35; Proulx at para. 41; R.S. at para. 71; T.H. at para. 62. This law is binding on us.
- [111] Nevertheless, consistent with the approach I have taken to the issue of range, I consider that a judge's assessment of whether a conditional sentence constitutes a fit sentence for an adult sexual assault with aggravating circumstances must account for society's better understanding of the harmfulness and the wrongfulness of sexual violence. The principles established in cases such as Proulx specific to the interpretation and application of s. 742.1 of the Criminal Code continue to resonate. However, whether the pre-requisites for a conditional sentence have been met in a case involving sexual assault must be determined within the now-existing jurisprudential context for this offence, as shaped by Goldfinch, Friesen, and other of the Supreme Court of Canada's decisions relevant to development of

the law in this area.

...

- [113] In my view, in this context, a conditional sentence will generally not constitute a fit sentence for the kind of offence at issue in this appeal without a factual finding of diminished moral blameworthiness or compelling mitigation. See, for example, *R. v. M.K.M.*, 2024 BCSC 575 at paras. 79 -82.

...

- [115] Secondly, even where imprisonment of less than two years is imposed, an absence of diminished moral blameworthiness or compelling mitigation will generally render a conditional sentence in a case with aggravating circumstances inconsistent with the fundamental purpose and principles of sentencing. Denunciation and deterrence are accepted as paramount in these cases. Proulx recognizes that incarceration usually provides greater denunciation than a conditional sentence: [see] para. 102. In my view, the need to denunciate sexual violence is "so pressing" that in the absence of diminished moral blameworthiness or compelling mitigation, incarceration is generally required to express society's condemnation of the conduct: Proulx at para. 106.
- [62] In the result, the Court of Appeal in *Maslehati* set aside the 18-month CSO accompanied by a 12-month term of probation and substituted a 28-month custodial sentence.
- [63] Returning to the Ontario Court of Justice decision in *King*, in addition to providing instructive analysis regarding the interplay between ss. 718.04 and 718.2(e) of the Code, *King* shares sufficient factual similarities that make it relevant considering the sentencing principle of parity. In *King*, the accused was charged with three counts of sexual assault contrary to s. 271 of the Code. Following a judge-alone trial, Mr. King was convicted of all three counts. The trial reasons are indexed at 2023 ONCJ 619.
- [64] Mr. King, who was 60 years old at the time of trial, was a well-known medicine man and Indigenous spiritual healer. On this occasion, he was providing private spiritual healing at a local centre for Aboriginal health. The initial offering was to community members, but when there were spots yet unfilled, they were offered to the staff of the health centre as well, much the same arrangement that Mr. Camille had with the Society, except that Mr. Camille attended on a recurring basis at the Society's offices, as I described in the Trial Reasons.
- [65] The specific healing ceremony which Mr. King performed involved placing a hollowed-out deer bone on areas deemed to be sources of negative energy within a person's body. He would then suck out that negative energy, turn from them, and blow or spit it away. None of the three complainants had ever participated in such a ceremony before and did not know exactly how it would be conducted, or specifically what to expect. Each of the three complainants testified that in addition to placing a deer bone on their body with one hand, Mr. King put his other hand on them, touching areas such as breasts, buttocks, and between their legs. Each described a feeling of significant discomfort from this touching, but none

voiced a complaint to Mr. King during the ceremony. Their specific experiences are detailed in paragraphs 18 to 58 of the trial reasons. Of note, while the touching described also occurred over the victims' clothes, the touching was more extensive and prolonged than that which Claire endured.

