

CANADA / JUDGMENT

R. v. Field

2024 BCSC 2602

COURT

Supreme Court of British Columbia

DECIDED

23 September 2024

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

2024 BCSC 2602 R. v. Field

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Field,

2024 BCSC 2602

Date: 20240923

Docket: 34414-2

Registry: Vancouver

Rex

v.

John Frederick Field

Restriction on Publication: Pursuant to 486.4(2) C.C.C.

Corrected Judgment: The text of the judgment was corrected at paragraph 1 on May 13, 2025.

Before: The Honourable Justice Gomery

Oral Reasons for Sentence

Counsel for the Crown:

T.W.B. Cullen

Counsel for the Accused:

J.R.R. Hemmerling

Appearing as Agent for D. Ferguson

Place and Date of Trial/Hearing:

Vancouver, B.C.

August 22 & September 20, 2024

Place and Date of Judgment:

Vancouver, B.C.

September 23, 2024

Introduction

- [1] THE COURT: On February 11, 2023, John Field sexually assaulted R.L. at St. Paul's Hospital in Vancouver. He also performed an indecent act in a public place by openly masturbating in R.L.'s presence. R.L. is a medical technician who was attending to Mr. Field's medical needs by conducting an electrocardiogram or ECG. Mr. Field stands convicted by a jury's verdict and is now before the court for sentencing.
- [2] Mr. Field has a long criminal record. On the Crown's application, he was remanded for assessment in contemplation of a possible application that he be designated a dangerous or long-term offender. Following receipt of the assessor's report, the Crown elected not to pursue a dangerous or long-term offender application.
- [3] Pursuant to s. 486.4 of the Criminal Code, R.S.C. 1985, c. C-46, no one may publish, broadcast, or transmit in any way information that would identify R.L. as the complainant in this proceeding. If the reasons for sentence I am about to deliver are transcribed, they will be edited accordingly.

Facts

Circumstances of the offences

- [4] Mr. Field was brought to the hospital by ambulance in the middle of the night, complaining of dizziness, sweating, panic, and that his heart was racing. Arrangements were made for an ECG to be conducted by R.L. in an examining room. The door was shut and no one else was present. It was just after 5:00 a.m. Mr. Field and R.L. had never met.
- [5] Mr. Field's interaction with R.L. lasted approximately four minutes in total. In the examining room, he laid on a bed with leads affected to his bare chest and she stood beside him holding wires attaching the leads to the ECG machine. While she stood there, Mr. Field spoke to R.L. and began to masturbate, exposing his penis. He asked her if she was single, told her that she was hot, and said that if she was single, he wanted to fuck her. He put out his hand, grabbed her on the left side slightly under the hip bone, and held on for at least five seconds. R.L. obtained the ECG reading she required and told Mr. Field to leave the room and take a seat in the hall. He did so.

Circumstances of the offender

- [6] Mr. Field was born in late 1962 and is 61 years old. He was convicted of criminal offences as a young offender and has an adult criminal history dating back to 1980 when he was 17 years old. His criminal record includes previous convictions for sexual assault in 1989 and 2020; assault causing bodily harm in 2008; robbery in 1980, 2000, 2005, and 2020; armed robbery in 1981; other assaults in 1981, 1983, 1988, and 1993; forcible confinement; and various driving and property offences. He has completed five separate terms of incarceration in a federal penitentiary.
- [7] Mr. Field suffered a fractured skull and a traumatic brain injury at the hands of his father when he was two years old. He spent most of his childhood in foster care. He was diagnosed with attention deficit hyperactivity disorder at age eight. His schooling ended in his late teens at the Grade 9 level, though academic testing in 1982 showed him at a Grade 6 level.
- [8] A psychological assessment in 1983 described Mr. Field as a "highly institutionalized young man" who was "unable to develop meaningful relationships". His parents are dead, his mother by suicide, as are three of his siblings, and he is not close to the fourth. He has had three romantic relationships with common law partners, the last of which ended in 1989. He describes himself as a loner. He has no community supports.
- [9] Mr. Field has a long history of drug and alcohol abuse beginning in his teens. While he has not been convicted of drug offences, drug and alcohol use feature prominently in the circumstances leading to many of his convictions. The medical episode that brought Mr. Field to St. Paul's Hospital in the early hours of the morning on February 11, 2023, followed from his relapse into drug use following five months of sobriety.
- [10] In a forensic psychological assessment prepared for the court this year, Dr. Lyne Piché concludes:

Mr. Field has experienced a significant brain injury as a child. Whether his current presentation is impacted by an acquired condition such as his traumatic brain injury, his subsequent concussions and/or a genetic condition such as ADHD, the outcome remains that he has been unable to properly address and manage his impulsivity and emotional dysregulation throughout his life. To complicate matters, Mr. Field has been diagnosed with a personality disorder which is unlikely to change. His dislike of authority and externalization of responsibility for his actions worsens his likelihood to change. Mr. Field is dependent on the correctional system and has been his entire life. He has learnt the institutional rules well and expects others to respect those same institutional rules. Mr. Field's unwillingness to be transparent and work productively with his CMT on an ongoing and consistent basis, further reduces his chances of success in the community.

In summary, Mr. Field's history demonstrates a number of factors that raise significant concern regarding his amenability and responsiveness to future treatment and rehabilitation. Mr. Field has been institutionalized since age 15. This institutionalization has become entrenched over the years. At 60 years of age, he appears to be quite consistent in his problem solving and decision making strategies. While moments of motivation for change have been observed, these moments have not resulted into a sustained motivation to change. . . .

- [11] Mr. Field is employable. While he has been in prison on remand since his arrest, he is a skilled meat cutter and anticipates finding employment in that trade upon his release.

Impact on the victim

- [12] In a victim impact statement, R.L. eloquently describes the impact of Mr. Field's actions on her life, both at work and at home.
- [13] Addressing her working life, she characterizes what occurred as a horrifying experience that has fundamentally altered her perspective on her career. She says that she has lost her feeling that she is safe in her workplace. She finds herself in a constant state of hypervigilance and incapable of trusting male patients. She suffers from panic attacks. Her job performance has suffered and that makes her anxious, "as I work in a healthcare facility where timely access to care matters."
- [14] In her personal life, she says that in the days and weeks following the incident, she became withdrawn and socially isolated due to the distress she was experiencing daily. She spent less time with her family and was unable to give her daughters the full care and attention they deserved. She describes herself as a prisoner of her own paranoia, constantly worrying about the safety of her daughters.
- [15] R.L. works with a psychologist and is supported by colleagues and her family. Some 18 months after the assault, she views herself as on a long road to getting normalcy back in her life.

Legal parameters

- [16] Pursuant to s. 271 of the Criminal Code, the offence of sexual assault is punishable on indictment by imprisonment for a term not exceeding 10 years.
- [17] Pursuant to s. 173(1), the offence of wilfully committing an indecent act in a public place in the presence of another person is punishable on indictment by imprisonment for a term not exceeding two years.
- [18] I must bear in mind the purposes and principles of sentencing set out in ss. 718 to 718.2 of the Criminal Code. As stated in s. 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 imposing just sanctions". Just sanctions are those that are intended:

- 1) to denounce unlawful conduct and the harm done to victims or to the community caused by that unlawful conduct;
 - 2) to deter the offender and other persons from committing offences and, where necessary, to separate offenders from society;
 - 3) to assist in rehabilitating offenders;
 - 4) to provide reparations for harm done to victims or to the community; and
 - 5) to promote a sense of responsibility in offenders and acknowledgment of the harm done to victims or to the community.
- [19] Section 718.1 of the Criminal Code states that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. Further to s. 718.2 of the Criminal Code, a sentence should account for any relevant aggravating or mitigating circumstances relating to the offence or the offender.
- [20] By s. 718.2(a), the following are deemed aggravating factors:
- a) evidence that the offence had a significant impact on the victim, including their age and other personal circumstances, by subsection (iii.1);
 - b) evidence that the offence was committed against a person who, in the performance of their duties and functions, was providing health services, by subsection (iii.2).
- [21] In a case involving the abuse of a person who was vulnerable because of their personal circumstances, s. 718.04 of the Criminal Code directs the court to give primary consideration to the objectives of denunciation and deterrence of the conduct that forms the basis of the offence.
- [22] A sentence should be similar to sentences given to similar offenders for similar offences committed in similar circumstances. This is described in the cases as the principle of parity.
- [23] Section 718.2(d) requires that an offender should not be deprived of liberty if less restrictive sanctions may be appropriate in the circumstances.
- [24] Sentencing requires close attention to the particular circumstances of the case and to characteristics of the offender. Section 718.2(e) requires that: "all available 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".
- [25] Mr. Field has been in custody on remand in connection with this offence since March 8, 2023. That is a total of 546 days. It is common ground that he is entitled to a credit of 1.5 days for every day spent on remand prior to sentencing. That is 819 days or two years, two months, and 29 days.

Positions of the Crown and the defence

- [26] But for Mr. Field's entitlement to a credit for time served, counsel agree that nothing short of a term of imprisonment would satisfy the sentencing objectives I have reviewed. They disagree as to whether imprisonment is still required in light of the time already served. They agree that, in any event, Mr. Field should serve a term of probation when he is released from prison, whether that is now or some time from now.
- [27] The Crown seeks a sentence of three years less credit for time served for the sexual assault, and a concurrent sentence of 18 months for the indecent act. This would result in a sentence requiring Mr. Field to serve approximately nine more months in custody.
- [28] The defence proposes a sentence for the sexual assault equal to the credit for time served, and a concurrent sentence of nine months for the indecent act, so that Mr. Field would be released immediately. He proposes a term of probation for 18 months and will consent to probation terms requiring him to submit to psychological treatment and supervision while he is on probation. His counsel advises that he welcomes a regimen of structured supervision and would like to go into a residential recovery facility, which is not presently arranged. Counsel acknowledges that homelessness is a risk factor for relapse into drug addiction and criminality by Mr. Field.

Assessment

Aggravating and mitigating factors

- [29] The following are aggravating factors supporting an increased sentence:
- a) Mr. Field's lengthy criminal record. Of particular note, he committed these offences while he was on parole from a sentence imposed in 2020 for offences that included a sexual assault committed against a female healthcare professional in circumstances bearing considerable similarity to his actions in this case. The sentence imposed for that assault was 18 months.
 - b) The offence has had a significant impact on R.L. as described in her victim impact statement.
 - c) The offences were committed against R.L. while she was providing healthcare services as described in s. 718.2(a)(iii.2). I view this consideration as particularly significant, because St. Paul's is a downtown hospital that serves patients who are frequently impoverished, transient, and struggling with drug addiction. The law must protect the healthcare workers who serve this vulnerable population.
- [30] The following are mitigating factors supporting a reduced sentence:

- a) Mr. Field's psychological deficits, as described by Dr. Piché, reduce his moral culpability to some extent. He suffers from a deficit in his executive functioning and a substance use disorder, both of which appear to have contributed to his conduct on February 11, 2023, because, as stated by defence counsel, his actions were impulsive and opportunistic, rather than premeditated.
 - b) Mr. Field expresses a willingness to rehabilitate himself by pursuing counselling and treatment for his drug addiction and history of sexual misconduct, and has taken positive steps along this path, although he clearly has some way to go.
 - c) Mr. Field says that he is sorry and wishes that he could apologize to R.L. and St. Paul's Hospital. I believe that his regret is genuine but superficial, as I am about to explain.
- [31] It was Justice Crabtree who sentenced Mr. Field in 2020 for a similar sexual assault committed in 2018. His reasons for sentence are unpublished and indexed at 2020 BCSC 174. He placed weight on remorse expressed by Mr. Field and on his stated willingness to undergo treatment for sexual offenders at paragraph 64. Subsequently, Mr. Field is reported as having refused sexual offender treatment while he was in custody and as having explained, "My lawyer told me to say that."
- [32] Mr. Field says that the report of his having refused treatment is misleading because he was always willing to undertake treatment for sexual offenders, at least in respect of the sexual assault conviction in 1989, but the prison program in question was not made available to him for logistical reasons. He acknowledges that he was unwilling to undertake treatment for the 2018 sexual assault, explaining that he was pursuing an appeal of conviction at the time. He does not deny having explained away what he told Justice Crabtree with "my lawyer told me to say that", though he tells me he intended no disrespect to Justice Crabtree.
- [33] The obvious concern is that the remark seems to show Mr. Field is someone who, when faced with a sentencing hearing, says whatever he thinks will persuade the judge to go lightly on him, whether or not it is true. I do not think this concern is completely justified, but it contributes to my belief that Mr. Field's regret is not deeply felt.

