

CANADA / JUDGMENT

R. v. Grantham

2022 BCSC 1827

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2022 BCSC 1827 R. v. Grantham

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Grantham,

2022 BCSC 1827

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v.

Ryan Grantham

Before: The Honourable Madam Justice Ker

Oral Reasons for Judgment

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T. Armstrong

Place and Date of Hearing:

Vancouver, B.C.

March 9, 2022

June 13-15, 2022

Place and Date of Judgment:

Vancouver, B.C.

September 20, 2022

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- [1] These Reasons for Sentence were delivered as oral reasons. They have since been edited for distribution.

Introduction

- [2] Ryan Grantham is before the Court for sentencing following his guilty plea to one count of second-degree murder contrary to s. 235(1) of the Criminal Code, R.S.C. 1985, c. C-46 [Code]. Mr. Grantham entered his guilty plea on March 9, 2022. The sentencing hearing was conducted from June 13-15, 2022. The charge relates to the murder of his mother, Barbara Waite.
- [3] To briefly summarize, the offence occurred in the early evening of March 31, 2020, inside the townhouse that Ms. Waite and her son shared in Squamish, BC. After having played a boardgame with his mother, Mr. Grantham went up to his bedroom. Ms. Waite remained in the living room area located on the main floor of the residence, working on her computer and then turning her attention to playing the piano keyboard.
- [4] At approximately 6:45 p.m., Mr. Grantham came part-way downstairs and sat on the stairs listening to his mother play the piano. He was armed with a .22 calibre rifle. Ms. Waite had her back to her son and continued to play the piano keyboard, unaware of what her son was doing. Over the next 10-15 minutes, Mr. Grantham vacillated back and forth in his mind, telling himself "Don't do this, do it." Mr. Grantham then stood up, raised his .22 rifle, pointed it at his mother, sighting the crosshairs to the back of his mother's head. Mr. Grantham then removed the safety from the rifle, closed his eyes, pulled the trigger, and fired one shot. Ms. Waite was killed as a result of this one shot to the back of her head. She fell from her chair, dropped on the floor and was left in that position with blood seeping from the fatal wound to her head.
- [5] After shooting his mother, Mr. Grantham went back up to his bedroom. In his statement to the police he described himself as "freaking out". After writing in his journal for several minutes, outlining his thought processes, Mr. Grantham grabbed his GoPro video camera and started filming himself, narrating what he had done. This included going back downstairs to film the scene and narrate what the video depicted. This video, as well as two other short video clips from the days preceding the offence, was played at the sentencing hearing.
- [6] After filming the scene, Mr. Grantham left the townhouse to obtain various items including money, gasoline and marijuana from businesses in the area. He returned to the home, watched Netflix for a period of time, and made some Molotov cocktails. Mr. Grantham stayed in the townhouse overnight. He called no one.

- [7] The next day, Mr. Grantham packed up his car with survival gear, three firearms and his homemade Molotov cocktails. He began to drive to Ontario as he planned to kill the Prime Minister. By the time he got to Hope, British Columbia, Mr. Grantham changed his mind about going to Ontario. He then considered killing others in a mass shooting spree either up at the Simon Fraser University ("SFU") campus or on the Lions Gate Bridge, and also considered killing himself. In the end, he drove to the Vancouver Police Department ("VPD") office on Graveley St. and turned himself in to an officer. He was arrested and subsequently provided a full confession to the police. He has been detained in custody since his surrender and arrest on April 1, 2020.
- [8] Pursuant to s. 235(1) of the Code, the offence of second-degree murder carries a mandatory sentence of life imprisonment with no eligibility for parole for at least 10 years. The sole issue before the Court on this sentencing is the determination of the appropriate period of parole ineligibility.
- [9] To be clear, Mr. Grantham will be subject to a life sentence--that means supervision for the rest of his life. The decision today on parole ineligibility simply sets the time frame for when Mr. Grantham can apply for parole. Whether Mr. Grantham actually obtains parole is a decision for the Parole Board of Canada ("PBC") to make when they assess his suitability for release a number of years from now: *R. v. Danjou*, 2020 BCSC 1820 at para. 10; citing *R. v. Meers*, 2018 BCSC 465 at para. 12.
- [10] Many things can change in the intervening lengthy period of time between the commission of an offence, sentencing for the offence, and an eventual application for release made many years after the offence. Most significantly, when finally before the PBC seeking parole, the onus will be on Mr. Grantham to establish that he does not represent a danger to the public and that his continued incarceration is no longer necessary.
- [11] This point was recently confirmed by the Supreme Court of Canada in *R. v. Bissonnette*, 2022 SCC 23, where Chief Justice Wagner writing for a unanimous Court, observed at para. 41:
- [41] There is no guarantee that offenders will be granted parole when their ineligibility period expires (*R. v. Shropshire*, 1995 CanLII 47 (SCC), [1995] 4 S.C.R. 227, at para. 34; *M. E. Campbell and D. Cole*, "Sentencing and Parole for Persons Convicted of Murder", in *D. Cole and J. Roberts*, eds., *Sentencing in Canada: Essays in Law, Policy and Practice* (2020), 183, at pp. 185-87). Offenders must prove to the Board that they no longer represent a danger to society and that it is therefore no longer necessary to keep them in custody (Conditional Release Act, s. 102). Parole is a statutory privilege and not a right (*Nur*, at para. 98).
- [Emphasis added.]
- [12] Furthermore, if and when parole is granted, it does not mean the end of the sentence imposed. It is a life sentence. As such, someone like Mr. Grantham, if and when released on parole, nevertheless remains under supervision. Chief Justice Wagner explained this point in *Bissonnette* at para. 89 as follows:

The idea that parole puts an end to an offender's sentence is a myth. Conditional release only alters the conditions under which a sentence is served; the sentence itself remains in effect for its entire term, that is, until the offender's death (M. (C.A.), at para. 57). An offender who is granted parole "still carries the societal stigma of being a convicted offender who is serving a criminal sentence" (M. (C.A.), at para. 62). Moreover, an offender who is granted parole on the basis that they no longer pose a danger to society remains "under the strict control of the parole system, and the offender's liberty remains significantly curtailed" (M (C.A.), at para. 62). The threat of reincarceration -- should a condition be breached -- hangs over the offender at all times (Conditional Release Act, s. 135). Contrary to popular belief, "[a] person on parole is not a free man" (R. v. Wilmott, 1966 CanLII 222 (ON CA), [1967] 1 C.C.C. 171 (Ont. C.A.), at p. 181).

[Emphasis added.]

- [13] The Crown seeks a period of 17-18 years' parole ineligibility in light of the exceptional aggravating circumstances that the Crown contends exist in this case. These include the nature of the commission of this offence - essentially a planned murder which also contemplated the killing of others through a mass shooting. Aggravating factors contended by the Crown also include the future dangerousness that Mr. Grantham appears to present due to the mental health issues that played a role in the commission of this offence.
- [14] The defence submits that given the circumstances of the commission of this offence and the background and character of this particular offender - including numerous mitigating circumstances - that the period of parole ineligibility ought to be set at 12 years. The defence emphasizes that while Mr. Grantham was experiencing significant mental health difficulties at the time of the offence, he has made substantial progress through continued counselling since his arrest and detention. This progress is documented in the materials filed at the sentencing hearing. As such, he does not present a heightened risk of future dangerousness that necessitates an unduly elevated period of parole ineligibility.
- [15] The nature of the offence and the circumstances surrounding its commission are disturbing, heartbreaking, and tragic on multiple levels. Ms. Waite and her son had a close and loving relationship. Ms. Waite was probably Mr. Grantham's biggest champion and was vigilant in her protection of him as he ventured into acting in the film industry at the very young age of six years old.
- [16] One thing she did not tolerate was her son's use of, indeed obsession and addiction to, consuming cannabis. In 2016, she sent him to counselling, and for a period of time it appeared to work. However, by the Fall of 2019, Mr. Grantham had fallen back into smoking significant and increasing amounts of cannabis. According to an entry in his journal on October 20, 2019, his mother "called [him] out for being high after smoking" and told him he needed "to have positive coping mechanisms for [his] depression instead of relying on negative ones like substance reliance." [1] While Mr. Grantham appeared to acknowledge in his journal that he needed to go back to counselling for his issues with cannabis use, he did not do so. Rather, he continued to smoke substantial amounts of cannabis and withdrew

further into himself.