- [66] Mr. King was adamant that he never touched any of the complainants with a hand, but only with a deer bone as part of the ceremony. Justice Finnestad did not find Mr. King's general assertions of touching only with a bone and acting strictly professionally to be credible. Specifically, Finnestad J. found Mr. King was contradicted not only by the credible evidence of the complainants, but by his own admission: see para. 65. Following the guidance set out in *R. v. W.(D.)*, Finnestad J. convicted Mr. King of all three counts as noted above: see para. 82.
- [67] At the time of sentencing, the defence sought a sentence of 18 months to two years less a day and urged that it be served in the community as a CSO as it was appropriate, it was submitted, in the circumstances of a then 61-year-old Indigenous first-time offender. The Crown sought a total sentence of three years' imprisonment and took the position that even if a sentence of two years less a day was imposed, a CSO would be inappropriate in the circumstances: see paras. 2 and 3.
- [68] In the result, Finnestad J. accepted the Crown's primary position and sentenced Mr. King to 12 months on each count, to be served consecutively: see paras. 78 and 79. In reaching that conclusion, Finnestad J. considered the Gladue factors present, the aggravating factors which, in addition to the statutorily mandated aggravating factors, included the number of victims and the element of fraud, and the mitigating factors, which included compliance with release terms pending trial, historical pro-social lifestyle, consequences of his own actions, namely the loss of his ability to participate in cultural activities of great importance, and finally Mr. King's mental and physical health.
- [69] In terms of comparing Gladue factors to the extent that is possible given the very individualized nature of sentencing Indigenous offenders, both Mr. King and Mr. Camille were identified by the Gladue Report writers as experiencing mental and physical abuse within the family, poverty, mental health and addiction, and a disconnection from traditional Indigenous culture and language during childhood and adolescence. Absent from Mr. King's Gladue Report was the trauma that Mr. Camille experienced from surviving some approximately seven years at KIRS, trauma that included sexual, physical, emotional, and mental abuse. The number of victims is not an aggravating factor here. The sole conviction entered was for sexually assaulting Claire.
- [70] I also do not consider the aggravating factor of fraud to be present here. Mr. Camille's practice of using physical touch as part of his particular method of Indigenous healing was, as I accepted at trial, clearly explained to his clients. He obtained their consent to the touching at the outset of the session and confirmed consent on occasion throughout the session given the fact that it was acknowledged that portions of the healing could be painful.

In particular, Claire was aware of the physical touching component of Mr. Camille's healing services, had consented to it without issue during her prior sessions, and consented to it again on July 20, 2021. Claire was thus not deceived by Mr. Camille in allowing him to touch her body. It was his conduct in exceeding the limits of her consent and touching portions of her body for a sexual purpose that resulted in his conviction for the index offence.

- [71] Further, to the extent that there may be an element of fraud included in a breach of trust, breach of trust is already a statutorily aggravating factor under the Code, and accordingly, there must, in my view, be some specific discrete conduct constituting fraud to avoid duplication to the prejudice of the offender.
- [72] In terms of mitigating factors, despite being almost 70 years of age, Mr. King's mental and physical health is notably better than Mr. King. Further, while Mr. Camille has voluntarily restricted his Indigenous healing services to prior existing clients, he has not lost the ability to engage in these practices entirely, as was the case in Mr. King's circumstances. Mr. Camille also does not have any financial dependents who are impacted by his decision to restrict the scope of his Indigenous healing services.
- [73] The other sentencing authority provided by the Crown for parity purposes regarding the sentencing of an Indigenous healer for sexual assault is *R. v. H.G.*, 2003 SKCA 88. It is acknowledged to be very dated, and importantly, pre-Friesen. The victim in that case was between 12 and 13 years of age at the time of the offence, was the grandniece of the offender, and the invasiveness of the sexual assault involved digital vaginal penetration. Following an unsuccessful appeal of his conviction and a cross appeal by the Crown of an 18-month CSO, the Saskatchewan Court of Appeal substituted a custodial sentence of 12 months after giving H.G. credit for having served one year less a day of his conditional sentence, pending the hearing of the appeal, the global sentence thus being two years.
- [74] I was also provided sentencing authorities by the defence, which I have reviewed. However, beyond those standing for the broad principles such as *R. v. Proulx*, 2000 SCC 5, *R. v. Ipeelee*, 2012 SCC 13, *Smith*, *R. v. Kehoe*, 2023 BCCA 2, and *R. v. Davis*, 2025 BCCA 113, the cases were of limited assistance. Specifically, *R. v. Rahmani*, 2003 BCPC 535 is another very dated case. It involved no similarities beyond it being a single conviction of sexual assault for a first-time offender who otherwise lived a pro-social lifestyle.
- [75] *R. v. Thompson*, (1 November 2017), Kamloops 102270-1 (B.C. Prov. Ct.), is less dated but still somewhat out of step when one considers the developments in the law regarding sexual assault in the last eight years, such as described at length in my references in Maslehati. And finally, *R. v. Ralph*, 2014 BCSC 467 is another pre-Friesen case which involved a conviction for sexual interference of a person under 14 years of age, contrary to s. 151 of the Code. Although on its face it has some similarities of being a single conviction, albeit for a different offence, for a first-time offender who otherwise lived a pro-social lifestyle with an aggravating factor of breach of trust, there are multiple mitigating factors which make it further distinguishable.

