

CANADA / JUDGMENT

R. v. Flintroy

2021 BCSC 1187

COURT

Supreme Court of British Columbia

DECIDED

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2021 BCSC 1187 R. v. Flintroy

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Flintroy,

2021 BCSC 1187

Date: 20210525

Docket: 27279-A

Registry: Vancouver

Regina

v.

Charleen Flintroy and Cameron Mak

Before: The Honourable Mr. Justice Crossin

Oral Reasons for Sentence of Charleen Flintroy

Counsel for the Crown:

T. Johnson

M. Rankin (March 26, 2021 only)

Counsel for the Accused:

K.S. Westlake, Q.C.

Place and Dates of Hearing:

Vancouver, B.C.

February 26, March 5, 26, April 22, and May 12, 21 and 25, 2021

Place and Date of Judgment:

Vancouver, B.C.

May 21 and 25, 2021

Introduction

- [1] Ms. Flintroy, along with her common-law partner, Mr. Cameron Mak, were charged with offences relating to the possession of various drugs for the purpose of trafficking. Both have entered guilty pleas.
- [2] Mr. Mak has been sentenced. These reasons address the sentencing of Ms. Flintroy.

Background

- [3] The events giving rise to the allegations against Ms. Flintroy occurred in late 2014 and early 2015. It is within this timeframe that Ms. Flintroy possessed, for the purpose of trafficking, exceedingly large amounts of cocaine, methamphetamines, heroin and fentanyl. The charges upon the current indictment that Ms. Flintroy has pled guilty are:
 - a) Count 4 possession of cocaine for the purpose of trafficking.
 - b) Count 6 possession of methamphetamine for the purpose of trafficking.
- [4] These charges all relate to drugs found at 935 Ewen Avenue in New Westminster, British Columbia. This location is characterized as a stash house; namely a residence where large amounts of drugs are kept prior to distribution to street-level dealers.
- [5] Ms. Flintroy also admits facts concerning possessing drugs for the purpose of trafficking that are to be taken into account in sentencing. These additional facts relate to drugs found at another address in Vancouver, an additional stash house; namely 1200 West Georgia Street.
- [6] The charges upon the indictment before the court arise from an investigation by the Vancouver Police Organized Crime Section labelled "Project Trooper". Very briefly, Project Trooper revealed a significant drug trafficking operation generating cash in the hundreds of thousands of dollars.
- [7] The Crown theory centred upon one Dennis Halstead. Mr. Halstead was the operating mind of the alleged scheme and responsible for obtaining, in the first instance, a multi-kilogram level drug supply. Mr. Halstead took steps to insulate himself from any activity touching upon street-level distribution. A Mr. Heyman was also in the upper echelon of the hierarchy and took direction from Mr. Halstead to deliver and distribute the drugs to the people down the hierarchy, namely Mr. Mak and Ms. Flintroy. Mr. Mak and Ms. Flintroy were directed and tasked with repackaging and distributing the drugs to others, who in turn, distributed the

drugs to street-level dealers.

- [8] It is to be noted, as an example of the significance of the drug trafficking operation at the time of the arrest of Mr. Mak and Ms. Flintroy at the Ewen Avenue address, the couple were in possession of drugs with a street-level value of almost \$1 million.

