

CANADA / JUDGMENT

R. v. Cleroux

2024 BCSC 2435

COURT

Supreme Court of British Columbia

DECIDED

20 December 2024

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2024 BCSC 2435 R. v. Cleroux

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Cleroux,

2024 BCSC 2435

Date: 20241220

Docket: X084836

Registry: New Westminster

Rex

v.

Brigitte Denise Cleroux

- and -

Docket: 35043

Registry: Vancouver

Rex

v.

Brigitte Denise Cleroux

- and -

Docket: 187713

Registry: Victoria

Rex

v.

Brigitte Denise Cleroux

These reasons have been edited to comply with two publication bans, one banning the publication of information identifying the names of the person Ms. Cleroux personated, and the other banning the publication of information identifying the victims of the offences at the BC Women's Hospital.

Before: The Honourable Associate Chief Justice H. Holmes

Oral Reasons for Sentence

Counsel for the Crown:

A.S. Burton

Counsel for the Accused:

G. Garih

A. Glouberman

Place and Date of Hearing:

Vancouver, B.C.

December 9-10, 2024

Place and Date of Judgment:

Vancouver, B.C.

December 20, 2024

INTRODUCTION

[1] Brigitte Cleroux has pleaded guilty to multiple offences of fraud, personation, using forged documents, and assault, which she committed while falsely posing as a qualified and accredited nurse. Ms. Cleroux has never been accredited or registered as a nurse in any jurisdiction. Nonetheless, she falsely represented herself as fully qualified, using forged credentials to do so, and obtained nursing positions at two medical facilities in British Columbia, where she worked receiving salary and benefits, and administered "treatment" to patients who were unaware that she was not qualified to do so. Before she obtained those positions, she worked as a dental assistant in a dental clinic, where she stole and fraudulently cashed cheques.

[2] The task now is to determine the appropriate sentences.

THE OFFENCES

- [3] The offences are charged on three indictments, each indictment relating to one of the three medical or dental facilities in which Ms. Cleroux worked. The offences are described in detail in the Agreed Statement of Facts (exhibit 2).
- [4] I will briefly summarize the circumstances of the offences on the three indictments, as well as the circumstances of offences Ms. Cleroux subsequently committed in Ontario.
- [5] As I will explain later, Ms. Cleroux pleaded guilty to the Ontario offences and is serving a seven-year prison sentence as a result. Because that sentence was imposed after Ms. Cleroux committed the BC offences, the Ontario offences are not considered previous convictions in this sentencing proceeding. However, Crown and defence agree that the Ontario offences and the related sentencing decision may be considered in various limited ways as part of the context within which Ms. Cleroux is now to be sentenced.

New Westminster, BC Indictment re Surrey Dental Clinic

- [6] The offence on the New Westminster indictment is theft from Ms. Cleroux's employer of monies exceeding \$5,000, contrary to s. 334(a) of the Criminal Code. (The offences charged on that indictment were different, but a guilty plea to theft was accepted in accordance with s. 606(4) of the Code.)
- [7] The offence took place after Ms. Cleroux moved to British Columbia in early 2019. She was on parole at the time for offences of dishonesty. She applied for a position at a dental clinic in Surrey, falsely representing herself as M.T., a nurse, and providing a resume and nursing credentials in that name.
- [8] At this clinic, unlike at the two medical facilities involved in the other two indictments, Ms. Cleroux was hired as a dental assistant, not as a nurse, and she did not perform nursing duties. Also, unlike at the other medical facilities, shortly after her employment began she gave the dentist her actual name, Brigitte Cleroux.
- [9] Ms. Cleroux worked at the dental clinic between April 2019 and March 2020. On various dates between August 2019 and late February 2020, she stole five cheques from the dental practice, forged the dentist's signature on the cheques, and cashed the cheques. The total amount she stole in this way was more than \$8,000.

Vancouver, BC Indictment re BC Women's Hospital

- [10] After Ms. Cleroux left the dental clinic in early March 2020, she moved on to the BC Women's Hospital in Vancouver. She worked there from June 2020 until June 2021 as a full-time general duty nurse in the post-anaesthetic care unit in the gynecological services section of the hospital.

- [11] To obtain this employment, Ms. Cleroux falsely posed as M.S., a real nurse who was on a leave at the time. Ms. Cleroux presented numerous false or forged documents and credentials, including forged educational and professional qualifications, a false resume in the name of M.S., and detailed false references (including one purportedly from the Surrey dentist whose cheques she had forged and cashed). She provided false email addresses for purported references, and, when inquiries were made, wrote responses from them. Once hired, Ms. Cleroux submitted more forged documents in the name of M.S. in order to enrol in the municipal pension and group health benefits plans and the BC Medical Services Plan.
- [12] Ms. Cleroux's work in the post-anaesthetic care unit included the following (from paragraph 71 of the agreed statement of facts):
- a. administering sedating medications to patients, sometimes intravenously which requires inserting needles into patients, while the patient was undergoing minor procedures in the operating room;
 - b. monitoring patients' vital signs throughout the medical procedures and administering midazolam and fentanyl to patients intravenously;
 - c. assessing patients in the post-anesthetic care unit following anesthetic-led surgical procedures;
 - d. monitoring patients' vital signs until stable and administering medications to the patients as needed; and
 - e. maintaining patient charts and medical records, upon which other medical professionals relied to assess and treat patients.
- [13] The medications Ms. Cleroux administered included hydromorphone (usually in tablet form) and fentanyl and midazolam (usually by intravenous injection).
- [14] The charge of assault with a weapon on patients at the BC Women's Hospital relates to the intravenous injections Ms. Cleroux administered. It is common ground that the patients did not consent to being injected by a person who was not a qualified medical professional, and that Ms. Cleroux used a weapon each time she inserted a needle.
- [15] It is important to note that the agreed statement of facts and the evidence in the sentencing hearing do not indicate or allege that Ms. Cleroux caused actual physical harm to any patients at the BC Women's Hospital (or to patients at the private surgical centre from which the Victoria charges arise, as I will discuss shortly). Also, Ms. Cleroux's counsel properly notes that the agreed statement of facts and the other evidence do not indicate that Ms. Cleroux engaged in any nursing-related conduct that was not directed by a physician or in accordance with her assigned role.