The authorities

- [34] Justice Crabtree conducted an extensive review of the authorities and concluded that the sentencing range for this kind of sexual assault is 8 to 36 months, with the upper range usually imposed for individuals who had a more extensive related record. Defence counsel, Mr. Ferguson, argues for a range of 9 to 30 months. I accept the range identified by Justice Crabtree for the reasons given by him.
- [35] Counsel both submit that the sentencing objectives of denunciation and deterrence carry particular weight in this case. I agree and note that Justice Crabtree came to the same conclusion at paragraph 90 of his reasons. Section 718.04, which was added to the Criminal Code after Justice Crabtree sentenced Mr. Field, points in the same direction, because I view

R.L. as someone who was vulnerable by virtue of her personal circumstances. She was a relatively young woman whose employment required her to be alone in the confines of an examining room with a much larger man, while the door was closed.

- [36] In assessing the gravity of a sexual assault, while there is a natural tendency to begin with the physical acts in question, the assessment cannot end there, because, as Chief Justice McLachlin observed in *R. v. J.A.*, 2011 SCC 28 at paragraph 63, "even mild non-consensual touching . . . can have profound implications for the complainant." The law requires "a broader contextual analysis" encompassing considerations such as the offender's attitude during the assault, the violation of the complainant's personal integrity affected by the assault, and the impact of the assault on the complainant: *R. v. Fisher*, 2019 BCCA 33 at paragraphs 90 to 91.
- [37] A very broad range of considerations canvassed in the authorities in respect of sentencing for sexual assault is reviewed in *H.M.T.Q. v. T.P.C.*, 2000 BCSC 742 at paragraph 16, quoting from *R. v. L.(J.J.)*, 126 C.C.C. (3d) 235 (QCCA) at 241 to 243. The listed considerations include psychological disorders, the proximity and nature of previous convictions, subsequent conduct by the offender, and impact upon the victim.
- [38] Turning to the indecent act conviction, the cases cited by counsel do not identify a range. Defence counsel cites *R. v. Bugar*, 2005 BCSC 1709, where sentences of four and six months for similar offences imposed by a summary conviction trial judge were upheld on appeal. Had the case been prosecuted on indictment, in principle, longer sentences would have been imposed. In *R. v. Wickstrom*, 2016 BCCA 103, the court dismissed an offender's appeal from a three-month custodial sentence imposed on an offender who sat at a slot machine, exposing himself and masturbating while women walked by. He had 12 prior convictions for indecent acts. It is not clear whether the charge was prosecuted on indictment or was a summary conviction offence.
- [39] Without coming to any conclusion as to the extent of the sentencing range for the offence of committing an indecent act contrary to s. 173(1), where the offence is prosecuted on indictment, I find that the nine-month sentence proposed by defence counsel falls within the range for this offence committed in like circumstances.

Analysis

- [40] Both offences arise from the same brief series of events and concurrent sentences are appropriate. Sexual assault is the more serious offence warranting the more severe penalty.
- [41] As already noted, Justice Crabtree imposed a sentence of 18 months for a similar sexual assault committed in 2018. Crown counsel submits that a longer sentence is required in this case and defence counsel does not disagree. I agree with Crown counsel. Section 718.04 and 718.2(a)(iii.2), underscoring the considerations of R.L.'s vulnerability and her position as a healthcare provider, were added to the Criminal Code after Justice Crabtree pronounced sentence. Critically, Mr. Field has added to his criminal record and the most recent

conviction carries particular weight, given its recency and that it was committed while Mr. Field was on parole from the sentence imposed by Justice Crabtree.