Circumstances of Ms. Flintroy

- [9] There has been a great deal of material placed before the court addressing the history and current circumstances of Ms. Flintroy. In addition, I have heard viva voce evidence from Ms. Rachael Plamondon. Ms. Plamondon is the manager of Peer Services at RainCity Housing. Ms. Flintroy is currently employed at RainCity Housing assisting with a core purpose of RainCity; namely, caring for and comforting victims of drug overdose.
- [10] As well, I have had the benefit of a Gladue report. A Gladue report was deemed appropriate by the Gladue writer, notwithstanding the fact Ms. Flintroy does not identify as Indigenous. I can only conclude that a Gladue report can, and perhaps should, be generated when a life is revealed that is defined by exploitation, abuse, and dehumanizing relationships; regardless of genetics. The report has proven to be an invaluable resource concerning the task before the court today.
- [11] By way of background, the mother of Ms. Flintroy, whom I will refer to as Irma, was born in Germany and moved to British Columbia with her family at a very young age. Irma became pregnant at the age of 16 and left the family home and moved to Vancouver. Irma remained in British Columbia her entire life until her death in 2007.
- [12] The daughter Irma gave birth to was immediately given up for adoption. Six years later, Irma gave birth to Ms. Flintroy. Ms. Flintroy's biological father is Charles Tirone Flintroy. He was born in Louisiana, and was only briefly part of Ms. Flintroy's life in British Columbia. He left Irma and Ms. Flintroy and moved back to Louisiana within the first year of the life of Ms. Flintroy. Mr. Flintroy passed away about 20 years ago.
- [13] In any event, shortly after Mr. Flintroy left the family unit, Irma commenced a common-law relationship with a man named Sanderson. Ms. Flintroy was raised by both her mother and stepfather, on and off, until she was about 21 years of age.
- [14] The relationship between Irma and Sanderson was volatile. Sanderson was an alcoholic; as were many of Ms. Flintroy's relatives on her mother's side that frequented her childhood orbit.
- [15] Sanderson was an abusive drunk, and he was drunk most of the time. He often beat Irma, often in the presence of Ms. Flintroy, and often causing grave injury. Ms. Flintroy, as a child, was also physically and emotionally abused by Sanderson.

- [16] In addition, Ms. Flintroy reports she was sexually abused by Sanderson until approximately the age of 12. She was also sexually abused by other family members over the years; to the age of approximately 15. These events took place in the family home.
- [17] Ms. Flintroy recalls her mother seeking help from doctors but nothing really changed. She states that her mother tended to protect Sanderson and in this way, as a child, she was never apprehended by the child protection services.
- [18] Ms. Flintroy eventually moved to an apartment in Vancouver at the age of 18. She earned income at that time, and for some years, by being a stripper in downtown Vancouver. Over the years, until her mother's death, Ms. Flintroy resided in various places in around the lower mainland including her mother's basement suite.
- [19] Over the course of her adult life, Ms. Flintroy has also been a sex trade worker in Vancouver.
- [20] The collateral damage caused by the horrors of her childhood gave rise to, perhaps inevitably, a road to alcohol and drug addiction. Addictions have plagued, informed, and defined the entire life of Ms. Flintroy.
- [21] Her teenage years found her addicted to alcohol, cocaine, crack cocaine, and, to a degree, heroin. She has had periods of sobriety through her adult life, but, to one degree or another, the addictions have always held her hostage.
- [22] The adult relationships that Ms. Flintroy have undertaken have offered some comfort to her but generally were marked by paralyzing dysfunction. It appears her first serious relationship began with Steve, when Ms. Flintroy was in her early 20s. Steve is the father of her son, Amrikko; now age 30. Ms. Flintroy's relationship with Steve was relatively short-lived while living in her mother's basement suite. It was marked by physical abuse directed towards Ms. Flintroy by Steve. Not surprisingly, Steve and Ms. Flintroy did share some common ground; both were addicted to drugs and alcohol.
- [23] Peter is the father of Ms. Flintroy's second son Delano; now age 21. Peter abused Ms. Flintroy badly; including causing a broken collarbone and a fractured arm. Often the couple were homeless. The children of Ms. Flintroy were really never allowed to be in her care due to these life circumstances. Ms. Flintroy could not care for herself, much less her children. The children, upon birth, immediately went into the care of Ms. Flintroy's mother, Irma.
- [24] Most recently, and for many years, Ms. Flintroy remains in a relationship with Cameron Mak, her co-accused. This relationship has endured for the past 13 years. Again, however, both Mr. Mak and Ms. Flintroy suffer from severe drug and alcohol addictions. The two were, as well, often homeless. Certainly, Ms. Flintroy has attempted and failed on multiple occasions to find permanent relief from drug addiction. Indeed, at times in her life, she has made certain strides.