- [17] In the Fall of 2019, Mr. Grantham entered his fourth year of studies at SFU.
- [18] Despite his enrolment at SFU, Mr. Grantham's attendance at his classes started to decline, and by early 2020 had all but stopped as he spiraled into what he described as a very dark place. His decline is documented in the journal that he started to keep in the Fall of 2019. The first entry is from September 11, 2019 when he purchased the journal. His last entry is from April 1, 2020, after the murder of his mother and seemingly before he set out on his cross-country odyssey in pursuit of his impulsive plan to kill the Prime Minister.
- [19] The materials filed at the sentencing hearing provide the context to this offence. Mr. Grantham was slowly spiraling further into a major depressive episode. He did not know how to reach out for help. And, he seemed adept at hiding his difficulties from everyone who knew and interacted with him. That perhaps is one of the true related tragedies of this case. Though his mother seemed to have noticed an element of depression, as noted in the above-mentioned journal entry, Mr. Grantham appeared fine, if not a bit withdrawn and aloof, to others. However, nobody appears to have been aware of how far Mr. Grantham had become detached from his usual polite, quiet and caring demeanour - including Mr. Grantham himself.
- [20] Victim impact statements were provided by Ms. Waite's daughter, her future son-in-law, and her two sisters. They speak to the enormous tragedy of Ms. Waite's death and the unending grief, anger and fear that they now live with, and likely will continue to live with for years to come.
- [21] Mr. Grantham's decision to take the life of his mother must be met with a denunciatory sentence that represents "a symbolic, collective statement that the offender's conduct should be punished for encroaching on our society's basic code of values as enshrined within our substantive law": *R. v. Atwal*, 2006 BCCA 493 at para. 21, citing *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500 at para. 81. It must not, however, be so crushing as to extinguish any prospect or hope of rehabilitation. It must be an individualized sentence that is proportionate to the gravity of this offence and the moral blameworthiness of this offender: *Bissonnette*, at paras. 49 - 51.

The Legal Framework

The general principles engaged in setting parole ineligibility periods

- [22] Pursuant to ss. 745(c) and 745.4 of the Code, where an offender is convicted of second-degree murder, the court may set the period of parole ineligibility between 10 and 25 years. The legal framework is not in dispute in this case; where Mr. Grantham falls on the wide spectrum of parole ineligibility is what is at issue.
- [23] In the leading case of *R. v. Shropshire*, [1995] 4 S.C.R. 227, Justice Iacobucci, writing for the Court, held at para.18:

The determination under s. 744 [now s. 745.4] is thus a very fact-sensitive process. The factors to be considered in fixing an extended period of parole ineligibility are:

- (1) the character of the offender;
- (2) the nature of the offence; and
- (3) the circumstances surrounding the commission of the offence;

all bearing in mind the discretionary power conferred on the trial judge.

- [24] Parole ineligibility is part of the punishment and an important element of the sentencing in the context of an offence for second-degree murder: *Bissonnette* at para. 58; *R. v. Bhandher*, 2010 BCSC 1812 at para. 3; *R. v. Reiersen*, 2007 BCSC 541 at para. 4.
- [25] As noted above, s. 745.4 of the Code sets out the factors for consideration in determining whether to increase the period of parole ineligibility beyond 10 years. As Mr. Grantham's case involved a guilty plea, there was no trial and therefore no s. 745.2 jury recommendation to consider.
- [26] When imposing a sentence in a criminal case, judges must exercise their discretion judicially. This means they must apply the governing principles set out by the Code and the case law, assess all the circumstances, and weigh and balance a host of competing principles and objectives. They also must consider the aggravating and mitigating factors, the range of sentences established in the case authorities, the moral blameworthiness of the offender, and any other relevant circumstances. Informed by those various factors and considerations, the sentencing judge then determines the just and appropriate sentence for the case. Top of mind during this process is the overarching principle that a "sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender": s. 718.1 of the Code; *R. v. Nasogaluak*, 2010 SCC 6 at paras. 43-44. The rule of law strictly requires the sentencing judge to operate within these parameters of principles, objectives of sentencing, and case law guidelines.
- [27] The purpose and principles of sentencing outlined in ss. 718, 718.1, and 718.2 of the Code remain relevant in setting the period of parole ineligibility under s. 745.4. Proportionality, the primary animating principle of sentencing, is informed by the parity principle and need for individualization in sentencing. Or, as Professor Lisa Silver so eloquently noted in her August 18, 2022 case comment on "Placing Parity in Perspective" it is "the synergy between parity and individualization that promotes proportionality and ensures the sentence is a fit one."^[2]
- [28] In *Bissonnette*, at para. 50, Chief Justice Wagner provided a succinct recapitulation of the proportionality principle, stating:

sentencing must in all circumstances be guided by the cardinal principle of proportionality. The sentence must be severe enough to denounce the offence but must not exceed "what is just and appropriate, given the moral blameworthiness of the offender and the gravity of the offence" (*R.*

v. Nasogaluak, 2010 SCC 6, [2010] 1 S.C.R. 206, at para. 42; see also R. v. Ipeelee, 2012 SCC 13, [2012] 1 S.C.R. 433, at para. 37). Proportionality in sentencing is considered to be an essential factor in maintaining public confidence in the fairness and rationality of the criminal justice system. The application of this principle assures the public that the offender deserves the punishment received (Re B.C. Motor Vehicle Act, 1985 CanLII 81 (SCC), [1985] 2 S.C.R. 486, at p. 533, per Wilson J., concurring).

- [29] The parity principle, which requires sentencing judges to impose "sentences similar to sentences imposed on similar offenders for similar offences in similar circumstances", is enumerated in s 718.2(b) of the Code. Treating like cases alike is a discrete sentencing requirement and is also a necessary means of achieving proportionate sentences.
- [30] While the gravity of the offence may be constant, individual offenders vary, therefore no two cases will ever be the same. Similarities or differences between cases is simply a matter of degree. Thus, the question in sentencing remains this: does the sentence reflect the gravity of the offence, the degree of responsibility of the offender, and the unique circumstances of each case: R. v. Parranto, 2021 SCC 46 at paras. 9-12; Bissonnette, at paras. 49 - 51.
- [31] Finally, the principle of retribution also informs the sentencing objectives in a case such as this one. Retribution, which is neither vengeance nor denunciation, requires a sentence to "properly reflect the moral blameworthiness of the particular offender": R. v. Dolman, 2017 BCSC 2564 at para. 11; M. (C.A.), at para. 80.
- [32] The sentencing objectives to be considered when increasing parole ineligibility above the statutory minimum of 10 years includes denunciation, deterrence, and the offender's prospects for rehabilitation: Shropshire, at para. 25, citing R. v. Lyons, [1987] 2 S.C.R. 309 at para. 52; Bissonnette, at paras. 45-49; R. v. Bennight, 2012 BCCA 461 at para. 18; R. v. Purdy, 2012 BCCA 272 at para. 21. As well, a factor related to the objective of rehabilitation is the need to consider the future dangerousness of the offender: Purdy, at paras. 23-26.
- [33] The objectives of denunciation and deterrence have been repeatedly explained in the sentencing jurisprudence, most recently at the Supreme Court of Canada in Bissonnette, at paras. 46-47.
- [34] In so far as the rehabilitation of the offender is concerned, Chief Justice Wagner had this to say about the important objective of rehabilitation to sentencing at para. 48 of Bissonnette:
- [48] Lastly, the objective of rehabilitation is designed to reform offenders with a view to their reintegration into society so that they can become law-abiding citizens. This penological objective presupposes that offenders are capable of gaining control over their lives and improving themselves, which ultimately leads to a better protection of society. M. Manning and P. Sankoff note that rehabilitation "is probably the most economical in the long run and the most humanitarian objective of punishment" (Manning, Mewett & Sankoff: Criminal Law (5th ed. 2015), at ¶1.155). Along the same lines, I would reiterate my comment in R. v. Lacasse, 2015 SCC 64, [2015] 3 S.C.R. 1089, that "[r]ehabilitation is one of the fundamental

moral values that distinguish Canadian society from the societies of many other nations in the world" (para. 4).