[76] Upon considering all of the foregoing, and in the result, I consider a two-year less a day custodial sentence to be the high watermark for sentencing Mr. Camille.

Conditional Sentence Order

- [77] Having regard to the submissions of the defence and the circumstances of this case, I must consider whether a CSO would be a fit sentence under s. 742.1 of the Code. The CSO regime was enacted by Parliament to reflect its concerns over the high rates of incarceration in Canada: see Proulx at para. 17. In Proulx, the Supreme Court of Canada distinguished a CSO from probationary measures and observed that Parliament intended conditional sentences to include both punitive and rehabilitative aspects. The Court suggested that for this reason, a CSO should generally include punitive conditions that are restrictive of the offender's liberty. The Court also found that a CSO fashioned in this way can provide significant denunciation and deterrence, while at the same time achieving the restorative objective of rehabilitation.
- [78] As a starting point, in order to be eligible for a CSO, the offence must not be subject to a minimum term of imprisonment. No minimum term of imprisonment exists for a conviction under s. 271 of the Code, and this matter proceeded by indictment. So, Mr. Camille is eligible for a CSO.
- [79] There are three further statutory preconditions that must be met for the sentence to be served in the community under s. 42.1 of the Code. The first is that the jail sentence imposed must be for less than two years. Secondly, the court must be satisfied that the service of the sentence in the community would not endanger the safety of the community. The third precondition is such that the sentence served in the community would be consistent with the fundamental purposes and principles of sentencing set out in ss. 718 to 718.2 of the Code.
- [80] Dealing with the first condition, I accept that a sentence of less than two years is appropriate. In concluding this, I recognize that I have the ability to impose a custodial sentence in excess of the range of 15 to 18 months proposed by the Crown. There is no basis for doing so however, having regard to the circumstances of the offence and the circumstances of the offender. Rather, as set forth above, I have concluded that I consider a two-year less a day custodial sentence to be the high watermark for sentencing Mr. Camille.
- [81] In reaching that conclusion, I recognize that Proulx stands as authority for the proposition that s. 742.1(a) does not require a rigid two-step process wherein the presiding justice first imposes a sentence of imprisonment of fixed duration before contemplating the sentence to be served in the community: see paras. 50, 52-54. I have not so engaged in such a two-step process. The high watermark simply serves to satisfy me that the first statutory precondition is satisfied.

- [82] In this regard, the very recent decision of our Court in *R. v. Hofer*, BCSC 869, involving an appeal of a CSO made by a judge of the Provincial Court, albeit for a different sexual offence under the Code, endorses this range approach to addressing the penological paradox identified in *Proulx*: see paras. 69-70.
- [83] Dealing with the second statutory precondition, I accept that Mr. Camille serving a CSO in the community would not endanger the public. He resides in a stable and supportive living situation with strong ties to his family, his band, and his general community. He has been out on judicial interim release for an extended period, and no issues with his compliance with the terms of his release have been identified. Moreover, the index offence occurred in a very specific context of a scheduled healing session which Mr. Camille could clearly be prohibited from participating in during the term of any CSO. The real question, as is often the case where a CSO is under consideration, is whether the sentencing in this case would be consistent with the fundamental purposes of principles and sentencing as set out in ss. 718 to 718.2 of the Code.