- [16] Nonetheless, the agreed statement of facts also acknowledges that the drugs Ms. Cleroux administered intravenously and in other ways were potentially dangerous, and, if given in improper doses, could have serious health consequences.
- [17] While Ms. Cleroux worked at the BC Women's Hospital, a number of complaints were made about her conduct and professionalism. In October 2020, Ms. Cleroux attended a meeting with hospital administrative staff. She was later sent a letter that outlined the complaints discussed at the meeting, referred to previous complaints and a previous meeting in July 2020, and advised that a "letter of warning" had been added to her file.
- [18] Another meeting took place in November 2020. That meeting was followed by a further letter suspending Ms. Cleroux for three days with no pay.
- [19] Concerns were again raised in early June 2021, and, after a meeting on June 7, 2021, Ms. Cleroux was placed on paid leave and asked to leave the hospital pending an investigation. During the investigation, Ms. Cleroux's impersonation of M.S. came to light. Ms. Cleroux failed to attend a meeting she was called to later that month. She then resigned and advised that her legal counsel would be in contact. Later the same day, the hospital terminated her employment.
- [20] During the year that Ms. Cleroux worked at the BC Women's Hospital, she earned almost \$102,000 in gross income and received benefits valued at approximately \$67,352 after taxes. She had direct contact with and cared for 900 patients or more, and reviewed the medical charts of at least another 258 patients. Of the 48 patients who consented to their medical records being released to the Vancouver Police Department for investigation and potential criminal proceedings, Ms. Cleroux administered medication to at least 28 of them, in most instances fentanyl, midazolam, or hydromorphone.

Victoria, BC Indictment re Private Surgical Centre

- [21] The offences on the Victoria indictment took place in October and November 2020, while Ms. Cleroux was also employed full-time at the BC Women's Hospital.
- [22] They began when Ms. Cleroux applied for a nursing position at a private surgical centre in the Victoria area that specializes in day surgeries for adult and child patients. Again, she posed as M.S. In her application, she submitted a false resume, genuine references for the real M.S., and various forged documents.
- [23] Ms. Cleroux began work at the surgical centre on October 28, 2020 as a post-anaesthetic care nurse on an initial three-week locum contract, with a view to employment on a four-year contract.
- [24] In the course of her duties, Ms. Cleroux dealt with unconscious patients in their most vulnerable state. She administered injections as directed by physicians.

- [25] Multiple reports were made by Ms. Cleroux's co-workers about her lack of professionalism, her poor nursing skills, and her bedside manner. Ms. Cleroux resigned abruptly on approximately November 28, 2020.
- [26] Ms. Cleroux was paid a total of \$6,516 for her work at the clinic. During that work, she cared for or was in contact with 56 patients.

Ontario Offences

- [27] Ms. Cleroux had begun to apply for nursing positions in the Ottawa area as early as in February 2021, while she still worked at the BC Women's Hospital. After leaving the BC Women's Hospital in June 2021, in the circumstances I described, she returned to Ontario, where, again posing as M.S., she worked first in a fertility clinic and women's health centre near Ottawa, and later at another medical clinic in Ottawa.
- [28] Ms. Cleroux began work with the fertility and women's health centre in late July 2021, on the strength of forged documents in M.S.'s name. The nursing duties she performed there included administering intravenous injections of potentially dangerous drugs, such as fentanyl, to eight patients.
- [29] Unlike the evidence in relation to the BC offences, the evidence in the Ontario case indicated that, at the fertility and women's health centre, Ms. Cleroux caused actual physical harm. When taking blood from at least one patient, she had to make several attempts, trying each arm, and the attempts caused the patient pain and loss of movement in both hands for almost two weeks.
- [30] Ms. Cleroux abruptly left the fertility and women's health centre on August 11, 2021, after confrontations with a colleague nurse and the lead physician there. When the nurse subsequently attempted to file a complaint about Ms. Cleroux with the Ontario College of Nurses, Ms. Cleroux's deception and lack of registration came to light.
- [31] Ms. Cleroux nonetheless managed to begin employment with the other medical clinic only five days later, on August 16, 2021, again posing as M.S. and presenting a false resume and forged documents. While working there, she interacted with 33 patients, 12 of them children, and administered one intravenous injection of fentanyl and midazolam.
- [32] Ms. Cleroux was arrested on August 23, 2021 by Ottawa Police officers when she left her shift at the second medical clinic to pick up a cheque from the fertility clinic and women's health centre where she had worked before.
- [33] She was charged on October 8, 2021, and pleaded guilty on January 14, 2022 in the Ontario Court of Justice. The seven offences to which she pleaded guilty included personation, fraud, assault, and assault with a weapon. Justice Wadden sentenced her on April 22, 2022 to an aggregate sentence of seven years' imprisonment, less credit for pre-sentencing time in custody: *R. v. Cleroux*, 2022 ONCJ 188.