- [35] It is critical to understand, particularly in the context of sentencing in cases involving second-degree murder, that sentencing is a fact-sensitive process and each case is unique. The jurisprudence makes it clear that sentencing strives for individualization within the context of general principles. However, as Justice Donald explained in *R. v. Cerra*, 2004 BCCA 594, the appropriate range of sentence should be assessed considering other similar sentencing decisions (the parity principle):
- [17] It has often been said that sentencing is an individualized process and comparisons with other cases are difficult. But difficult as they may be, comparisons must be made when reviewing sentences for fitness. Patterns may emerge from an examination of sentencing decisions. I have discerned a pattern from decisions of this Court suggesting, in broad terms, the following: parole eligibility greater than 10 years is justified when there is some particularly aggravating feature; for a penalty of greater than 15 years, egregious circumstances of a higher order of moral culpability are present. So in this case, the savage and prolonged beating raises the penalty above 10 years eligibility. That much is conceded by Mr. Cerra's counsel who urged us to go no higher than 15 years in adjusting the penalty. The key issue is whether there was something more in this case lifting it into a still higher level of blameworthiness.
- [36] After reviewing a number of authorities, Donald J.A. determined in *Cerra*, at para. 26 that there appeared to be two main "ranges" for parole ineligibility in second-degree murder cases where parole is extended beyond the statutory minimum of 10 years.
- [37] The first elevated range is from 12 to 15 years and represents cases with some particularly aggravating feature: *Cerra*, at paras. 17 and 26.
- [38] The second and more elevated range is from 15 to 20 years. This latter range relates to cases with extremely aggravating facts or egregious circumstances placing the offender at the highest order of moral culpability or dangerousness: *Cerra*, at paras. 17 and 26. Parole ineligibility periods beyond 20 years are usually reserved for exceptional cases: *Cerra*, at para 36 (per Ryan J.A.). It is not engaged in this case.
- [39] In *Bennight*, at para. 18 our Court of Appeal confirmed its earlier decision in *Cerra* that recognized the two broad groupings of cases where parole ineligibility is extended beyond 10 years (periods from 12 to 15 years and periods of 15 to 20 years, with the latter group relating to cases at the highest order of moral culpability or dangerousness).
- [40] *Bennight* is also useful in identifying the general principles that apply when considering whether to impose a period of parole ineligibility above the 10-year minimum. Justice MacKenzie, writing for the Court of Appeal, enumerated the applicable principles at para. 18:

The following principles apply to the decision to impose an extended period of parole ineligibility:

- Under s. 745.4 of the Criminal Code, the sentencing judge must consider the character of the offender, the nature of the offence, the circumstances surrounding the commission of the offence, and the recommendation of the jury (if any).
- The general sentencing principles of denunciation and deterrence and the judge's assessment of the offender's future dangerousness are relevant factors: *R. v. Shropshire*, [1995] 4 S.C.R. 227, 102 C.C.C. (3d) 193.
- Parole ineligibility greater than 10 years is justified when there is some particularly aggravating feature: *Cerra*, at para. 17 (per Donald J.A.).
- There are two broad groupings of cases where parole ineligibility is extended beyond 10 years: parole ineligibility periods from 12 to 15 years and parole ineligibility periods from 15 to 20 years. The latter group of cases relates to cases at the highest order of moral culpability or dangerousness: *Cerra*, at para. 26 (per Donald J.A.).
- The possibility of a parole ineligibility period greater than 20 years remains in exceptional circumstances: *Cerra*, at para. 36 (per Ryan J.A.).
- Orders extending the period of parole ineligibility are highly discretionary and are part of the sentence pursuant to s. 673 of the Criminal Code. Such orders are therefore appealed pursuant to s. 687(1). An appellant court should only interfere with a trial judge's sentencing order if the court is convinced it is not fit or it is clearly unreasonable: *Shropshire*, at paras. 47-48.
- The wide discretion granted to sentencing judges is fettered by the case law and general ranges of sentences for particular offences. However, while courts must consider ranges, they are guidelines rather than strict rules. A sentence outside the regular range is not necessarily unfit, if it is in accordance with the principles and objectives of sentencing: *R. v. Nasogaluak*, 2010 SCC 6, [2010] 1 S.C.R. 206 at para. 44.
- Similarly, the two groups of parole ineligibility cases described in *Cerra* are intended as guidelines, not as binding categories within which a particular case must be placed: *R. v. White*, 2011 BCCA 328 at para. 24.

[41] Of course, the wide discretion granted to sentencing judges is informed by the case law and general ranges of sentences for particular offences. However, while courts must consider ranges, the jurisprudence from the Supreme Court of Canada is clear that "ranges" are guidelines, not hard and fast rules or "straitjackets": *R. v. Lacasse*, 2015 SCC 64 at paras. 57 and 60. Stated another way, ranges are simply "navigational buoys" or a place where the judge can begin their thinking: *Parranto*, at para. 16. So long as the sentence imposed is in accordance with the principles and objectives of sentencing, and is proportionate to the gravity of the offence and the degree of responsibility of the offender, a sentence outside the 'regular range' is not necessarily unfit: *Nasogaluak*, at para. 44; *Lacasse*, at paras. 56-72; *R. v.*

Friesen, 2020 SCC 9 at paras. 37-38, and 108; Parranto, at paras. 16, 42-54 and 205.

- [42] Significantly, in Parranto, at paras. 20, 44 and 47, and more recently, in *R. v. Ellis*, 2022 BCCA 278 at paras. 125-131, judges are reminded that ranges are tied to the gravity of the offence. Put another way, ranges are informed by "the normative wrongfulness of the conduct and the harm posed or caused by the conduct" not the personal characteristics and circumstances of the offender: *Ellis*, at paras. 130-131.
- [43] Described by many jurists as one of the most difficult facets of the criminal law, sentencing is a highly individualized and delicate balancing process that considers numerous competing principles, objectives, and factors: *R. v. Suter*, 2018 SCC 34 at para. 4; *Lacasse*, at para. 1. In Parranto, at para. 9, the majority of the Supreme Court of Canada reiterated that sentencing is "[m]ore of an art than a science, . . . [requiring] judges to consider and balance a multiplicity of factors. . ."
- [44] In the context of sentencing in cases involving murder and parole ineligibility periods, the Supreme Court of Canada reiterated this direction by stating in *Bissonnette*, at para. 49 that ". . . [t]here is no mathematical formula for determining what constitutes a just and appropriate sentence. . .". The Supreme Court has repeatedly described sentencing as a "delicate art which attempts to carefully balance the societal goals of sentencing against the moral blameworthiness of the offender and the circumstances of the offence, while at all times taking into account the needs and current conditions of and in the community": *Bissonnette*, at para. 49, quoting *M. (C.A.)* at para. 91.
- [45] It is important to reiterate that the judicial function in a case such as *Mr. Grantham's* is one of sentencing - not of parole determination. Upon expiry of the parole ineligibility period, it still remains for the parole authorities to determine the offender's suitability for release: *Bissonnette*, at para. 41; *Danjou*, at para. 10; *Bhandher*, at para. 8; *Reierson*, at para. 5.

The onus of proving aggravating and mitigating circumstances

- [46] Although perhaps trite law, it bears repeating that the onus is on the Crown to prove aggravating circumstances beyond a reasonable doubt, and on the defence to prove mitigating circumstances on a balance of probabilities: s. 724(3)(d) and (e) of the Code. These principles are engaged in respect to the role of *Mr. Grantham's* mental health in this case.
- [47] The Crown contends that the overall portrait to be gleaned from the totality of the evidence is that *Mr. Grantham's* mental health issues, while mitigating in some respects, present a concern as to a considerable risk for future dangerousness, and thus are also an aggravating factor.

- [48] The defence contends that the mental health issues engaged in this case establish that Mr. Grantham's mental illness at the time of the offence contributed to the commission of the offence and therefore reduces his moral blameworthiness. Viewed from this perspective, argues the defence, Mr. Grantham's mental health difficulties at the time of the offence should be considered a mitigating factor.