Mitigating or Aggravating Circumstances

- [84] The starting point in this analysis is to consider any mitigating or aggravating circumstances. To some considerable degree, I have already done so in the course of these reasons but given the significance to my consideration of whether a CSO is consistent with the fundamental purposes of principles and sentencing, and thus a fit sentence, I shall return to them at this juncture. Specifically, I find the following to be mitigating factors.
- [85] Notwithstanding his very difficult upbringing, Mr. Camille has largely lived a pro-social life. Through his gift, he has provided Indigenous healing services to a wide variety of individuals, many of whom consider him very talented in this regard. He has been consistently employed throughout his life in the construction industry and is still actively ranching in the latter stages of his life. As effectively a single parent, Mr. Camille raised two pro-social sons who are connected to their Indigenous culture. I consider this constellation of pro-social behaviours to be the most significant mitigating factor.
- [86] Mr. Camille is almost 70 years of age and has some age-related health issues. However, this is a modest mitigating factor given his own report to Mr. Anglum that his mental and physical health is generally good. Mr. Camille was also approximately 66 years of age at the time of the index offence, and nothing in the submissions before me indicated any marked change in his health since that time.
- [87] Mr. Camille has also voluntarily chosen to restrict his Indigenous healing services to existing clients as a result of the Indictment and subsequent conviction for the index offence. Although mitigating in some degree given the significance of Mr. Camille's gift as a healer to his status within the community, I consider it a modest mitigating factor given that he is still providing his services in some capacity. Moreover, given the physical nature of Mr. Camille's particular method of Indigenous healing, the reality is that he would inevitably be curtailing

his provision of these types of services to some degree in any event, due to advancing age.

- [88] Balanced against this are the aggravating factors, all of which are statutorily mandated. The first is abuse of a position of authority pursuant to s. 718.2(a)(iii) of the Code.
- [89] Mr. Camille was a well-respected and well-known Indigenous healer. He was recognized to have been endowed with a gift from the Creator. Mr. Camille was invited by the Society to provide his healing services at their downtown offices. His services were provided to members of the community and to employees of the society, such as Claire. In the Trial Reasons, I found that while employees certainly had the choice whether to book a session with Mr. Camille, such sessions were encouraged and, indeed, took place during the workday in their workplace. Mr. Camille thus held a very special position.
- [90] Claire confided in him as to the issues she was dealing with and consented to him touching her body as a means of healing because she trusted his gift. He significantly abused that trust by inappropriately touching her for a sexual purpose and for his own gratification.
- [91] Further, the offence had a significant impact on the victim considering her personal circumstances, pursuant to s. 718.2(a)(iii.1) of the Code. In the Trial Reasons, I described Claire as a careful and deliberate witness. Her victim impact statement, which I summarized above, was consistent with this. It was concise, meaningful, and on point. Claire's sense of safety and security was taken away, and her trust in people, including persons she should be able to trust, was eroded completely, as was her trust in spiritual practices. She has been diagnosed with post-traumatic stress disorder and is undergoing treatment to cope with the impact of the index offence upon her.
- [92] It has also had a financial impact on her, which resulted in her having to take time off work, and correspondingly impacted the people she services at work, which she noted in her description of the ripple effect.
- [93] Finally, I must consider the vulnerability of Claire as an Indigenous woman pursuant to s. 718.04 of the Code. As Finnestad J. noted in King, while s. 718.2(e) provides for restraint in sentencing Indigenous offenders to the extent that it is consistent with the harm done to the victims or to the community, s. 718.04 is a reminder that in having regard to the circumstances of Indigenous offenders, courts are not to discount the lives of or harms done to Indigenous victims of crimes, their families, and their communities: see para. 53.
- [94] Further, as submitted by the Crown, it was not a coincidence that Claire was an Indigenous woman or one that had dealt with past trauma of her own. The fact that she was an Indigenous woman seeking healing for her trauma is an integral part of this offence. That is why Claire booked the session with Mr. Camille. What should have been a safe and culturally sensitive environment instead proved to be one where Claire's personal integrity was violated. The moral blameworthiness of Mr. Camille, an individual acutely aware of the intergenerational trauma of Indigenous people, is very high.