VICTIM IMPACT STATEMENTS

- [34] Twenty-five victim impact statements were filed by victims "treated" by Ms. Cleroux at the BC Women's Hospital (exhibit 5). Several read their statements aloud in the courtroom, or were present while Crown counsel read them.
- [35] Almost without exception, the victims no longer trust the public medical system, or the individual health professionals - doctors or nurses - working in that setting. Some victims are unwilling to continue seeing the doctors or surgeons who treated them on the occasions when Ms. Cleroux dealt with them because, for those victims, the surgical experience they underwent has become a profoundly violative and non-consensual one.
- [36] The victims had placed themselves in the care of the medical staff on the understanding that the staff were fully qualified to undertake that care and would do so in the patients' best interests - the ultimate trust that is necessary for our medical system to succeed. Patients trusted the medical staff to conduct the most invasive of procedures involving, for many of them, the most private areas of their bodies. All of the victims were in a vulnerable position at the time of the offences, many of them unconscious or sedated.
- [37] Some of the victims were emotionally vulnerable as well, because of the challenges that brought them to the hospital, whether miscarriage, infertility, or serious medical risk.
- [38] For many of the victims, their shattered trust in the nursing process has carried over to their doctors and specialists, and, for some, to the entirety of the public health system. Most, if not all, are left with anxiety in all medical settings. Some have ended their relationship with their primary care physicians or their specialist doctors and have tried to find new doctors. Some never attend a medical appointment or facility any more without an accompanying close friend or family member. Some have lost trust in almost everyone in their life; their professional, social, and family relationships have suffered as a result.
- [39] Some victims have experienced anxiety, depression, sleep difficulties, panic attacks, and/or fear. One has been diagnosed with PTSD by several medical professionals. Several have had to take time off work. Some have been prescribed medications to help them cope with the psychological and emotional effects.
- [40] Some of the victims spent hours with hospital staff reviewing their charts in order to determine what procedures Ms. Cleroux administered, and therefore how they may have been at risk. Some had to wait to do this after receiving a letter from the hospital notifying them that an unqualified person had treated them, and underwent weeks or more of anxiety during that period, wondering what might have been done incorrectly, and what might have been missed.
- [41] Many of the victims are also suffering from the fact that their medical history and medical records have had to be exposed and reviewed by people outside the medical system in the course of the investigation and prosecution of the offences.

- [42] For many of the victims, the financial consequences of the offences have been severe. Some of the victims now pay for private medical care whenever they can avoid public health care. Many are paying for counselling. Some have had to step away from their jobs or careers for periods of several months or, in some instances, permanently.
- [43] I am mindful that Ms. Cleroux's guilty pleas were entered, and the sentencing proceeded, on the basis that the harms she caused in working as a nurse arose from the risks inherent in her lack of qualification to do so, and not from actual physical harm done to the patients she dealt with. Some of the victim impact statements, even as redacted by counsel, nonetheless hint of actual physical harm, and I recognize that it is possible that the emotional or other consequences those victims describe may flow in part from actual physical harm that I cannot take into account in this proceeding. Despite this, I am confident that the consequences, as I have described them, are properly attributable to the victims' after-the-fact discovery that Ms. Cleroux was unqualified, because those or similar consequences appear repeatedly in the statements of victims who make clear that they had no concerns until they were notified, after their hospital experience, that they had been treated by an unqualified person.
- [44] Finally on this point, I note that while no victims from the Victoria-area surgical centre filed a victim impact statement, at least some of those victims may reasonably be supposed to have suffered consequences similar to those of the victims at the BC Women's Hospital.

MS. CLEROUX'S BACKGROUND AND CIRCUMSTANCES

- [45] Ms. Cleroux is 52 years old. Her most recent relationship ended in 2019. She has an adult daughter, and has recently become a grandmother. She has limited community supports.
- [46] Ms. Cleroux advises through her counsel and has told professional report writers that she is experienced in the hairdressing or beauty business. She says she wants to return to this industry after serving her sentence.
- [47] Ms. Cleroux has a lengthy criminal record for fraud and other crimes of dishonesty - the Ontario sentencing judge noted 67 convictions as an adult, in addition to youth convictions. She has accrued 18 fraud convictions since April 1989 in ten separate proceedings. Her criminal record also includes nine convictions for forgery or for using forged documents, as well as multiple convictions for possessing property obtained by crime, attempting to obstruct justice, and violating court orders or sentences in various ways, including for escaping lawful custody and for being unlawfully at large.
- [48] Some of Ms. Cleroux's criminal convictions were in March 2018 in Gatineau, Quebec for identity fraud, fraud, forgery, and other offences. These related to Ms. Cleroux working in several seniors' homes between September and December 2017, and included thefts of cheques amounting to more than \$23,000 from a 102-year old resident.