The role of mental illness in the commission of the offence

- [49] The legal principles and jurisprudence on the role of mental illness short of a designation of not criminally responsible by reason of mental disorder ("NCRMD") are clear - simply because an offender was suffering from a mental illness at the time of the offence does not automatically constitute a mitigating factor that reduces the offender's moral culpability or moral blameworthiness: *R. v. Milne*, 2021 BCCA 166 at para. 45; *R. v. Badhesa*, 2019 BCCA 70 at paras. 35, 43-44; *R. v. Penttila*, 2020 BCCA 63 at para. 68. Instead, the sentencing judge must determine, on the whole of the evidence, whether, and to what extent, the mental illness contributed to the commission of the offence and as such whether it reduces the offender's moral blameworthiness: *R. v. Merkel*, 2021 BCCA 445 at paras. 52-55; *Milne*, at paras. 45-48; *Penttila*, at para. 68; *Badhesa*, at paras. 40 and 43-44.
- [50] For an offender's "mental health issues to be considered a mitigating factor in sentencing, the offender must show a causal link between their illness and their criminal conduct": *R. v. Fabbro*, 2021 ONCA 494 at para. 25. In short, the illness must be an underlying reason for the conduct.
- [51] The authorities have repeatedly affirmed that there needs to be detailed and specific evidence to establish and understand the relationship between an underlying mental health disorder and criminal behaviour: *Merkel*, at paras. 48-49, 51, 53 and 55; *Milne*, at para. 46-49; *Penttila*, at paras. 68-69 and 74; *Badhesa*, at paras. 40 and 43-44; *Fabbro*, at para. 25. Where the causal link is not established as between the offender's mental illness and the commission of the offence, moral culpability cannot be reduced: *Merkel*, at paras. 53-55; *Milne*, at paras. 46-48; *Badhesa*, at para. 43, citing *Friesen*, at para. 25; *Fabbro*, at para. 25.
- [52] The decision in *Fabbro* is illustrative of the type of evidence that will establish the causal link necessary for mental health issues to be considered a mitigating factor. In *Fabbro*, the offender pleaded guilty to a number of offences, including carrying a weapon (a sawed-off shotgun) for a purpose dangerous to the public peace. The offence unfolded through a routine traffic stop whereupon the offender placed the shotgun in his mouth and an hours-long standoff ensued, but ended peacefully. The offender had the shotgun for the intention of dying by suicide and was certified under Ontario's Mental Health Act when he was arrested. The offender had significant mental health issues and a longstanding substance use disorder, which began when he was prescribed opioids to deal with pain from a motor vehicle accident. When doctors stopped his prescription, he turned to illegally produced drugs.

- [53] Following the offence, the offender undertook a significant amount of treatment and counselling while on bail. Defence counsel sought a Conditional Sentence Order ("CSO") but the sentencing judge denied it, instead imposing a sentence of two years less a day imprisonment to emphasize the primacy of the objectives of deterrence and denunciation. The Ontario Court of Appeal concluded that the sentencing judge erred in failing to consider the role of the offender's mental health challenges in the commission of the offence, and so erred in failing to impose a CSO: *Fabbro* at paras. 20, 27 and 31.
- [54] The Ontario Court of Appeal in *Fabbro* noted there was ample evidence of the causal link between the offender's mental health issues and the commission of the offence at para. 26:
- [26] While the sentencing judge acknowledged the appellant's addiction and mental health challenges, he did not consider whether there was a causal link between them and the offences. He was required to determine the extent to which those matters contributed to the appellant's conduct and the impact of that finding on the appropriate sentence: *R. v. Ellis*, 2013 ONCA 739, 303 C.C.C. (3d) 228, at para. 116, leave to appeal refused, [2014] S.C.C.A. No. 53. There was ample evidence of that causal link in the: two pre-sentence reports; medical records which included the appellant's attempts to get treatment at the Sault Area Hospital in the months leading up to the incident; and, reports from Dr. Pistor (psychiatrist), John Mertes (therapist), and Frank Perri (social worker). The conclusion that there was such a causal link is virtually inescapable on the evidence: the appellant wanted to commit suicide (using the shotgun) because of his addictions, his unresolved mental health issues, and the ensuing breakdown of his life. That the appellant's mental health problems and addiction played a central role in the offences is borne out by the appellant's conduct once on bail and being treated. He abided by strict bail conditions for over two years without a breach and fully complied with the rules and regulations of the John Howard Society Bail and Supervision Program.
- [55] I conclude this review of the general principles of sentencing by returning to the fundamental principle of proportionality. In *R. v. Pham*, 2013 SCC 15, the Supreme Court of Canada discussed proportionality and its interplay with the sentencing objectives and other principles at paras. 7-8:
- [7] LeBel J. explained proportionality as follows in *R. v. Ipeelee*, 2012 SCC 13, [2012] 1 S.C.R. 433, at para. 37:

Proportionality is the sine qua non of a just sanction. First, the principle ensures that a sentence reflects the gravity of the offence. This is closely tied to the objective of denunciation. It promotes justice for victims and ensures public confidence in the justice system. . . . Second, the principle of proportionality ensures that a sentence does not exceed what is appropriate, given the moral blameworthiness of the offender. In this sense, the principle serves a limiting or restraining function and ensures justice for the offender. In the Canadian criminal justice system, a just sanction is one that reflects both perspectives on proportionality and does not elevate one at the expense of the other.

- [8] In addition to proportionality, the principle of parity and the correctional imperative of sentence individualization also inform the sentencing process. This Court has repeatedly emphasized the value of individualization in sentencing: Ipeelee, at para. 39; R. v. Wust, 2000 SCC 18, [2000] 1 S.C.R. 455, at para. 21; R. v. M. (C.A.), [1996] 1 S.C.R. 500, at para. 92. Consequently, in determining what a fit sentence is, the sentencing judge should take into account any relevant aggravating or mitigating circumstances (s. 718.2(a) of the Criminal Code), as well as objective and subjective factors related to the offender's personal circumstances.
- [56] I will consider all these principles as I proceed with my analysis.
- [57] Before discussing the character and background of Mr. Grantham, I will turn first to consider the other two statutory factors enumerated in s. 745.4 of the Code --the nature of the offence and the circumstances of its commission. I will then address the impact of this offence on the victims and then address the background and character of the offender.

Nature of the Offence and Circumstances of Its Commission

- [58] The nature of the offence and the circumstances of its commission are detailed in Exhibit ("Ex.") #1 and the admissions of fact, filed at the sentencing hearing and read into the record. I do not propose to repeat them in full. They are established facts that I have considered in my determination of what constitutes a fit sentence in this case.
- [59] The circumstances surrounding the commission of this offence are disturbing, heartbreaking and extremely tragic. In many respects, this case lies far closer to first-degree murder than manslaughter when one views it within the full range of culpability on the overall homicide spectrum. Mr. Grantham had been having violent thoughts for months. These thoughts progressed to ruminating about killing others. The evolution of his thoughts is outlined in his journal that was marked Ex. #3 on this sentencing.
- [60] The evidence and admitted facts establish that by March 29, 2020, Mr. Grantham had articulated in writing that he was going to kill his mother. However, he also wrote that he had been going back and forth on the issue and had already loaded his .22 rifle in the house three times. Confirming this point are two video clips - video 180 and video 181, both part of Ex. #4 - that depict Mr. Grantham doing what appears to be practice runs with a rifle in his home. The videos are chilling.
- [61] Prior to March 31, 2020, Mr. Grantham had been thinking about killing his mother but had always managed to pull himself back from following through with those thoughts. Regrettably, on March 31, 2020 he gave in to his darker thoughts.
- [62] The events leading up to the shooting are outlined as follows at paras. 35-38 the admissions of fact (Ex #1):

- [35] In the afternoon of March 31, 2020, Ms. Waite went for a bike ride while Mr. Grantham stayed home and smoked marijuana. At some point after Ms. Waite returned, she and Mr. Grantham played a boardgame together. After their game Ms. Waite used her computer and then began playing piano in the living room.
- [36] Mr. Grantham had gone upstairs after their game. He began unloading and reloading the .22 Rifle. He was "freaking out" and pacing back and forth upstairs.
- [37] At approximately 6:45 p.m. Mr. Grantham went midway down the stairs. Ms. Waite was playing piano with her back towards him. Mr. Grantham sat there for 10 to 15 minutes. He spent some time going back and forth in his head, thinking "Don't do this, do it". He then got up, raised the .22 Rifle and pointed it at Ms. Waite, putting the crosshairs at the back of her head. He turned the safety off, closed his eyes and pulled the trigger. When asked why he picked this moment to do it, Mr. Grantham said ".it allowed me to do it in a way that she never saw it coming". Ms. Waite fell onto the piano and then the floor.
- [38] Mr. Grantham immediately went upstairs. He could hear a chord playing from where Ms. Waite had fallen onto the piano. He began "freaking out". He wrote in the Journal for 5 to 10 minutes. He then recorded himself with the Go Pro Camera (Video 18[4], referenced above). He felt like he was "acting in my voice. Like I was pushing to sound more sad, and it freaked me out Cause for a long time I've uh wondered if I feel uh, emotions in the same way that other people do".
- [63] It would be fair to say that Video 184, made in the immediate aftermath of the shooting of Ms. Waite, is disturbing for at least two reasons. First, the narrator, Mr. Grantham, initially comes across as detached and exhibiting what mental health professionals might describe as 'a flat affect'. Mr. Grantham acknowledged in his statement to the police that he felt like he was acting in his own voice and pushing his voice to sound sadder. However, upon closer inspection, the incongruity of the situation is fundamentally apparent. Mr. Grantham looks to be both in shock and unravelling psychologically, even though he appears to describe the situation in a clinical, somewhat antiseptic and detached manner. Significantly, the shakiness of the handheld video clip presents a contradiction between the seeming absence of emotion in Mr. Grantham's voice and his efforts to control his emotions. The quality of the video, as evidenced in its shakiness, tends to confirm my assessment that Mr. Grantham's reaction to the offence was one of shock and unravelling psychologically.
- [64] What few may have noticed during the sentencing hearing, but was readily apparent to the Court, was Mr. Grantham's demeanour when this video clip of the aftermath of the shooting was played for the Court. Mr. Grantham did not sit there stone-faced and emotionless. Rather he physically withdrew, and by that, I mean he shrank, appeared to crumble and was possibly crying. I was not left with the impression that this was an act or performance on his part. His distress over what he has done, having to relive it in the courtroom during the sentencing hearing, and having his family relive it, was palpable and appeared genuine.