Conclusion

- [95] Having recognized that I must consider all sanctions other than imprisonment that are reasonable in the circumstances and consistent with the harm done to the victim and the community, with particular attention to Mr. Camille's circumstances as an Indigenous offender, and having considered the aggravating and mitigating factors in this case, including the statutory requirement to place denunciation and deterrence as the primary consideration, I am not satisfied that punitive conditions attached to a CSO will provide a sufficient level of denunciation and deterrence with respect to this offence and this offender, such that a CSO would be consistent with the purposes and principles of sentencing in ss. 718 to 718.2 of the Code.
- [96] Specifically, I conclude that while I have thoroughly considered the significant Gladue factors identified, they cannot be elevated to a priority equal to or greater than those of deterrence and denunciation in the circumstances of an offence against an Indigenous female victim. This is the result of the interplay between ss. 718.2(e) and 718.04 described above. In addition to that interplay, there are two statutorily mandated aggravating factors, the breach of trust and the significant impact upon the victim. Balanced against those statutory aggravating factors are quite limited mitigating factors, the most significant being Mr. Camille's history of generally pro-social conduct.
- [97] Under the principles discussed in Maslehati, including society's better understanding of the harmfulness and wrongfulness of sexual violence, I simply cannot conclude that this is one of the rare circumstances where a conditional sentence will constitute a fit sentence for sexual assault with aggravating factors, even after expressly considering all aspects of Mr. Camille's moral blameworthiness under s. 718(e) of the Code pursuant to Gladue.
- [98] Having concluded that a CSO is not a fit sentence, I must consider what a fit custodial sentence is. I again return to Maslehati for instruction. In this regard, I do consider it necessary to consider the nature and the extent of Mr. Camille's offending conduct.
- [99] Contrary to the submission of counsel for the defence, sexual assault is not ranked on a scale of one to 10, such that I should accept his assertion that the index offence was merely a one. To adopt the words of Associate Chief Justice Fairburn, writing for the Court in *R. v. A.J.K.*, 2022 ONCA 487, and as referenced in Maslehati at para. 72:
- [74] All sexual assault are serious acts of violence. They reflect the wrongful exploitation of the victim whose personal autonomy, sexual integrity, and dignity is harmfully impacted while being treated as nothing more than an object. . . .
- [100] Claire is neither an object nor a number. However, the sexual assault of Claire was not invasive. It was not for a prolonged duration. Although there were separate components of the touching that I found exceeded her consent, it does not amount to repeated occurrences. There was no violence or physical injury. There were no weapons or threats involved. Claire was not incapacitated, and there were no acts which would be considered

to be intended to overcome resistance. Mr. Camille is also, as I have noted, effectively a first-time offender.

- [101] On this basis, I do think that it is appropriate exercise of my discretion to impose a sentence of less than two years' imprisonment, as Maslehati recognizes may be warranted given the individualized nature of the sentencing process. Specifically, having regard to all of the circumstances which I have detailed at some considerable length herein, including the principle of parity given the similarities in both the offence and the offender in King, whilst also recognizing the totality principle was applicable in that case given the imposition of consecutive sentences, I have concluded that a custodial sentence of 12 months is appropriate.