- [42] The important question is this: How much longer than 18 months must the sentence be to adequately and proportionately express the court's denunciation of Mr. Field's criminal conduct and deter future misconduct? A probation order is clearly justified and I will consider the objective of rehabilitation in that context.
- [43] The aggravating factors are serious. If it were not for the mitigating factor of Mr. Field's reduced moral culpability resulting from his psychological deficits, the aggravating factors would justify a 36-month sentence at the high end of the range, as proposed by Crown counsel. For reasons I have already reviewed, I do not place much reliance on Mr. Field's expression of regret as a mitigating factor. His willingness to rehabilitate himself carries relatively little weight when set against the aggravating factors of his lengthy criminal record, the impact on R.L., and the need to denounce an attack on a frontline healthcare worker at a downtown hospital.
- [44] Mr. Field's psychological deficits are another matter. It is not his fault that he suffered a brain injury as a child and has been diagnosed with ADHD, or that his life since childhood has been plagued by impulsivity and emotional dysregulation. While his deficits are less serious than the depressive psychosis suffered by the offender in *R. v. Badhesa*, 2019 BCCA 70, the following general propositions stated in that case are salient:
- [44] When assessing a fit sentence, the judge should attribute a degree of moral culpability to the offender commensurate with the magnitude of the mental illness and its overall role in the commission of the offence . . . Where mental illness played a central role, the importance of deterrence and punishment should be given less weight and treatment and public protection concerns should be increased . . . This decreased emphasis on deterrence and punishment is consistent with the proportionality principle, which is the sine qua non of a just sanction . . .
- [Emphasis in original.]
- [45] Mr. Field's psychological deficits mitigate his moral culpability, but only to a degree. The fact remains that he failed to learn from his 2020 conviction for sexually assaulting a healthcare worker and sexually assaulted R.L. when he had not yet fully served his sentence for the previous assault. A sentence exceeding the 18 months he served for the previous assault remains necessary. In my view, a just sentence is 30 months in prison. This is high on the range, but not at the top.

[46] A probation order of two years will afford Mr. Field a period of supervision during which he will receive the psychological treatment and counselling he tells me he is willing to pursue, contributing to his rehabilitation. Given his lack of social supports, I agree with counsel that Mr. Field should, if at all possible, be released into a residential recovery facility. Under the sentence I am about to pronounce, taking into account time served, he will have about three months to make those arrangements.

Sentence

[47] Mr. Field, would you please stand. For the reasons I have given, for the offence of sexual assault, Count 1 on the indictment, I sentence you to prison for three months and one day. The term of imprisonment I would have imposed on you before granting any credit is 30 months. The actual presentence time in custody is 546 days. I am granting you credit at a rate of 1.5 to one. The total credit I am granting you is 26 months and 29 days.

[48] For the offence of committing an indecent act, Count 2 on the indictment, I sentence you to prison for one day to be served concurrently with your sentence on Count 1. The term of imprisonment I would have imposed on you before granting any credit is nine months served concurrently.

[49] Following your release from prison, you will be subject to a probation order for a term of 24 months on the following terms:

- a) You must keep the peace and be of good behaviour.
- b) You must appear before the court when required to do so by the court.
- c) You must notify the court or the probation officer in advance of any change of name or address, and promptly notify the court or the officer of any change of employment or occupation. Registrar, that is picklist 5001.
- d) 5004: You must report in person to a probation officer at 275 East Cordova Street in Vancouver within two business days after your release from custody, unless you have obtained, before your release from custody, written permission from the probation officer to report elsewhere or within a different timeframe. After that, you must report as directed by your officer.
- e) Picklist 5301: when first reporting to your probation officer, you must provide them with the address where you live and your phone number. You must not change your address or phone number without notifying your probation officer in writing at least seven days in advance of the change.
- f) 5302: You must live at an address approved in advance by your probation officer and provide them with your phone number. You must not change your address or phone number without prior written permission from your probation officer.