- [65] After he finished filming the scene with the GoPro Camera, Mr. Grantham did the following, as outlined in the admissions of fact in Ex. #1:
- [39] At 7:16pm, Mr. Grantham put the .22 Rifle in the Vehicle. He then went to a nearby VanCity Credit Union where he withdrew \$200. A few minutes later he went to Sky High Cannabis dispensary and purchased marijuana. He went to a gas station and filled up his vehicle and a jerry can with gasoline. He then went to the Sea to Sky Beer and Wine store and purchased a box of Sleeman beer.
- [40] Mr. Grantham returned home and began drinking beer and smoking marijuana. He experimented with making Molotov cocktails using the gas in the jerry can and bottles from the garage. Mr. Grantham then sat on the couch in the living room, 10 feet away from where Ms. Waite lay on the floor. He watched Netflix for eight to ten hours then went to bed.
- [41] At some point before going to sleep Mr. Grantham partially covered Ms. Waite's body with a bed sheet.
- [66] Mr. Grantham arose on April 1, 2020, had breakfast, and then loaded his vehicle with his shotgun, .22 rifle, and four of the twelve Molotov cocktails he made the night before. He explained to the officer who interviewed him later on April 1, 2020, that he had the guns with him to kill himself or others if he got into a situation he could not get out of.
- [67] Mr. Grantham drove to a remote location to test a Molotov cocktail. He explained to the interviewing police officer that he wanted to do a trial run and made a comment about doing a mass shooting.
- [68] After the test run of throwing the Molotov cocktail, Mr. Grantham returned to the townhouse. It was at this point he decided to travel to Ottawa to kill the Prime Minister. Mr. Grantham explained in his confession that as the Prime Minister was the most important person in Canada, then his killing the Prime Minister would be an instance of him doing something to make a big impact.
- [69] Mr. Grantham proceeded to make a list of supplies that he had or needed to obtain to survive in the wilderness and on his cross-country trek. He then went out to a Canadian Tire store to purchase the items he needed.
- [70] Upon his return to the townhouse, Mr. Grantham spent several hours packing, and loaded his vehicle with three firearms, ammunition, his homemade Molotov cocktails, blankets and survival items. Mr. Grantham made a playlist for his drive, had what he believed was his last shower, and then hung rosary beads on the piano so they would dangle over his mother's body. He lit candles, read from a prayer book and said a few Hail Marys. Mr. Grantham's explanation to the interviewing officer for why he did this acknowledged that these actions made no sense.

- [71] Mr. Grantham also left a note (the "Note") on the piano for whomever found his mother's body. It was his intention that the police find her, not his sister. The Note was marked as Ex. #6.
- [72] Crown counsel contends that the Note contains a performative element to it. While in some respects the Note is dramatic - indeed theatrical - I am not prepared to infer that the Note, and the reason for it, possesses the more negative attributes that such a characterization connotes. The Note must be taken in context: it was a note written by a very troubled, isolated, lonely and depressed young man. Having murdered his mother, Mr. Grantham's thought processes and emotions at the time were far from clear, rational or logical when the Note was written.
- [73] Mr. Grantham then left the townhouse and started to drive east towards Ottawa. He smoked cannabis. As he drove east, he started to have second thoughts about killing the Prime Minister. He did not go beyond Hope.
- [74] At Hope, Mr. Grantham turned around and headed back towards Vancouver, deliberating what to do next. Wrestling with his thoughts, he contemplated whether or not to engage in a mass shooting - either at SFU or on the Lions Gate Bridge - and, or, die by suicide.
- [75] In the end, Mr. Grantham went up to SFU, smoked some marijuana, looked up the VPD address, then drove to the VPD's Gravelly St. office. Upon arrival, Mr. Grantham again contemplated suicide or engaging in a random mass shooting at the police station. Ultimately, he turned himself in to a police officer sitting in a nearby marked police vehicle.
- [76] A search of Mr. Grantham's vehicle, documented in the photographs in Ex. #2 and outlined in the admissions of fact at para.15, establishes that Mr. Grantham had a veritable arsenal with him, including:
- a plastic cooler containing 12 Molotov cocktails made from clear beer bottles, gasoline and cloth rags;
 - one camo style rifle case containing a .308 calibre rifle, loaded, with no trigger lock;
 - one orange rifle case with a 12-gauge shotgun, loaded, with no trigger lock; and
 - one .22 calibre rifle, loaded, and associated ammunition.
- [77] While the nature of the offence is shocking and exceedingly grave, and the circumstances of its commission are serious and very concerning, they cannot be divorced from the greater context of Mr. Grantham's isolation and mental deterioration. Mr. Grantham's fragile mental state during this time significantly informs the circumstances of the commission of the offence and, respectfully, place it in a less ominous light.
- [78] I wish to be clear that I am not diminishing the significance of the indicia of calculated conduct, but it was calculated conduct that was the product of a mind clouded by a significant measure of mental distress. Moreover, the post-offence conduct of thinking of

killing the Prime Minister and, or, engaging in a mass shooting -all the while contemplating suicide - were senseless and fairly impulsive ideas propagated in a mind that was not functioning logically or rationally. Describing these ideas as "plans" per se, almost attributes them too much forethought and logic. They were irrational and the product of a young man's mind that was failing him. Furthermore, it appears that Mr. Grantham had consumed a significant amount of cannabis prior to and after the offence, which contributed to his mental state throughout the events surrounding the commission of this offence.

- [79] Fortunately, if there is any saving grace to come out of this whole tragic series of events, it is that Mr. Grantham had enough attachment to reality and psychological comprehension of the internal battle that he was experiencing to realize that where he might next go and what he might do was very dangerous. And, significantly, he elected not to go on a shooting rampage. He instead chose to do the only right thing he could do - turn himself into the police and cooperate with them fully. This took courage and is a concrete example of his willingness to accept responsibility for this horrific offence from the outset.
- [80] The facts as outlined above establish that the gravity of this offence and the circumstances in which it was committed are exceedingly serious, landing at the highest end of the spectrum of seriousness in terms of criminal offences.
- [81] If the gravity of the offence and the circumstances in which it was committed were the only considerations in determining an appropriate sentence, then the period of parole ineligibility would need to be at the upper end of the range. However, the cardinal principle of proportionality is predicated on the consideration of two prongs: (1) the gravity of the offence and (2) the degree of responsibility of the offender. This latter prong relates to the moral blameworthiness or moral culpability of the offender which is informed by the offender's personal characteristics - his character and background.

Victim Impact Statements

- [82] Pursuant to s. 722 of the Code, I have considered the four victim impact statements that were filed in this matter and marked as Ex. #7. Collectively, the statements describe the devastating harm done to, and, the catastrophic loss experienced by Ms. Waite's family and friends as a result of her needless death. As defined in s. 2 of the Code, they are also victims.
- [83] Lisa Grantham read out her victim impact statement in court. Her account was intensely moving and emotional. The remaining three victim impact statements were read in by the Crown. They are equally eloquent letters that speak both to the joy that Ms. Waite brought to the lives of her family and the unfathomable grief and emptiness of the shattered lives they now experience in light of her death. The emotional consequences and devastation wrought by the murder of Ms. Waite have been far-reaching, profound and seemingly unending.
- [84] Despite Mr. Grantham's hope and seemingly illogical plan - as expressed in the Note he left on the keyboard - that it not be his sister to find their mother's body, that is exactly what happened. On April 1, 2020, Lisa Grantham had been trying to reach her mother and brother

throughout the day. Unable to reach either, and concerned that something had happened, Lisa and her fiancé, Joey Demeulemeester, left their home in Vancouver at approximately 10:00 p.m. and drove to Ms. Waite's home in Squamish to determine what was wrong.