- [25] She suffered racist remarks in school and, by her teenage years, she was heavily abusing substances. Nevertheless, at age 31, Ms. Flintroy completed her high school education through a program called Job Start. Indeed, during periods in her life when she was drug-free and functional, Ms. Flintroy worked in care for adults and for high-risk youth for family services, including Metis Family Services. She also found employment with an organization called New Spirit Homes as a support worker for tenants.
- [26] Inevitably, however, there was relapse and destructive behaviour, including criminal behaviour, that took the place of good works. Ms. Flintroy reports over the course of the years she has been diagnosed with depression, PTSD, anxiety, and organic brain disorder.

The Positions of the Parties

- [27] The Crown submits that given the extent and sophistication of the trafficking enterprise, a substantial period of federal incarceration would be the appropriate range of sentence in accordance with the relevant jurisprudence. Indeed, given the role and circumstances of the co-accused, Mr. Mak, the court accepted a joint submission of seven years' incarceration.
- [28] The Crown however, with his usual candour, recognizes the circumstances of Ms. Flintroy require a significant recalibration. The Crown submits that due to what can reasonably be viewed as compelling mitigating circumstances, a sentence of 30 months' imprisonment is the appropriate sentence.
- [29] The accused submits, at least in the initial submission to me, the circumstances are exceptional and a suspended sentence is a fit and proper sentence.
- [30] Subsequent to the initial submissions of counsel, Justice Schultes of this court released his decision in *R. v. Chen*, 2021 BCSC 697. In *Chen*, the accused was found guilty of trafficking in MDMA. Justice Schultes struck down the provisions of the Criminal Code, R.S.C. 1985, c. C-46 that would preclude the imposition of a conditional sentence. The reasoning of the court rested in part on the recent decision in *R. v. Sharma*, 2020 ONCA 478; leave to appeal granted (2020) SCCS No. 311. I am advised that the hearing of the *Sharma* appeal is adjourned to September 2021. I am also advised that Parliament is considering amendments to the Criminal Code that are expected to align themselves with these recent decisions.
- [31] The Attorney General in *Chen* did not seek to argue the subject provisions were saved by s. 1 of the Charter. In light of the decision in *Chen*, defence counsel before me has argued, I take it as an alternative position, that in the event a period of imprisonment is found to be required, it is an appropriate case for the imposition of a conditional sentence.

- [32] In this regard, the Crown has taken a measured position. The Crown submits, with all due deference, it views Sharma and Chen as wrongly decided. The Crown also recognizes the practical considerations at play concerning the prospect of amendments to the Criminal Code. The Crown submits it is properly open to me to consider a conditional sentence citing *Re Hansard Spruce Mills Ltd.*, [1954] 4 D.L.R. 590 (B.C.S.C.), but, the Crown submits, based upon the governing jurisprudence, a conditional sentence ought not to be imposed.
- [33] The decision of Justice Wilson, as he then was, in *Re Hansard Spruce Mills Ltd.*, is well known, well regarded, and distinguished with only the greatest of care.
- [34] The comments of Wilson J. are as follows:
- [4] Therefore, to epitomize what I have already written in the Cairney case, I say this: I will only go against a judgment of another Judge of this Court if:
- (a) Subsequent decisions have affected the validity of the impugned judgment;
 - (b) it is demonstrated that some binding authority in case law, or some relevant statute was not considered;
 - (c) the judgment was unconsidered, a *nisi prius* judgment given in circumstances familiar to all trial Judges, where the exigencies of the trial require an immediate decision without opportunity to fully consult authority.
- [5] If none of these situations exist I think a trial Judge should follow the decisions of his brother Judges.
- [35] There are no circumstances before me that would cause me to deviate from this caution articulated by Wilson J. I should add that I am further comforted by the fact that the Chen decision is a product of a very experienced judge of this court.