- [49] Some years earlier, Ms. Cleroux (then using the name Brigitte Marier) was sentenced by Justice Barley, of the Alberta Provincial Court, for numerous offences, including fraud, personation, and using forged documents, associated with posing and working as a nurse and, separately, posing as a teacher between May 2007 and December 2010: see *R. v. Marier*, 2011 ABPC 182. According to the agreed statement of facts in the present case, the total sentence in Marier would have been 122 months' imprisonment, less credit for pre-sentencing time in custody, but it was reduced because of the totality principle to 60 months' imprisonment less pre-sentencing credit. The portion of the sentence allocated to the offences associated with posing as a nurse and as a teacher was 30 months, reduced by 25 months because of time in pre-sentencing custody. All of the sentences taken together led to 35 months of "new" custodial time.
- [50] It appears from the reasons in Marier at para. 63 that Ms. Cleroux was convicted in Ontario at a yet earlier time for using false qualifications to obtain employment as a nurse.
- [51] Ms. Cleroux appears also to have a criminal record in the USA for offences of dishonesty.

Pre-Sentencing Report with Psychological Assessment

- [52] Dr. Lisa Brown, psychologist, provides a thoughtful report based on a mental health assessment of Ms. Cleroux.
- [53] Detailing Ms. Cleroux's self-reported personal history, Dr. Brown notes a multitude of discrepancies from details Ms. Cleroux has previously provided and from information available from others. Some of the discrepancies Dr. Brown specifically identifies as such in her report. Others are not expressly described or discussed as discrepancies, but their mention permeates the report.
- [54] Dr. Brown noted in particular that, in the course of discussing her rehabilitation and her plans after release from incarceration, Ms. Cleroux said she would like to start a hairdressing/beauty business with her "best friend" who could be a strong community support. When Dr. Brown contacted the friend, that person said she met Ms. Cleroux in a minimum security institution and lived with her at a halfway house after their release, but had had only sporadic contact with Ms. Cleroux since. The friend said she would provide Ms. Cleroux with limited community support, but that they could not live or work together, and that she is not sure where she will be living by the time of Ms. Cleroux's release.
- [55] Dr. Brown could not give the precise reason or motive for Ms. Cleroux's repeated offending by posing as a nurse, because Ms. Cleroux has given several different explanations; however, financial reasons are prominent:

[Ms. Cleroux] variously indicated that her offending had occurred because: her parents were too lenient and then too strict, which caused her to commit fraud and steal credit cards; she was a single mother; she could not obtain employment because Covid hit; she could not get relief pay; or because she had to pay her daughter's bills in Ontario. However, Ms. Cleroux did propose some explanations for her behaviour that seem credible. She stated that she thinks she might want to

appear to have higher status than other people, and she might need to learn that it is "okay to be just a barber or a salon owner." She also seemed aware that she offends for "money... lifestyle." She periodically described herself as entitled.

[56] Dr. Brown found no history of major mental disorder, but described some personality disorder traits that leave Ms. Cleroux with a profound lack of insight into her offending or its effects on others:

I suspect that Ms. Cleroux genuinely holds beliefs about herself that represent an inaccurate view of reality (she has not harmed other people, she is qualified to work as a nurse, the situations she has found herself in have forced her to engage in in unlawful behaviour).

I am also concerned that Ms. Cleroux continues to minimize the possible consequences of her behaviour. She believes that because she reportedly attended a nursing program and said she nearly completed it, she can function as a registered nurse.

...

There was no indication from our interview or the records provided that Ms. Cleroux has any significant history of major mental disorder, aside from a longstanding history of eating disorder (self-reported). She has numerous traits of Cluster B Personality Disorders, primarily with Antisocial, Narcissistic and Histrionic features. She is persistently deceitful, lacks remorse or empathy, repeatedly engages in unlawful behaviour, is entitled and grandiose, displays shallow affect and is overly concerned with status and her appearance. Unfortunately as a result of the extent of her personality disorder symptomology, Ms. Cleroux also seems to have a profound lack of insight or self awareness. She fails to take responsibility for her actions, and is more concerned with herself than the wellbeing or safety of others.

[57] Dr. Brown concluded by saying, "I suspect that the only way to ensure that Ms. Cleroux does not engage in fraud or personation in the future is through close monitoring of her behaviour".

[58] Ms. Cleroux's tendency toward deceit has been noted by others who have dealt with her. For example, the agreed facts before the sentencing court in Ottawa indicated that, when transported to cells after the arrest, Ms. Cleroux told a police officer that she was responsible for picking up her three-year old granddaughter, whose name she gave, in Gatineau, when in reality no such child existed. In another example, the sentencing judge in Alberta noted that the letters of reference Ms. Cleroux presented to the Court in the sentencing proceedings were both forged.

CROWN AND DEFENCE POSITIONS

Generally

- [59] The Crown and defence positions are similar or identical in respect of the length of the sentence that should be imposed for each offence, considered separately. I agree that, broadly speaking, the periods of imprisonment Crown and defence counsel each suggest for each offence conform to the sentencing principles and reflect the particular circumstances of this case.
- [60] The Crown and defence positions differ markedly on whether the periods of imprisonment should be served consecutively, as the Crown submits, or concurrently, as the defence submits.