- [85] At Ms. Waite's home they received no response to their calls or ringing of the doorbell. They proceeded to use their own key to unlock and enter the unlit townhouse. Upon climbing up the stairs to the main level of the townhouse, they discovered a macabre scene - a darkened room with Ms. Waite's lifeless body lying on the floor beside the piano keyboard. She was covered in a sheet, rosaries were hanging from the keyboard and candles were burning on the coffee table and dining room table. They immediately left the townhouse and called the police.
- [86] Compounding the horror of the discovery of Ms. Waite lying on the floor in a pool of her own blood, were several devastating post-investigation undertakings required of Ms. Grantham and Mr. Demeulemeester. For one, they had to clean up the crime scene after the investigators completed their task. In addition, Ms. Grantham had to do numerous other ancillary tasks associated with her mother's death. As she noted in her victim impact statement "[w]ords cannot express how gut wrenching and horrific this has been to go through." I accept what Ms. Grantham says on this point. Indeed, I accept everything Ms. Grantham outlined in her victim impact statement.
- [87] Ms. Grantham has been diagnosed with Post Traumatic Stress Disorder and constantly relives the terror of finding her mother's body. As a result of the trauma, grief, anger and loss that Ms. Grantham has experienced, she is no longer able to work as a commercial real estate lawyer, something she has done since graduating from law school in 2014. Although unsaid in her victim impact statement, I have no doubt Ms. Grantham loved her profession and found a great deal of personal satisfaction in practising in that area of law. She would have worked hard and long hours to get through her studies at law school and to establish herself in this competitive field of law.
- [88] As a consequence of the murder of her mother, Ms. Grantham has been robbed of her ability to practise law at this time. More significantly, she has been robbed of her close relationship with her mother and has completely lost her sense of safety and security.
- [89] The victim impact statements establish how many lives have been profoundly shattered by the senseless death of Ms. Waite. Significantly, the grief that Mr. Grantham has caused by his horrendous act of murdering his mother has had far-reaching and likely unanticipated consequences.
- [90] Another one of the more heartbreaking aspects of this offence was the need for Ms. Waite's two sisters to lie to their mother about how their sister died. Ms. Waite's mother was in long-term care in Cranbrook, British Columbia. Ms. Waite was an integral component of the support and care given to her mother, who suffered from dementia. To protect their mother, Ms. Waite's sisters repeatedly had to lie about how Ms. Waite had died. I accept that such a

course of conduct was done to protect their mother. However, I have no doubt that this course of conduct was antithetical to their own values, and came at considerable personal cost to their own mental health and ability to process and grieve the horrendous circumstances of their sister's murder.

- [91] Feelings of anger, betrayal, profound sadness, worthlessness and an utter loss of any sense of safety and security are among the emotions that spring from the victim impact statements in this case. I accept all the victim impact statements as to their illustration of the very significant physical and psychological losses suffered by all of the authors.
- [92] Another significant and palpable emotion uniformly expressed in the victim impact statements is fear of Mr. Grantham. It is fair to say that no one saw this coming. No one thought Mr. Grantham was capable of such a cruel and horrifying act. No one saw him struggling with mental health issues, and they do not understand why he did not reach out for help. As a consequence, they question whether they really knew Mr. Grantham. And, they worry that he will remain dangerous and capable of acting violently in the future.
- [93] Understandably, they fear for their own safety. Regrettably, the Court cannot fully allay those fears. No sentence, no matter the length of parole ineligibility imposed, will do that. Rather, it will be time, counselling, accountability, forgiveness and reconciliation that are the mechanisms that will assist in diminishing the fear, loss of sense of security, anger, grief and sadness.
- [94] The reality of cases similar to this one, or any murder case, is that the consequences are multifaceted and far-reaching. The sudden impact of the offence on Ms. Waite's family was devastatingly tragic, and continues to be profound and ceaseless. What was once a tight-knit family, living in relatively close proximity to each other, was abruptly shattered as a result this needless shooting. A daughter has lost an adored mother and best friend; two sisters have lost a cherished sibling; and a young man has lost the relationship he was looking forward to developing over future years with a beloved mother-in-law.
- [95] It is extremely difficult to adequately capture in words the enormity of the tragedy and the widespread consequences wrought by Ms. Waite's senseless and needless death. In *R. v. Hunter*, 2016 BCSC 796, Justice Holmes (as she then was) had this observation about the effects of the offence of murder:
- [43] Murder has powerful and far-reaching effects. Family and friends of the deceased carry the heaviest loads of grief, loss, and regret. But others with no direct association to the deceased find their lives changed also. Members of the community wonder whether they too, or those they care about, may be at risk. The quality of life in the community inevitably declines.
- [96] Those observations are equally apposite here.

- [97] Finally, I wish to add this point. Although I have already stated that any parole ineligibility period that the Court imposes will likely offer little comfort to the victims of this offence, and probably do little to alleviate the current anxiety and fears they have expressed about Mr. Grantham and his potential dangerousness, I reiterate that eligibility for parole is not a right to parole. As the Chief Justice of the Supreme Court of Canada recently noted in *Bissonnette*:
- [44] Victims are taken into consideration in the parole process. To determine whether an offender presents an "undue risk to society" (Conditional Release Act, s. 102), the Board is to consider, among other things, the nature and gravity of the offence as well as information obtained from victims (s. 101(a)). Victims may apply to attend parole hearings and may present statements to the Board (s. 140(4), (5.1), (5.2) and (10) to (12)). Although such hearings can awaken painful memories for victims and for their loved ones, they do serve to reiterate the suffering an offender has caused and to condemn the acts committed once again (*D. Spencer*, "How Multiple Murder Sentencing Provisions May Violate the Charter" (2019), 55 C.R. (7th) 165).
- [147] Experience has shown that the Board generally proceeds with care and caution before making a decision as important as releasing murderers back into society. The protection of the public is the paramount consideration in the Board's decision-making process, but the Board also takes into account other factors such as the gravity of the offence and its impact on victims. It, perhaps, provides a measure of solace to know that compelling evidence of rehabilitation will be demanded before the perpetrators of such crimes will be released on parole.

Background and Character of the Offender

- [98] Mr. Grantham is now 23 years of age. He was 21 years old when he murdered his mother. Mr. Grantham's parents separated shortly after he was born. He has one older sister, Lisa Grantham. Although they had a positive relationship, there were aspects of a disconnect due to the fact that Mr. Grantham's sister is 10 years older than him.
- [99] Mr. Grantham's mother was, in effect, a single parent who provided a stable and loving home for her children.
- [100] Mr. Grantham's relationship with his father is more complicated. He did not have a relationship with his father for significant parts of his formative years. He outlined experiencing psychological and verbal stress from his relationship with his father when he was younger. Issues of abandonment, coupled with feelings of inadequacy, marred Mr. Grantham's youth. Prior to the commission of this offence, Mr. Grantham had not seen his father in person for about five years and had had no telephone contact for about two to three years prior to his arrest.