Probation

- [102] I further accept that a period of probation following Mr. Camille's release from custody is appropriate. Moreover, I accept that the proposed duration of 18 months suggested by the Crown is fit but conclude that the terms of probation should be somewhat less restrictive than those proposed by the Crown. Specifically, there is no basis for a term requiring Mr. Camille not to change his address without three days' notice to his probation officer.
- [103] Mr. Camille was born and raised on KIR 1. He presently resides on a farm property on KIR 1 with his two adult sons who as noted are in their mid to late twenties and who have expressed their support for Mr. Camille throughout these proceedings. Mr. Camille is very unlikely to move anywhere, especially in a hurry, in the months following his release from custody. Should I be incorrect in this regard, I am still satisfied that if Mr. Camille did change his residence during his probation, that he would be easily locatable by his probation officer to confirm compliance with the terms of same.
- [104] There is no basis for a weapons prohibition. Not only was there no weapon involved in the index offence, there was no force or threat of force involved in the circumstances of the index offence. Mr. Camille also has no criminal record involving weapons offences.
- [105] Although I see the basis for some restriction on Mr. Camille's ability to provide Indigenous healing services to female persons, I do not consider requiring a third party to be present to be the appropriate safeguard. Rather, I consider it appropriate that Mr. Camille obtain from any female person who elects to receive Indigenous healing services during his probationary period a signed and written consent which acknowledges that they are aware that Mr. Camille has been convicted of sexual assault contrary to s. 271 of the Code, and it is a term of his probation that he obtain their written consent before providing any Indigenous healing services that involve physical touching of any kind.
- [106] The probationary period also provides an excellent opportunity for Mr. Camille to engage in the healing plan and restorative justice initiatives identified in the Gladue Report, which can be overseen by Mr. Camille's probation officer in conjunction with a Gladue caseworker.

SOIRA Order

[107] Recent amendments to the Code have made the imposition of a SOIRA order presumptive rather than mandatory. This followed the decision of the Supreme Court of Canada in *R. v. Ndhlovu*, 2022 SCC 38, wherein it was concluded that mandatory registration of all sex offenders under this provision was overbroad and contrary to s. 7 of the Charter, as it led to the registration of offenders who were not at an increased risk of committing a sexual offence. Specifically, s. 490.012(3) and (4) now provide as follows:

490.012(3) Subject to (5), when a court imposes a sentence on a person for a designated offence in circumstances in which neither subsection (1) nor (2) applies, or where the court renders a verdict of not criminally responsible on account of mental disorder for a designated offence, it shall make an order in Form 52, requiring the person to comply with the Sex Offender Information Registration Act unless the court is satisfied that the person has established that:

- (a) there would be no connection between the making of the order and the purpose of helping police services prevent or investigate crimes of a sexual nature by requiring the registration of information relating to sex offenders under the Act; or
- (b) the impact of the order on the person, including on their privacy or liberty, would be grossly disproportionate to the public interest in protecting society through the effective prevention or investigation of crimes of a sexual nature, to be achieved under the registration of information relating to the sex offenders under that Act.

Factors

- (4) In determining whether to make an order under subsection (3) in respect of a person, the court shall consider:
 - (a) the nature and seriousness of the designated offence;
 - (b) the victim's age and other personal characteristics;
 - (c) the nature and circumstances of the relationship between the person and the victim;
 - (d) the personal characteristics and circumstances of the person;
 - (e) the person's criminal history, including the age at which they previously committed any offence and the length of time for which they have been at liberty without committing an offence;
 - (f) the opinions of experts who have examined the person; and
 - (g) any other factors that the court considers relevant.