The Principles of Sentencing

- [36] The principles of sentencing are in large part codified in Part XXIII of the Criminal Code. Section 718 of the Criminal Code provides that the fundamental purpose of sentencing is to contribute to the respect for the law and the maintenance of a just peaceful and safe society. As set out in s. 718, the objectives of sentencing include the denunciation of unlawful conduct, deterrence of the offender and others from committing further offences, separation of the offender from society where necessary, rehabilitation of the offender, reparation for harm done, and the promotion of a sense of responsibility in the offender, including acknowledgment of the harm done.
- [37] Section 718.1 articulates the most basic principle of sentencing, namely, that the sentence imposed must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

- [38] Section 718.2 recites a number of specific principles that must be adhered to in determining a fit and proper sentence. A sentence should be similar to sentences imposed on similar offenders for similar offences in similar circumstances. An offender should not be deprived of liberty, if a less restrictive sanction is appropriate. All reasonable sanctions, other than imprisonment, should be considered if they are reasonable and consistent with the harm done, with particular attention to the circumstances of aboriginal offenders. A sentence should be increased or reduced to take account of any aggravating or mitigating circumstances.
- [39] Additional principles of sentencing in relation to drug offences are set out in s. 10 of the Controlled Drugs and Substances Act, S.C. 1996, c. 19. Section 10(1) refers to the importance of encouraging rehabilitation and treatment in appropriate circumstances.

Analysis

- [40] The application of these principles and the seriousness with which our courts view drug trafficking has been the subject of a good deal of jurisprudence over the years. Twenty years ago, the court in *Pushpanathan v. Canada (Minister of Citizenship and Immigration)*, [1998] 1 S.C.R. 982 made these stark observations at para. 88:

it is impossible to underestimate the harm that is done to Canadian society in the form of criminal activity, often violent, by the trafficking of illicit drugs. Unfortunately, there are also other costs associated with illicit drug trafficking and use, which reflect the widespread harm caused by these activities.

- [41] Certainly, the drugs that Ms. Flintroy possessed for the purpose of trafficking are extremely harmful. Large amounts of money and large amounts of drugs were involved.
- [42] The case at bar reflects a serious and substantial drug operation that ultimately preyed on the most desperate and dysfunctional of our citizens. The irony cannot be lost on anyone that the addictions that plagued a vulnerable Ms. Flintroy, were in turn fuelled by Ms. Flintroy in the lives of those trapped as well in the prison of their addictions.
- [43] These kinds of circumstances will inevitably attract a sentence with greater emphasis on denunciation and deterrence. The authorities presented by the Crown reflect this. Sentences in these circumstances range from a low of 2.5 to 3 years through to 6 years and beyond. Indeed, as previously referenced, Mr. Mak was sentenced to seven years in the penitentiary upon a joint submission.
- [44] That said, our appellate jurisprudence leaves room for certain movement.

[45] In circumstances of far less sophistication and seriousness than the case at bar, the courts have recognized that deterrence and denunciation can be met without conventional incarceration in certain particular and special circumstances. This is achieved by suspending the passing of sentencing in ordering a term of probation. The court in *R. v. Voong*, 2015 BCCA 285, stated at para. 59:

In summary, absent exceptional circumstances, the sentence for a first offence or with a minimal criminal record, dial-a-dope drug seller will be in the range of six to eighteen months imprisonment, depending on the aggravating circumstances. Exceptional circumstances may include a combination of no criminal record, significant and objectively identifiable steps towards rehabilitation for the drug addict, gainful employment, remorse and acknowledgement of the harm done to society as a result of the offences, as opposed to harm done to the offender as a result of being caught. This is a non-exhaustive list, but at the end of the day, there must be circumstances that are above and beyond the norm to justify a non-custodial sentence. There must be something that would lead a sentencing judge to conclude that the offender had truly turned his or her life around, and that the protection of the public was subsequently better served by a non-custodial sentence. However, Parliament, while not removing a non-custodial sentence for this type of offence, has concluded that CSO sentences are not available. Thus, it will be the rare case where the standard of exceptional circumstances is met.

[46] These comments of course are in the context of much lower level participation by an accused person. It must be said there is no suggestion in subsequent appellate jurisprudence that these considerations extend, or should extend, as a matter of principle, to the kind of aggravating circumstances present in the case at bar. In my view, this case is far removed from dial-a-dope drug sellers; and far removed from the parameters of the *Voong* line of cases.