- [101] Mr. Grantham is a diminutive young man. In elementary school he was the smallest child in his class and was the target of bullying. From a young age, he also had a speech impediment which undoubtedly contributed to this bullying. He felt ostracized at school, and described himself to one of the assessing psychiatrists as "socially anxious" and "tended to be clingy with his mother".
- [102] Tragically, Mr. Grantham started to experience suicidal ideation at a fairly young age - in about Grade 6 or 7 - when struggling in mathematics. Feelings of self-loathing and shame became more prevalent as a teenager.
- [103] Mr. Grantham has no criminal record. He had been gainfully employed as an actor in the movie industry for a period of years starting when he was six years old. Although a seemingly accomplished young actor, his feelings of inadequacy and disappointment were only exacerbated by the rigours of auditioning and experiencing rejection when a role went to someone else.
- [104] Mr. Grantham has reported to both assessing psychiatrists that he experienced conflict in his sexuality, and has only recently been able to come to terms with his sexuality and sexual interests. This conflict, experienced throughout his formative years, added to his feelings of isolation and being perceived as a social outcast.
- [105] Mr. Grantham started experimenting with consuming cannabis in high school, largely in social circumstances. Once he started attending university, Mr. Grantham continued to experience difficulties in making friends and became increasingly socially isolated. During this time, he also increased his cannabis consumption. His increasing consumption of cannabis morphed into a vicious cycle of isolation, paranoia and insomnia. After his first year of university living in residence, Mr. Grantham returned to living with his mother in Squamish and commuting to school. This exacerbated Mr. Grantham's isolation from his peers.
- [106] Mr. Grantham's mother was very upset with his cannabis use and eventually managed to convince him to attend counselling at SFU for his problematic cannabis use. Mr. Grantham attended counselling for a period of time in the Fall of 2016, and the counsellor seemed to assist him in abstaining from consuming cannabis for several months. By January 2017, the counsellor and Mr. Grantham agreed that he was no longer in need of counselling services.
- [107] Following a six to seven-month hiatus from consuming cannabis, Mr. Grantham relapsed into his addiction to cannabis. And, in the months leading up to this offence, the potency of the product he consumed increased as did the frequency of his consumption. As noted earlier, on October 20, 2019, Mr. Grantham documented in his journal that his mother urged him to stop consuming cannabis and return to counselling, telling him he needed positive coping mechanisms for dealing with his depression.
- [108] In 2018, Mr. Grantham became interested in firearms. The admissions of fact establish this at para. 32:

- [32] In 2018, Mr. Grantham completed a firearms safety course at the Squamish Valley Rod and Gun Club. He began to practice target shooting. He attended the Gun Club at least 7 times in 2019 and did not renew his membership in 2020. By the time of Ms. Waite's death, Mr. Grantham owned three firearms - the .308 Rifle, the .22 Rifle, and the Shotgun.
- [109] In the Fall of 2019 Mr. Grantham was in his fourth year of studies at SFU. Isolated and increasingly dependent on cannabis consumption, his marks started to decline in the Fall. During this period of time, his isolation and academic problems were exacerbated by two other significant developments; (1) Mr. Grantham began to spiral further and further into depression, and, (2) his continued exploration of binge-watching gore videos on the dark web was developing into an addiction.
- [110] The admissions of fact at para. 33 includes what might be described as a sad and increasingly familiar phenomenon with some young men in this current climate:
- [33] In the time leading up to Ms. Waite's death, Mr. Grantham generally had a very small social circle. Beyond attending school, he spent a lot of time on the internet. He also spent time playing video games, often with his close friend. Over the years Mr. Grantham had watched videos of violent acts on the internet including car accidents and people dying. In a statement he gave to the police, Mr. Grantham described that as "a component of my formation as how I got to this point. I wouldn't exactly describe it as like an inspiration or me planning ideas based off of it".
- [111] This trilogy of tragic circumstances - a growing addiction, both in terms of ingesting cannabis and binge-watching violent videos, increased isolation, and deepening depression - all made for a particularly toxic set of personal circumstances that included feelings of inadequacy and self-loathing. And, with the benefit of hindsight, likely foretold the tragedy that was about to unfold in the early spring, absent some intervention or course correction that never occurred.
- [112] During the months leading up to this offence, Mr. Grantham began to experience a recurrence of his previous suicidal ideation and also started grappling with violent thoughts and urges to act out violently. Although Mr. Grantham recognized his precarious mental situation and sought out counselling in early 2020, a sign at the SFU counselling centre advising that they were at full capacity and that only people with urgent circumstances should apply, caused him to perceive that his circumstances were not that urgent and that he should not take up scarce resources needed by others.

The Journal (Ex. #3)

- [113] Months prior to the offence, in September 2019, Mr. Grantham purchased a journal and started to write down his thoughts and observations. The journal was read into the record by Crown counsel. I have reviewed the entries again in the course of preparing these reasons and I do not propose to read any of the journal into the record. Suffice to say, it provides a contemporaneous snapshot of Mr. Grantham's thinking up to and including the shooting of his mother, and the immediate aftermath of the shooting.
- [114] Aspects of the journal demonstrate complexities inherent in Mr. Grantham. The journal illustrates an introspective and seemingly self-aware young man, who is isolated, depressed and at times very angry. It shows a young man vacillating between giving into and resisting increasing thoughts of engaging in acts of violence, including taking his guns to SFU to kill people. Perhaps not surprisingly, given the current cultural environment in which we live and the ubiquity of social media, where many feel the need to create TikTok, Instagram or YouTube accounts of their thoughts and emotions, there is a performative aspect to the journal entries. However, I do not doubt that what Mr. Grantham outlined in his journal was what he experienced and perceived at the time. Overall, the journal provides a window into Mr. Grantham's increasingly compromised thinking and mental state during the months leading up to the offence.

The Psychiatric Reports (Ex. #8: Tabs 2 and 3)

- [115] Two very respected and experienced forensic psychiatrists provided exceedingly detailed and complex psychiatric reports based on a review of the Report to Crown counsel, including reviews of Mr. Grantham's statement to the police, his journal, his medical records from North Fraser Pre-Trial Centre ("North Fraser") and their own interviews with Mr. Grantham.
- [116] Dr. Shabehram Lohrasbe was retained by the defence to provide a psychiatric assessment as to Mr. Grantham's mental state at the time of the offence. Dr. Lohrasbe made the following observations about Mr. Grantham in his report, located in Ex. #8, Tab 2 (at p. 16):

Mr. Grantham's psychiatric disorders are manifold and diagnostically he is an unusually complex man, far more so than at first glance. It may be helpful if I emphasize those disorders that are currently present and directly relevant to this assessment and will mention only in passing those that may have been developmentally significant but are not directly relevant and/or there is not enough information to confirm their presence.

- [117] Dr. Lohrasbe went on to opine (at p. 16) that Mr. Grantham has long suffered from a mood disorder stating:

There is clear information that he has long suffered from a mood disorder. Within that category, the differential diagnosis of a mood disorder includes Major Depressive Disorder, Persistent Depressive Disorder, and Substance Induced Depressive Disorder. High levels of anxiety accompany many mood disorders.

[118] Mr. Grantham's depressive symptoms were exacerbated by his problematic cannabis use and Dr. Lohrasbe states that Mr. Grantham "undoubtedly has Substance Use Disorder, primarily Cannabis Use Disorder."

[119] Dr. Lohrasbe went on to note the following about Mr. Grantham (at p. 18):

Based on the available information it is highly likely that Mr. Grantham has some of the personality traits found in several personality disorders including Avoidant, Paranoid, and Schizotypal Personality Disorders and, most strikingly, those found in people with Borderline Personality Disorder.

Unstable self-image, confusion about sexual identity, and intimacy deficits, all present in Mr. Grantham, are common in those with Borderline Personality traits/dysfunction/disorder. People with Borderline Personality traits can experience transient psychotic and dissociative episodes.

[120] Dr. Lohrasbe went on to note that Mr. Grantham has some features, although not the full syndrome, of Obsessive-Compulsive Disorder.

[121] In so far as Mr. Grantham's mental state at the time of the offence was concerned, Dr. Lohrasbe found that Mr. Grantham's mental state building up to the offence could reasonably be characterized as mentally disordered, stating at 19:

An overview of the available data relevant to Mr. Grantham's mental state at the time of the predicate offence via his journal entries, GoPro videos and subsequent statement strongly indicates that his mental state was far from "normal", by any reasonable characterization of that word. General descriptors such as 'unstable', 'chaotic', 'ambivalent', 'fragile' come to mind, while 'depressed', 'angry', 'anxious', and 'fearful' speak to his shifting affect. His mental state building up can reasonably be characterized as mentally disordered.

[122] Dr. Lohrasbe noted that Mr. Grantham was experiencing an abnormal mental state that was chaotic, cycling between urges to kill himself, his mother, and members of the public. In the end, Dr. Lohrasbe was clear that Mr. Grantham was mentally disordered at the time of the matricide but was unable to conclude that his mentally disordered state impacted the aspects of cognition and volition captured by the NCRMD provisions of s. 16 of the Code.

[123] In summarizing his opinion at 22-23, Dr. Lohrasbe wrote:

Summary

1. At the time of the predicate offence, Mr. Grantham was in a chaotic and fragile mental state; he was mentally disordered.

2. His mental state was influenced by his use of cannabis (and alcohol).
3. While he had experienced psychotic symptoms, the matricide was not primarily driven by psychosis.
4. His rationale for the matricide was altruistic, to save his mother from further suffering.
5. He was impaired to a significant degree in those capacities related to legal criteria for 'appreciating the nature and quality of the act', and more emphatically, of 'knowledge that it was wrong' under s. 16.
6. He was impaired to a significant degree in his capacity to form the intent to kill his mother.