The Crown's Position

- [61] The Crown submits that all of the sentences should be served consecutively (I will qualify this statement with a clarification below) to each other and to the Ontario sentence Ms. Cleroux is currently serving. However, the Crown submits that the overall or aggregate length of the sentences should be reduced in accordance with the totality principle at three distinct stages of the analysis.
- [62] For the Vancouver offences, the Crown proposes consecutive sentences as follows: four years for the fraud and forged documents offences; six years for the personation offence; and three years for the assault with a weapon on hospital patients. This would result in an aggregate length of 13 years. Applying the totality principle at this first stage, in respect of the Vancouver indictment alone, the Crown submits that the aggregate length of the sentences on that indictment should be reduced to ten years.
- [63] (Clarification: Although this was not made clear in the sentencing submissions, it is implicit in the Crown's calculations that the Crown proposes that some or all of the sentences for the Vancouver fraud and forged documents offences be served concurrently.)
- [64] For the Victoria offences, the Crown proposes consecutive sentences as follows: two years for the fraud offence; three years for the personation offence; one year for the forged documents offence; and two years for the assault on patients at the clinic. This would result in an aggregate length of eight years. Again applying the totality principle at this first stage (in respect of the Victoria indictment alone), the Crown submits that the aggregate length of the sentences should be reduced to five years.
- [65] The Crown would apply the totality principle again, at a second stage, in relation to the aggregate length of the sentences on each of the three indictments. The Crown proposes a sentence of one year for the theft offence on the New Westminster indictment. With consecutive sentences on that indictment as well as on the Vancouver and Victoria indictments, the aggregate length of the sentences proposed by the Crown for the offences on the three indictments would be 16 years. Applying the totality principle at this second stage, the Crown submits that the aggregate length of the sentences on the three

indictments should be reduced to 12 years.

- [66] As I indicated, the Crown submits that the sentences now to be imposed should be served consecutively to the Ontario sentence Ms. Cleroux is now serving. However, the Crown proposes a third application of the totality principle to reduce the overall length of those combined sentences (12 years for the BC offences plus the seven-year Ontario sentence) from 19 years to between 15 and 16 years. This would mean reducing the aggregate length of the sentences for the BC offences from 12 years to between eight and nine years.
- [67] The Crown did not offer specifics about which particular sentences would be reduced, or by how much, to achieve the various results it proposed after the application of the totality principle at each of the three stages.

The Defence's Position

- [68] The defence proposes not dissimilar sentence lengths to those proposed by the Crown, but submits that they should all be served concurrently with each other and with the Ontario sentence.
- [69] For the theft on the New Westminster indictment, the defence proposes a six-month sentence.
- [70] For the Vancouver offences, the defence proposes two years for the fraud, five to six years for the personation offence, one year for each of the three forged documents offences, and two years for the assault with a weapon of the BC Women's Hospital patients.
- [71] For the Victoria offences, the defence proposes one year for the fraud, three years for the personation offence, one year for the forged documents offence, and one year for the assault on clinic patients.
- [72] If, as the defence proposes, the BC sentences are all served concurrently, the overall length would be five to six years, which is the longest of the sentences the defence proposes.
- [73] If, as the defence proposes, the BC sentences are also served concurrently with the seven-year Ontario sentence, they would in practice extend the length of the Ontario sentence by two to three years. That sentence was reduced to five years eight months because of time Ms. Cleroux had served in pre-sentencing custody. Ms. Cleroux therefore has approximately three years of that sentence remaining to serve.

THE SENTENCING PRINCIPLES

- [74] The general sentencing principles are well known. Most of them are set out in sections 718 through 718.2 of the Code. Within the broad framework those principles establish, and taking into account the particular offender and the particular offence, the judge finds the appropriate balance for all of the relevant factors that best achieves the objectives of sentencing. Fundamental is ensuring that the sentence is proportionate to the gravity of the offence and the degree of the offender's responsibility.
- [75] Key sentencing objectives in this case are denunciation and deterrence, as well as the protection of the public from further offending by Ms. Cleroux. Rehabilitation of the offender is always an objective, but the prospects for rehabilitation seem slim for Ms. Cleroux, as I will later explain.
- [76] A sentence should be similar to sentences for similar offences by similar offenders in similar circumstances. In this case, the most similar cases are Ms. Cleroux's own previous cases involving impersonations, as well as the impersonation and other offences in Ontario for which Ms. Cleroux is currently serving a sentence.
- [77] I have already described Justice Wadden's sentencing decision in Ontario (Cleroux), and Justice Barley's in Alberta (Marier).
- [78] Justice Barley at para. 62 made some apt observations, later quoted by Justice Wadden in Cleroux at para.19, about the particular harms caused by frauds and false credentials offences committed to obtain positions (as a nurse and as a teacher):
- ... the education and medical systems are of great importance to the public. People must have faith that individuals in these systems are qualified. The only way that this can be ensured is to have qualifications put in place by the authorities, and then have those requirements rigorously enforced. The use of forged documents attesting to these qualifications makes a mockery of attempts to ensure that the public is well served by qualified individuals.
- [79] Also somewhat similar are the cases of *R. v. Baillargeon*, 2022 QCCQ 8569, and *R. v. Burns*, 144 A.R. 282, 21 W.C.B. (2d) 358.
- [80] In *Baillargeon* the offender was sentenced to an aggregate of 36 months' imprisonment (less time served), after taking totality into account, for seven offences, the most serious of them relating to posing as a nurse in a seniors' residence, using identification documents of a real nurse in order to do so, and fraudulently obtaining a loan. Like Ms. Cleroux, the offender pleaded guilty to the offences, and had a criminal record for fraud, theft, and breach of conditions, although Mr. Baillargeon's criminal record was shorter. Mr. Baillargeon posed as a nurse for approximately a month and a half, considerably shorter than the year for which Ms. Cleroux did so in Vancouver.