[47] As previously referenced, counsel as well submits that in the event a term of imprisonment is required, a conditional sentence is available and appropriate in these circumstances. The conceptual framework concerning the imposition of conditional sentences remains solidly anchored in (first) principles as articulated by the Supreme Court of Canada in *R. v. Proulx*, 2000 SCC 5; as adopted and applied in our Court of Appeal in many cases over the past two decades since the decision in *Proulx*: see for example *R. v. Koop*, 2008 BCCA 140; *R. v. Nesbitt*, 2012 BCCA 243.

[48] In relation to the imposition of a conditional sentence I am guided by the observations in *Proulx* as follows:

[22] The conditional sentence incorporates some elements of non-custodial measures and some others of incarceration. Because it is served in the community, it will generally be more effective than incarceration at achieving the restorative objectives of rehabilitation, reparations to the victim and community, and the promotion of a sense of responsibility in the offender. However, it is also a [page83] punitive sanction capable of achieving the objectives of denunciation and deterrence. It is this punitive aspect that distinguishes the

conditional sentence from probation, and it is to this issue that I now turn.

- [100] Thus, a conditional sentence can achieve both punitive and restorative objectives. To the extent that both punitive and restorative objectives can be achieved in a given case, a conditional sentence is likely a better sanction than incarceration. Where the need for punishment is particularly pressing, and there is little opportunity to achieve any restorative objectives, incarceration will likely be the more attractive sanction. However, even where restorative objectives cannot be readily satisfied, a conditional sentence will be preferable to incarceration in cases where a conditional sentence can achieve the objectives of denunciation and deterrence as effectively as incarceration. This follows from the principle of restraint in s. 718.2(d) and (e), which militates in favour of alternatives to [page115] incarceration where appropriate in the circumstances.
- [113] In sum, in determining whether a conditional sentence would be consistent with the fundamental purpose and principles of sentencing, sentencing judges should consider which sentencing objectives figure most prominently in the factual circumstances of the particular case before them. Where a combination of both punitive and restorative objectives may be achieved, a conditional sentence will likely be more appropriate than incarceration. In determining whether restorative objectives can be satisfied in a particular case, the judge should consider the offender's prospects of rehabilitation, including whether the offender has proposed a particular plan of rehabilitation; the availability of appropriate community service and treatment programs; whether the offender has acknowledged his or her wrongdoing and expresses remorse; as well as the victim's wishes as revealed by the victim impact statement (consideration of which is now mandatory pursuant to s. 722 of the Code). This list is not exhaustive.
- [49] The events at bar occurred in 2014/2015. Ms. Flintroy ultimately pled guilty to these offences and has waited a good deal of time to be sentenced.
- [50] Subsequent to her release on these charges, she has remained mostly homeless, addicted, and in limbo awaiting her fate. Throughout her life, Ms. Flintroy has attempted and failed on numerous occasions to break free of her addictions. She has attempted recovery at a number of recovery houses, including a recovery house, Night and Day. In the fall of 2020, however, she once again approached Night and Day. It appears on the evidence before the court that she has found the support she requires to break free of the issues that have haunted her life from childhood.
- [51] In this context, she has reported to and liaised with Ms. Debbie Holt. Ms. Holt is a senior probation officer. She is a seasoned and experienced officer, well versed in observing the destruction, and sometimes redemption, of persons caught in the carnage of criminal behaviour and drug addiction. I place a great deal of weight on the views of Ms. Holt.
- [52] Ms. Holt has provided two reports that I find revealing. As at February 2021 Ms. Holt stated, in part, as follows:

I can confirm that since September 2020 I have witnessed several positive changes in her. September 2020 is when Charlene started reporting regularly and without fail weekly and without reminders. She shared that she was committed to addressing her addiction, went through withdrawal, and then started working on a step plan at the recovery house she was at. I checked with the staff of the house regularly and by November she was considered to be a role model and support to newcomers to the house.

[53] Ms. Flintroy began attending an addictions treatment program called Georgia Strait Treatment Centre. In this regard, Ms. Holt reports as follows:

She continued to call in to report weekly and talked about her trauma counselling addiction programming and the many things she was benefiting from in the program. Charlene has now completed the six-week program and presents as substance free and wanting a positive future for herself. We have talked about her attending programs in the community that address past trauma addiction to substances and that teach cognitive behavioural skills.