- [108] No case law interpreting these provisions was brought to my attention by either the Crown or the defence. Based on my own research, that appears to be because there are limited reported decisions. Two decisions the Court located were *R. v. J.J.*, 2023 BCSC 2342, and *R. v. M.K.M.*, 2024 BCSC 575, with *M.K.M.* providing a more in-depth analysis.
- [109] In *M.K.M.*, Donegan J., as she was then, relied on the principles outlined in *Ndhlovu* and found the offender exempt from the regime under either s. 490.012(3)(a) and/or (b). Specifically, Donegan J. found that due to the offender's unique factors, that registration under SOIRA had no connection to the purpose of preventing and investigating crimes of a sexual nature, and the onerous requirements of the SOIRA regime described at paras. 39 to 42 of *Ndhlovu* would be grossly disproportionate to the public interest in preventing and investigating crimes of a sexual nature when there was no increased risk here that the offender would re-offend: see paras. 136 to 141.
- [110] In my view, and upon consideration of the factors set forth in s. 490.012(4), I consider this case to be an appropriate situation to exercise my discretion now afforded under s. 490.012(3) to not require Mr. Camille to comply with SOIRA. Firstly, I am satisfied based upon the facts as found at trial, together with the contents of the Gladue Report which were not challenged by the Crown, that there would be no connection between making the order and the purposes of helping police services prevent or investigate crimes of a criminal nature.
- [111] Mr. Camille is, I accept, well known not only within his Band, but also within the Indigenous community generally, at least in the Western Canadian provinces, due to his status as an Indigenous healer and an Elder. He resides on the same rural property on KIR 1 that was willed to him more than 30 years ago with his now adult sons. I do not see how, in those circumstances, his registration as a sex offender will either help police services prevent or investigate a crime of a sexual nature.
- [112] Secondly, without in any way minimizing the seriousness of the offence which I have addressed in considerable detail in concluding that a CSO was not appropriate, the index offence occurred in a very specific context. I thus also do not see, given that context, how Mr. Camille's registration as a sex offender will either help police services prevent or investigate a crime of a sexual nature.
- [113] Finally, having regard to Mr. Camille's age, his personal circumstances, and his general pro-social history, I consider the impact of an order under SOIRA grossly disproportionate to the public interest in protecting society through the effective prevention or investigation of crimes of a sexual nature.

Summary of Disposition

- [114] Please stand, Mr. Camille.

[115] For the reasons I have outlined, Mr. Camille, I sentence you to a 12-month custodial sentence which, converted to days for Correctional Service purposes, equates to 365 days of incarceration. There is no adjustment for any enhanced time as there was no period of pre-trial detention. Following your custodial sentence, Mr. Camille, you shall be sentenced to 18 months of probation which, converted to days for Correctional Service purposes, equates to 540 days, the terms of which probation are as follows:

- a) You must keep the peace and be of good behaviour.
- b) You must have no contact, direct or indirect contact with [Claire], whose name shall be included in the probationary term.
- c) You must not go to or be within 100 metres of any place where [Claire] lives, works, attends school, worships, or happens to be. If you see [Claire] you must leave their presence immediately without any words or gestures.
- d) You must report by telephone to a probation officer at Kamloops Community Corrections, 455 Columbia Street, unit 102, Kamloops, B.C., V2C 6K4, phone number 250-828-4008, within two business days after your release from custody, unless you have obtained before the completion of your sentence written permission to report elsewhere or within a different time frame. After that, you must report as directed by your probation officer.
- e) You must attend, participate in, and successfully complete any intake, assessment, counselling, or education program as directed by your probation officer.
- f) You must obtain from any female person who elects to receive Indigenous healing services a signed and witness written consent, which acknowledges that they are aware that you have been convicted of sexual assault contrary to s. 271 of the Code, and that it is a term of your probation that you obtain their written consent before providing any Indigenous healing services that involve physical touching of any kind.

[116] Lastly, in terms of ancillary orders:

- a) As this is a primary designated offence per s. 487.04(a)(vi.3) of the Code, a DNA order is mandatory under s. 487.051(1) of the Code. Accordingly, you must attend at the Kamloops RCMP detachment located at 560 Battle Street, Kamloops, British Columbia, V2C 6N4, phone number 250-828-3000, between the hours of 9 a.m. and 3 p.m. within 14 days of your release from custody and submit to the taking of samples. This order is valid until executed.
- b) Pursuant to s. 743.21 of the Code, you shall have no contact with [Claire] either directly or indirectly while incarcerated.

[117] Those are my reasons for judgment.

[118] CNSL J. HOGG: Justice, can we have a report date rather than taking him into custody right now?

[119] THE COURT: No.

[120] CNSL J. HOGG: Thank you.

[121] CNSL J. YOUNG: With the DNA, typically it's done while they're in custody. But you want him to do it [indiscernible - overlapping speakers] --

[122] THE COURT: [indiscernible - overlapping speakers].

[123] CNSL J. YOUNG: Okay. Thank you.

"Hardwick J."

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