[81] In Burns, the offender was sentenced to four months' imprisonment after pleading guilty to using a forged document. She falsified her resume to say that she was a qualified medical doctor and had a PhD, when in fact she failed second year medical school and had to withdraw. She relied on the false credentials over the course of a 13-year period. I have considered the Court's thoughtful discussion of the particular harms of Ms. Burns' offence and the aggravating and mitigating factors in her case, especially given the breadth and duration of the offence. Key distinguishing features from Ms. Cleroux's case are that Ms. Burns was otherwise of exemplary character, had no criminal record, and was unlikely to reoffend.

[82] Crown and defence counsel provided additional helpful case authorities involving impersonations and frauds, some of which are discussed below.

AGGRAVATING AND MITIGATING FACTORS AND COLLATERAL CONSEQUENCES

Aggravating Factors

[83] The offences for sentencing today have many aggravating features.

[84] The offences struck at the very core of public confidence in the medical system in BC. The system depends on patients placing their trust in our medical professionals. After Ms. Cleroux's offences, many people can no longer do so.

[85] The offences caused significant actual emotional distress, and in some cases serious psychological harm, to most of the dozens of victims who filed impact statements, and likely to many more. The offences also caused financial loss to many of the victim patients. The theft of cheques from the Surrey dental clinic caused direct financial loss to the dentist. The Vancouver fraud caused significant financial loss to the Provincial Health Services Authority and, indirectly, to the public.

[86] The offences put a very large number of people - well over 900 patients - at the potential physical risk that is inherent in treatment or care by a non-qualified and unlicensed person.

[87] The offences inevitably damaged the reputations of a highly-regarded hospital and the two clinics that hired Ms. Cleroux.

[88] The impersonations of M.S., and the associated use of multiple false and forged documents that were purportedly M.S.'s, have required M.S. to change her name. In effect, M.S. has had to abandon the professional identity she built in her own name because Ms. Cleroux stole and contaminated that name and identity to the point of destruction.

[89] Some of the aggravating factors I have just described are also deemed such in s. 718.2(a).

[90] Ms. Cleroux's background and circumstances also include aggravating features.

[91] She committed the offence on the New Westminster indictment while she was on parole for offences of dishonesty.

[92] Ms. Cleroux is not simply a repeat offender, but is an offender who, as I have discussed, has many times repeated exactly the same type of extremely serious and potentially dangerous conduct.

[93] She has lied many times to courts and other authorities and professionals in the court system.

Mitigating Factors

[94] There are very few mitigating circumstances.

[95] Ms. Cleroux's guilty pleas are significantly mitigating because they bring the proceedings on three separate indictments to a conclusion without the need for trial and pre-trial proceedings, and without the victims undergoing the challenge of testifying.

[96] Ms. Cleroux entered her pleas on July 19, 2024, which was before any pre-trial applications or the trial itself, but was a considerable time after she was charged in the three BC jurisdictions. Her counsel submits that Ms. Cleroux indicated her intention to plead guilty to the Vancouver charges at an early stage in the proceedings, but was delayed by her efforts (which turned out to be unsuccessful) to do so by way of waiver of the charges to Ontario, and by delays in the conclusion of the other BC investigations and in the proceedings in the Provincial Court, as well as by difficulties in arranging for the three separate BC prosecutions to be dealt with together.

[97] I take into account Ms. Cleroux's stated intent to plead guilty during most or all of the case management proceedings before me over the course of the last year or so, and thus at a relatively early stage.

[98] Ms. Cleroux's pleas reflect an acknowledgement of responsibility. Her personal statement to the Court expressed regret, and some concern for the victims. However, Ms. Cleroux's history of repeated offending does not inspire confidence that by accepting responsibility for these offences she is genuinely willing and able to avoid similar offences in the future.

[99] I do take into account that Ms. Cleroux has taken some programs while in custody that are designed to assist an offender's rehabilitation.

[100] Ms. Cleroux claims that it is mitigating that she was not entirely unqualified to work as a nurse (although she agrees that she had no certification or registration in any jurisdiction) because she had two years of nursing training before it came to an end with a criminal record check. While I am fully aware that the standards for evidence in a sentencing hearing are low and generally favour the offender's position, I find it difficult to accept Ms. Cleroux's current account of her nursing training as entirely reliable. This is in part because of Ms. Cleroux's chronic dishonesty, but it is also because there is no documentary evidence at all of any training, and because Ms. Cleroux has given very different accounts to different people about where she took the training and for how long she took it.

- [101] Ms. Cleroux claims that the conditions of her detention in BC during some of the time she awaited sentencing have strongly deterred her from future offences.
- [102] Her counsel submits also that in any event the publicity associated with this case will likely prevent Ms. Cleroux impersonating a nurse in the future.
- [103] These factors do not entirely reassure, because of Ms. Cleroux's chronic and seemingly deep-seated dishonesty, coupled with the continuing uncertainty about what causes or motivates her to offend.