[54] Some months later, on May 6, 2021, Ms. Holt reported as follows:

Charlene continues to do well. Charlene has demonstrated a positive change in direction with regard to addressing her challenges with addiction, past trauma and lack of coping skills. Since October 2020 she has accomplished the following:

1. She has reported without fail for every weekly check-in with her probation officer.
2. She has remained at one address, recovery house in Surrey and has complied with all their rules.
3. She has attended and completed a 60 day health authority approved licensed addictions treatment program, Georgia Strait Addictions Treatment Centre.
4. She has continued to be connected to Georgia Strait Addictions Treatment Centre after completion in February 2021 by participating in the alumni support group for added support for her recovery.
5. She has, upon completion of the residential addictions treatment program, connected with substance use services and now is seeing a one to one addictions counsellor on a regular basis.
6. She is signed up and has commenced the DEW program at the Creekside Detox centre run by Fraser Health Authority.
7. She has connected with Diversecity Community Resources in Surrey and set up appointments for trauma counselling.
8. She has found employment through Rain City Housing and is now working as a "on call" support working at two of their supportive housing locations.

Should Charlene be sentenced to community supervision this writer can continue to supervise for community supervision and monitor her progress. I will also refer Charlene to our CORE program Thinking Leads to Change.

- [55] The residential treatment residence is of course Night and Day. Night and Day Recovery was established in 2013 and has six registered locations, all registered with assisting living registry. It offers a number of programs, previously referenced, which supports the overall goal of integrating their clients back into society. The detailed 12 step recovery program, weekly Narcotics Anonymous meetings, weekly Alcoholics Anonymous meetings, scheduled treatment with a Registered Addiction Counselor, are examples of what Night and Day offer. In addition, Night and Day has a zero tolerance policy for drugs and alcohol. Pursuant to this they collaborate with the RCMP in terms of any breaches of relevant restrictions imposed on their clients before they are released into their custody.
- [56] I also have before me a recent report of forensic psychiatrist Dr. Stuart Howard. Dr. Howard confirms Ms. Flintroy currently suffers from alcohol use disorder, stimulant use disorder, complex posttraumatic stress disorder and attention deficit disorder stemming from what Dr. Howard describes as her "very dysfunctional upbringing".
- [57] There had been a number of reports and letters filed on behalf of Ms. Flintroy that reflect the very positive progress report of Ms. Holt and provide details of the kinds of programs Ms. Flintroy has accomplished and is currently participating in.
- [58] There cannot be any doubt that Ms. Flintroy has made uniquely positive strides in finding a path, and a way forward, free of addiction. Ms. Flintroy made a direct plea to the court. She confirms for years her battle with addiction has caused harm to everyone around her, including her children and other family members. She and Mr. Mak have been homeless, bouncing from hotel to hotel on the Downtown Eastside, unable to get housing or into treatment due to their history. Ms. Flintroy tells the court she has made many plans for the future and she is "trying my hardest to pay for my actions by becoming a valued member of society and helping others with a similar past by sharing my story". And finally, Ms. Flintroy tells the court "for the first time in a very long time I feel confident that we will continue on our path of recovery and sobriety".
- [59] I have considered carefully the words of Ms. Flintroy and her hopes concerning the prospect of rehabilitation. In this regard, I can do no better than to again fall back on the comments of one of our great criminal jurists Mr. Justice Wood in *R. v. Preston* (1990), 47 B.C.L.R. (2d) 273 (C.A.):

There can be few tasks more difficult than that of assessing the sincerity of an offender's stated desire to rehabilitate. Those who offer the assertion are often masters of deception and manipulation. All available evidence, including personal observations of the individual in question, must be carefully sifted. Sometimes the opportunity to look the claimant in the eye will provide the decisive clue. Furthermore, even where such desire is genuine, the factors which make the goal possible or impossible to achieve will be as many and as varied as the offenders

themselves. No precise or scientific formula exists by which the reasonable risk can be separated from the fatuous or the impossible. The assessment which must be made is personal to the individual to whom it is meant to apply. In short, the task is one eminently suited to the role of the trial judge.