- g) 5304: You must not leave British Columbia unless you have the prior written permission of your probation officer. You must carry the written permission, which can be in electronic format, with you at all times if you are outside the province.
- h) 5601: You must not possess or consume alcohol or controlled substances as defined in the Controlled Drugs and Substances Act, S.C. 1996, c. 19 or any other intoxicating substance, except with a medical prescription.
- i) 5602: You must not possess or consume controlled substances as defined in the Controlled Drugs and Substances Act, except with a medical prescription.
- j) 5701: You must attend, participate in, and complete any intake, assessment, counselling, or education program as directed by your probation officer. This may include, but is not limited to, counselling or programming for:
 - i. anger management;
 - ii. violence prevention;
 - iii. alcohol or drug addiction;
 - iv. mental health; and
 - v. sexual offence prevention.
- k) 5702: Having consented in court, you must attend, participate in, and complete any intake, assessment, program, treatment, or fulltime live-in treatment program as directed by your probation officer. This may include programming or treatment for:
 - i. alcohol or drug addiction;
 - ii. psychiatric and psychological health; and
 - iii. sexual offending.
- l) 5705: If you are expelled or remove yourself from a treatment program as directed by your probation officer, you must tell your probation officer immediately. If the probation officer's office is closed, you must contact your officer immediately when the office opens on the next business day.
- m) 5706: Having consented in court, you must do the following:
 - i. report to Forensic Psychiatric Services or elsewhere for any intake, assessment, counselling, or treatment as directed by your probation officer;
 - ii. attend all scheduled appointments with the professionals in charge of your mental health care;
 - iii. take all medications and medical treatment prescribed to you by those professionals;
 - iv. provide your probation officer with the names, addresses, and phone numbers of those professionals;

- v. give those professionals a copy of this order; and
- vi. if you decide not to follow these directions, you must immediately report that fact to your probation officer.
- n) 5706: You have consented in court to those professionals notifying your probation officer if you fail to attend for an appointment or refuse to take the prescribed treatment or medication. Having consented in court, you must sign any document that is necessary for your probation officer, counsellors, or treatment providers to check your attendance and completion of any intake, assessment, counselling, or treatment program.
- o) 5708: Having consented in court, if asked by your probation officer, you must provide proof of your attendance and completion of any assessment, counselling, or treatment program.
- [50] Count 1 is a primary designated offence. Pursuant to s. 487.051(1) of the Criminal Code, I make an order in Form 5.03, authorizing the taking of samples of bodily substances from you for the purpose of registration in the DNA National Data Bank.
- [51] Pursuant to ss. 490.012 and 490.013 of the Criminal Code, you are required to comply with the Sex Offender Information Registration Act, S.C. 2004, c. 10, for life.
- [52] You must pay a victim surcharge in the amount of \$200. It must be paid within 60 days of the expiry of the warrant of committal. If you require further time to pay the surcharge, you must apply in writing to ask the court for an extension.
- [53] Mr. Field, you are 61 years old.
- [54] THE ACCUSED: Yes, I am.
- [55] THE COURT: There is still time for you to make a life for yourself out of prison. In this life, you would live clean and sober without hurting people like R.L. and without getting into trouble with the law. I hope that you will use the three months that you have left to serve making workable plans for this new life. You have already thought about how you will find work and have some ideas about where you might live. You will need to settle your plans so that you will have a place to sleep and a supportive environment on the night of your release. I hope it works out for you. Good luck.
- [56] THE ACCUSED: Can I just say, so I've already been tested before, so I have to do that all over again?
- [57] THE COURT: That will be for your probation officer.
- [58] THE ACCUSED: Okay.
- [59] THE COURT: Your probation officer will give you direction on that.
- [60] THE ACCUSED: Okay.

"Gomery J."

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/24/26/2024BCSC2602cor1.htm>

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

Prepared on 27 October 2026 · Esheria