Collateral Consequence

- [104] Nonetheless, I accept that Ms. Cleroux has experienced collateral consequences of her offences that need to be taken into account.
- [105] As noted, she has been exposed to national media coverage of her BC cases, most or all of it negative.
- [106] There is also an active civil claim against her.
- [107] The defence notes also that, while the BC prosecution evolved, Ms. Cleroux was moved for some periods from the federal institution where she was serving her Ontario sentence into a higher security pre-trial facility in BC. This also meant that her access to programming was reduced. I recognize those factors, but give them somewhat limited weight because it is not at all clear that, had Ms. Cleroux not been serving a prison sentence during the BC prosecution process, she would have been released on bail in the circumstances. If that is so, any hardship associated with pre-trial detention flows less from Ms. Cleroux's particular circumstances and more from the normal course of the criminal process.

THE APPROPRIATE SENTENCES

- [108] I turn then to consider the appropriate sentences.

Maximum Penalties, No Minimum Penalties

- [109] The Vancouver and Victoria fraud offences (count 1 on each of those indictments) have a maximum penalty of 14 years' imprisonment. All of the other offences have a maximum penalty of ten years' imprisonment, except that the Victoria offence of assault has a maximum penalty of five years' imprisonment. None of the offences have minimum penalties.

Consecutive or Concurrent Sentences

- [110] The Court must consider whether some or all of the sentences now to be imposed should run consecutively to other offences: s. 718.3(4)(b) of the Code. However, none of the offences require consecutive sentences. The general law respecting the determination of consecutive and concurrent sentences therefore applies.

- [111] Whether a sentence should be consecutive or concurrent to another turns on "whether the acts constituting the offence were part of a linked series of acts within a single endeavour": *R. v. G.P.W.* (1998), 106 B.C.A.C. 239 at para. 35, 38 W.C.B. (2d) 188. But even where a link is present, consecutive sentences can be imposed where the offences protect different societal interests or invade different legally-protected interests: *R. v. Robertson*, 2020 BCCA 65 at para. 91.
- [112] In applying this standard, the sentencing judge will assess "the degree to which the circumstances of the offences are interconnected or separate": *R. v. Li*, 2009 BCCA 85 at para. 24, cited by *R. v. Punko*, 2010 BCCA 365 at para. 71.
- [113] As I noted, the Crown submits that all of the sentences (except for the four offences of fraud and using forged documents to obtain employment at the BC Women's Hospital) should be consecutive, both to each other and to the Ontario sentences, but that they should be reduced from their aggregate length (for the BC sentences) to eight years or more, consecutive to the Ontario sentence. The Crown submits that the various BC offences each involved the violation of different legally-protected interests and were not part of a linked series of acts within a single endeavour. Further, as between the three indictments the Crown submits that the offences were separate and independent, geographically and temporally distinct, each with their own planning, and each with different victims.
- [114] The defence takes a different view of the overall offending, and submits that (with the possible exception of the theft of cheques on the New Westminster indictment) all of the offending was part of a single endeavour, namely of falsely obtaining and performing work as a nurse for remuneration. The defence notes also that the Victoria offences took place during the time period of the Vancouver offences. Moreover, the period of the Ontario offences overlapped to some extent with the Vancouver and the Victoria offences. As to the offence on the New Westminster indictment, the defence notes that, significantly, the sentencing judge in Ontario heard evidence about that conduct (charged at the time as fraud over \$5,000 and impersonation) and took it into account, as well as the fact that Ms. Cleroux was on parole at the time of that offence.
- [115] I agree with Ms. Cleroux's counsel that the sentence for the offence on the New Westminster indictment should therefore run concurrently with the Ontario sentence.
- [116] Should the other sentences I will impose today also run concurrently, as Ms. Cleroux submits they should?
- [117] I agree with Crown counsel that, in principle, many of the offences on the Vancouver and Victoria indictments may be viewed as protecting different societal interests. Nonetheless, I conclude that concurrent sentences are appropriate in this case for most of the offences - excepting the assault offences, which I will discuss shortly - to accommodate the totality principle and the practical realities of designing comprehensible sentences.

- [118] In *R. v. Barrett*, 2011 NLCA 5 at paras. 19-20, which was recently cited by our Court of Appeal in *R. v. Murtagh*, 2024 BCCA 390 at para. 41, the Court - albeit in the context of a joint submission - condemned a "mathematical" approach to determining whether sentences should be consecutive or concurrent. By its nature, the joint submission proposed in *Barrett* reflected an adjustment downward from what would otherwise be a sentence based on ordinary principles. The Court noted that in this way it was like a sentence reduced because of the totality principle, and, as such, the downward adjustment was logically applicable to any and all of the component parts of the total sentence. As I read the Court's reasoning as a whole, it recognized that a downward adjustment for the totality principle is not limited to the length of the sentences involved, but may properly involve concurrent, in place of consecutive, sentences.
- [119] To apply the totality principle at three stages of the analysis, as the Crown suggests, may well conform to principle but, in my view, is unnecessarily complex given the sentences involved in this case.
- [120] For one thing, the Crown's approach would tend to obscure the sentence lengths the Court finds appropriate for each offence.
- [121] For another, it would in fact require an even more complicated analysis than the Crown's submission suggests. This is because where the Crown suggests a downward adjustment because of the totality principle, the Crown does not address which of the sentences involved should be reduced, or by how much. It would not be sufficient for the Court to stop its analysis at each stage with an overall downward adjustment, as suggested by the Crown. The Court would need to go on to determine how that adjustment should be apportioned among the sentences concerned. To add to this complexity and to the obscurity of the original sentence deemed by the Court to be appropriate, some of the sentences among which the downward adjustment may be apportioned will already have been reduced at one or more of the earlier stages of the analysis. This is because this further "mathematics" would need to be done three times over.
- [122] More practicable, in my view, is to impose concurrent sentences (with the exceptions I will discuss next), and, to the extent that the totality principle may nonetheless require a downward adjustment, to reduce only the longest sentence.
- [123] I conclude that the assault offences should attract consecutive sentences because (without patient consent to nursing treatment by an unqualified person) the offences involved invasive violations of bodily integrity, a very different legally-protected interest from the interests protected by the other offences.
- [124] I conclude also that the Ontario sentence Justice Wadden imposed in April 2022 should not, in effect, entirely subsume the sentences for the Vancouver and Victoria offences. The offences before Justice Wadden were not of the duration or magnitude of the Vancouver offences. Many of the Vancouver offences continued for a full year, and had seriously harmful effects on dozens, possibly hundreds, of patients, as well as on the public and its