- [60] In my view, the successful journey to rehabilitation is palpable in this case.
- [61] In the final analysis, Ms. Flintroy has pled guilty to serious criminal offences. She has a criminal record but unrelated to this activity. It is clear on the evidence that Ms. Flintroy was seriously compromised through addiction and, during the relevant period, played a wholly supporting role to that of her partner Mr. Mak.
- [62] While it is no doubt accurate to say that the conduct of Mr. Mak and Ms. Flintroy were the product of a joint enterprise, it is common ground that Mr. Mak was very much the directing mind of their drug trafficking activity. Ms. Flintroy's conduct was the product of the leadership of Mr. Mak. On the material before me, I conclude Ms. Flintroy merely took direction from Mr. Mak. There is no evidence she was a decision maker.
- [63] In addition, unlike for instance Mr. Halstead and Mr. Heyman, there is no evidence Ms. Flintroy profited from her participation. It is my understanding that she and Mr. Mak were provided the use of a vehicle and a roof over their heads for the purposes of participating in this enterprise.
- [64] These events occurred six years ago. In the intervening years, Ms. Flintroy has struggled but has finally found the path forward that presents opportunity and support. Something that was often missing in her life. I am persuaded she is well down a path of rehabilitation; rehabilitation from addiction and rehabilitation from the severe trauma that has really doomed Ms. Flintroy from the start.
- [65] Counsel for the Crown, Mr. Johnson, while acknowledging these circumstances, submits non-custodial sentences have certain boundaries that are reserved for offenders involved in less serious enterprises. It is submitted that deterrence and denunciation cannot be achieved with any sentence less than a 30-month imprisonment.
- [66] Mr. Johnson's observations are fair and reasonable.
- [67] Addiction, trauma, and abuse, however, have no boundaries. In my view, the whole of the circumstances present exceptional and compelling circumstances in relation to the individualized exercise of sentencing. That said, I do not view a suspended sentence as appropriate. In my opinion, a period of imprisonment is required but outside the usual range. I conclude that a period of imprisonment of 20 months is a fit and proper sentence. I am also of the view that this case is precisely the kind of case that cries out for a conditional sentence order. To abort Ms. Flintroy's positive journey at this stage would not be in the public interest and in fact, it would be contrary to the public interest. She has shown in the past she can be a worthy and productive member of the community and all indications before me are that she is not only heading in that direction again, but has found current

success in that regard. I am of the view that, on all of the evidence, she has turned her life around. In my opinion, deterrence and denunciation are met, and the protection of the public better served, by a non-custodial sentence.

[68] I impose a 20-month conditional sentence to be followed by 12 months' probation.

[69] The conditions in relation to the conditional sentence are as follows:

1. You must keep the peace and be of good behaviour.
2. You must appear before the court when required to do so by the court.
3. You must report by telephone to a conditional sentence supervisor at Surrey South Community Corrections at 102-14245 56th Avenue Surrey, B.C. (604-502-5330) by 3:00 p.m. tomorrow (May 26, 2021). If the office is closed, you must continue calling daily during regular business hours until you have spoken to a supervisor and received further direction to report. After that, you must report as directed by your supervisor.
4. You must remain in British Columbia unless you have prior written permission from the court or your conditional sentence supervisor to leave the province.
5. You must notify the court or your conditional sentence supervisor in advance of any change of address and promptly notify the court or supervisor of any change in employment or occupation.
6. For the first 8 months of this order:
 - a. You must obey a curfew by being inside your residence at [REDACTED] (or in its lot), between 11:00 p.m. and 6:00 a.m., every day.
 - b. You must present yourself immediately at the door to your residence or answer the phone when any peace officer or conditional sentence supervisor attends or calls to check on you during the curfew.
7. You may be away from your residence during the curfew with the prior written permission of your conditional sentence supervisor. Such permission is to be given only for employment or other compelling reasons. You must carry the permission, which can be in electronic format, with you when you are outside your residence.
8. You may also be away from your residence during the curfew hours:
 - a. While at, or going directly to, or returning directly from a healthcare facility because of a medical emergency. If asked, you must provide your conditional sentence supervisor with proof of your attendance at the facility.
9. You must provide your conditional sentence supervisor with the details of your employment status. You must inform your supervisor within two business days of any change in your employment status.

10. If you are given permission by your conditional sentence supervisor, you must carry it with you in paper or electronic format when you are doing or possessing something that requires permission. You must show the permission, along with a copy of this order, to a peace officer who:
 - a. requests to see it;
 - b. who stops you, for any reason.
11. You must not possess or consume alcohol, drugs or any other intoxicating substance, except with a medical prescription.
12. You must attend, participate in, and complete any intake, assessment, counselling or education program directed by your conditional sentence supervisor. This may include, but is not limited to, counselling or programming for:
 - a. alcohol or drug addiction;
 - b. psychiatric or psychological health.
13. You must complete 20 hours of community work under the direction of your conditional sentence supervisor. Your community work service must be completed by March 15, 2022.
14. You must not possess or use any mobile communication device. The exceptions are as follows:
 - a. You may possess one cell phone that has only one phone number, namely [REDACTED] or such other phone number as approved by your conditional sentence supervisor.
 - b. You must not use or possess more than one SIM card for the phone as referenced above.
 - c. You must provide your conditional sentence supervisor with the cell phone number and service provider and not change it without the prior written permission of your conditional sentence supervisor. A peace officer may obtain the number from your supervisor.
 - d. You must keep a history of and not delete your call and text usage; and upon the request of a peace officer, you must give them access to any cell phone in your possession so they can verify compliance with this condition.
15. You must not possess drug paraphernalia that is suitable for the sale or consumption of drugs that have not been prescribed for you. The exceptions are as follows: When you are at the government-authorized overdose prevention or safe consumption site, or during work as an employee or facility-approved volunteer at a medical or drug treatment facility.
16. When first reporting to your conditional sentence supervisor, you must provide them with the address where you live and your phone number. You must not change your address or phone number without prior written permission from your supervisor.

[70] The terms of the 12 month probation order to follow the conditional sentence are as follows:

1. You must keep the peace and be of good behaviour.
2. You must appear before the court when required to do so by the court.
3. 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 Probation Officer of any change of employment or occupation.
4. You must report in person to a probation officer at Surrey South Community Corrections at 102-14245 56th Ave Surrey, B.C. (604-502-5330) within two business days after the completion of your conditional sentence unless you have obtained, before the completion of your conditional sentence, written permission from the probation officer to report elsewhere or within a different time frame. After that, you must report as directed by your officer.
5. 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 prior written permission from your officer.
6. You must not possess or consume alcohol, drugs or any other intoxicating substance, except with a medical prescription.
7. You must provide your probation officer with the details of your employment status. You must inform your officer within two business days of any change in your employment status.
8. You must attend, participate in, and complete any intake, assessment, counselling or education program directed by your probation officer. This may include, but is not limited to, counselling or programming for:
 - a. alcohol or drug addiction;
 - b. psychiatric or psychological health.
9. You must not possess or use any mobile communication device. The exceptions are as follows:
 - a. You may possess one cell phone that has only one phone number, namely [REDACTED] or such other phone number as approved by your probation officer.
 - b. You must not use or possess more than one SIM card for the phone as referenced above.
 - c. You must provide your probation officer with the cell phone number and service provider and not change it without the prior written permission of your officer. A peace officer may obtain the number from your probation officer.
 - d. You must keep a history of and not delete your call and text usage; and upon the request of a peace officer, you must give them access to any cell phone in your possession so they can verify compliance with this condition.

10. You must not possess drug paraphernalia that is suitable for the sale or consumption of drugs that have not been prescribed for you. The exceptions are as follows: When you are at the government-authorized overdose prevention or safe consumption site, or during work as an employee or facility-approved volunteer at a medical or drug treatment facility.

[71] In addition, I impose the following ancillary orders:

- 1) That Ms. Flintroy is prohibited from possession of weapons, as that term is defined in s. 109(2) of the Criminal Code, for a period of 10 years.
- 2) Ms. Flintroy will provide a DNA sample in accordance with the protocol set out In the Criminal Code as a result of secondary designated offence pursuant to s. 487.04 and 487.051(3) of the Criminal Code.

"Crossin J."

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