valued institutions and professionals. Furthermore, Ms. Cleroux clearly intended to - and did - continue similar offending as soon as the complaints that she knew had been lodged at the hospital brought her employment to an end.

SENTENCES

Vancouver Indictment

- [125] For count 1, fraud on the Provincial Health Services Authority of money and benefits, I sentence you to imprisonment for four years.
- [126] For count 2, personation of M.S., I conclude that the appropriate sentence is imprisonment for six years, to be served concurrently with the sentence on count 1 and with the remainder of the Ontario sentence you are now serving. However, I will adjust this sentence downwards to four years' imprisonment, because of the totality principle. I do so because I conclude that the overall period of imprisonment resulting from the sentences to be imposed today would otherwise be crushing, given that two of the sentences I will be imposing shortly will be consecutive sentences.
- [127] For count 4, using a forged document, namely a Provincial Health Services Authority Policy agreement, I sentence you to imprisonment for two years, to be served concurrently with the sentences on counts 1 and 2 and to the remainder of the Ontario sentence you are now serving.
- [128] For count 5, using forged documents, namely applications for Blue Cross and Medical Service Plan benefits, I sentence you to imprisonment for two years, to be served concurrently with the sentences on counts 1, 2, and 4 and with the remainder of the Ontario sentence you are now serving.
- [129] For count 6, using a forged document, namely a Municipal Pension Plan declaration, I sentence you to imprisonment for two years, to be served concurrently with the sentences on counts 1, 2, 4, and 5 and with the remainder of the Ontario sentence you are now serving.
- [130] For count 8, assault with a weapon on patients of the BC Women's Hospital and Health Centre, I sentence you to imprisonment for three years. This sentence is to be served consecutively to the sentences on the other counts on this indictment and to the Ontario sentence you are now serving.

New Westminster Indictment

- [131] For count 1, theft of approximately \$8,000 from the dentist, I sentence you to one year's imprisonment, to be served concurrently with the sentences on counts 1, 2, 4, 5, and 6 of the Vancouver indictment, and with the remainder of the Ontario sentence you are now serving.

Victoria Indictment

- [132] For count 1, fraud on the surgical clinic in the amount of approximately \$6,500, I sentence you to imprisonment for two years, to be served concurrently with the sentences on counts 1, 2, 4, 5, and 6 of the Vancouver indictment, with the sentence on count 1 of the New Westminster indictment, and with the remainder of the Ontario sentence you are now serving.
- [133] For count 2, personation of M.S., I sentence you to imprisonment for three years, to be served concurrently with the sentence on count 1, the sentence on count 1 of the New Westminster indictment, with the sentences on counts 1, 2, 4, 5, and 6 of the Vancouver indictment, and with the remainder of the Ontario sentence you are now serving.
- [134] For count 3, using forged documents, namely a resume in the name of M.S. and a BC College of Nurses and Midwives document, I sentence you to imprisonment for one year, to be served concurrently with the sentences on counts 1 and 2, with the sentences on counts 1, 2, 4, 5, and 6 of the Vancouver indictment, with the sentence on count 1 of the New Westminster indictment, and with the remainder of the Ontario sentence you are now serving.
- [135] For count 4, assault of patients at the surgical clinic, I sentence you to imprisonment for two years, to be served consecutively to the sentences on counts 1, 2, and 3, the sentences on counts 1, 2, 4, 5, and 6 of the Vancouver indictment, the sentence on count 1 of the New Westminster indictment, and the Ontario sentence you are now serving, but concurrently with the sentence on count 8 of the Vancouver indictment (assault with a weapon).
- [136] In summary, the sentences are all to be served concurrently with each other and with the Ontario sentence, except that the assault with a weapon and the simple assault offence (count 8 of the Vancouver indictment and count 4 of the Victoria indictment) are to be served concurrently with each other but consecutively to all of the other BC sentences and the Ontario sentence.
- [137] The net effect is that the aggregate length of the sentences I am now imposing for the three indictments is seven years. The BC sentences will have the effect of extending the period of imprisonment you are currently serving because of your Ontario sentence by approximately a further four years.

Ancillary Orders

- [138] Ms. Cleroux, you are to provide a sample of bodily substance that is suitable for DNA analysis. That order is made under s. 487.051(1) of the Code.
- [139] The victim fine surcharge is waived.

"The Honourable Associate Chief Justice H. Holmes"

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/24/24/2024BCSC2435.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-cleroux-2024>

Prepared on 28 October 2026 · Esheria