[124] In the end, however, Dr. Lohrasbe was unable to provide an opinion that supported the conclusion that Mr. Grantham met the legal criteria for an NCRMD defence under s. 16 of the Code.

[125] Dr. Todd Tomita was retained by the Crown to provide a psychiatric assessment as to Mr. Grantham's mental state at the time of the offence. Dr. Tomita provided an even more detailed personal history about Mr. Grantham than did Dr. Lohrasbe, but reached many similar conclusions to that of Dr. Lohrasbe, albeit stated differently.

[126] Dr. Tomita made the following observations about Mr. Grantham in his report, located in Ex. #8, Tab 3:

[126] Mr. Grantham experienced a major depressive episode starting in about the summer of 2019, which became progressively worse over time in the lead up and at the time of the offence.

[127] Mr. Grantham's major depressive episode occurred on a background of pre-existing intermittent low mood difficulties and intermittent experiences of suicidal thoughts typically triggered by stresses he was experiencing in his life. This may have reflected a persistent depressive disorder that would have been mild in severity given it produced clinical distress but no further impairment.

[128] The discernment of some degree of objective functional impairment is an important consideration in Mr. Grantham's case. This is because the objective observations of others in the lead up to the offence and immediately before and after the offence do not contain references to odd or bizarre behaviours, changes in behaviours from normal, or concerns that Mr. Grantham appeared depressed. Consequently, one needs to rely on Mr. Grantham's subjective recollections of his depressed emotional state and how it caused impairment. This disconnect between what others objectively observed as compared to what Mr. Grantham says he felt leads to my observation that while he was clinically distressed he maintained the capacity to function and appear normal to those around him...

[127] Dr. Tomita went on to note that Mr. Grantham had a cannabis use disorder and then stated:

- [223] An important consideration is whether Mr. Grantham had a major depressive disorder that was characterized by psychotic symptoms such as hallucinations or delusions. I did not identify any psychotic symptoms. Instead, Mr. Grantham appears to have been suffering from an increasingly severe depression that was marked by suicidal and homicidal urges, which he eventually enacted by committing that offence.
- [128] Importantly, for Dr. Tomita, he found that Mr. Grantham was depressed but not psychotic at the time of the offence. Dr. Tomita's report is solidly focussed on whether an NCRMD defence was available on the evidence and he concluded it was not. Significantly Dr. Tomita noted that Mr. Grantham recognized the wrongfulness of his actions at the time and that precluded the availability of the s. 16 NCRMD defence.
- [129] Dr. Tomita outlined the following in his report:
- [229] By January 2020, Mr. Grantham reported that he was experiencing low mood, loss of interest, fatigue feelings of worthlessness and self-hatred, and guilt about disappointing his mother and adding more pain to the difficult life she had experienced. Mr. Grantham reported cycling through thoughts about suicide alternating with thoughts of killing others. When he reflected on the aftermath of following through on killing himself, killing others, or doing both, he realized I would hurt his mother and he decided he needed to kill her before he killed himself or other people.
- [230] Mr. Grantham stopped attending classes near the end of February 2020. This decision appeared to be a tipping point and alternative means to cope with his depression such as seeking out mental health treatment disappeared. Mr. Grantham decided that his death before mid April 2020 was inevitable. By the end of March 2020, Mr. Grantham had decided he needed to kill his mother to prevent her from seeing his school failure and what he was going to do to himself or others.
- [231] Mr. Grantham's journal entries provide a window into his mental state 2 days before he killed his mother and in the immediate aftermath. I note that the entries content is consistent with the history Mr. Grantham provided to me in interviews. From these entries, I note that Mr. Grantham sets out the fact he struggled with inner conflict about whether or not to kill his mother. There is no indication of odd or bizarre thinking or ideas connected to his plan to kill his mother. What can be inferred from the totality of Mr. Grantham's journal entries is that he was struggling over whether or not he would give in to darker urges to prove he could proceed with killing his mother. This is particularly evident in his March 5, 2020 entry when he sets out explicitly his indecision about whether or not proceed down a dark path. By the time of his March 29, 2020 entry, this indecision was gone and he appeared resolved to kill his mother.

- [130] Like Dr. Lohrasbe, Dr. Tomita found that Mr. Grantham's aim was altruistic - he wanted to spare his mother from suffering as a consequence of what he was going to do to himself or others. However, when Dr. Tomita considered all the circumstances through the lens of the s. 16 NCRMD defence, Mr. Grantham's decision making was rationale in the context of his depressive thinking.
- [131] Towards the end of his report, Dr. Tomita made what I consider to be an important observation in the context of the viability of a s. 16 NCRMD defence:
- [235] Although Mr. Grantham was suffering from a major depressive episode and likely a degree of cannabis intoxication at the material time, this mental state would not have removed his capacity to understand the physical consequences of his actions or to interfere with his capacity to know that his actions were wrong. There is no indication that he was psychotic and experiencing delusions or hallucinations connected to [h]is actions.
- [132] In her careful and thoughtful written argument, Crown counsel made the following submission about the two psychiatric reports:
- [53] Mr. Grantham's mental state in the months leading up to and during the killing itself must be taken into account. There are two reports before the court written by two very experienced forensic psychiatrists - Dr. Lohrasbe and Dr. Tomita. Both interviewed Mr. Grantham. The notable aspects of the reports are:
- a. Both psychiatrists concluded that Mr. Grantham was having disturbing feelings at the time of and leading up to the killing of his mother, including intense suicidal urges and thoughts of violence towards others;
 - b. Both psychiatrists concluded that Mr. Grantham's mental state arose from a major depression, complicated by personality factors. Dr. Tomita concluded that Mr. Grantham was suffering from a major depressive episode or perhaps a mild persistent depressive disorder. He concluded that Mr. Grantham's beliefs about his personal inadequacies, guilt and nihilism were extensions and aggravations of longstanding underlying beliefs that were part of his personality make up. Dr. Lohrasbe concluded that Mr. Grantham was suffering from a mood disorder, accompanied by a likely series of personality traits (avoidant, paranoid, schizotypal and borderline) and some features of obsessive-compulsive disorder;
 - c. Both psychiatrists noted Mr. Grantham's use of cannabis and the occasional paranoid or fleeting psychotic symptoms that it caused, but both dismissed cannabis intoxication as a primary driver of Mr. Grantham's homicidal urges;
 - d. Both psychiatrists noted Mr. Grantham's failure to share his feelings with anybody. Both psychiatrists attribute this failure to his personality make up (Dr Tomita, para 234 and Dr Lohrasbe page 20);
 - e. Both psychiatrists noted the "altruistic" aspect of Mr. Grantham's thinking with respect to killing his mother;

- f. The psychiatrists have differing opinions on the degree of functionality that Mr. Grantham had during this time. Dr Tomita concluded that Mr. Grantham had minimal functional impairment, given his ability to conceal his thoughts from others. Dr. Tomita concluded that Mr. Grantham was depressed but not psychotic, and not delusional. Dr Lohrasbe concluded that Mr. Grantham was "far from 'normal' by any reasonable characterization of that word", using descriptors such as "unstable, chaotic, ambivalent, and fragile" (p. 19). In his opinion, Mr. Grantham's cognitive capacity was impaired.
- [133] Having reviewed both psychiatric assessments, I conclude that Dr. Tomita's report is not that different from Dr. Lohrasbe's report in so far as the role that mental illness or mental disorder played in the commission of this offence. Both psychiatrists reached essentially the same general conclusion - the s. 16 NCRMD defence was not made out on the materials they had to review.
- [134] Although Dr. Tomita couches his report in more stark terms that there is an absence of psychosis or delusions or hallucinations in Mr. Grantham's case, I do not interpret this to mean that he concluded that mental disorder short of NCRMD had no role to play in the commission of this offence. Respectfully, he does not specifically address this point, focused as he was on whether Mr. Grantham's mental state at the time of the offence satisfied the criteria for a s. 16 defence.
- [135] Of considerable significance to the Court is the fact that both psychiatric reports were prepared in anticipation of an NCRMD defence being advanced at trial. Neither psychiatrist was able to provide an opinion that supported the conclusion that Mr. Grantham met the legal criteria for an NCRMD defence under s. 16 of the Code.
- [136] I find that in the totality of the circumstances, based on the evidence before the Court, including the specific and detailed medical evidence in the psychiatric reports, as well as the Crown's concession, that Mr. Grantham's mental disorder did play a role and was a contributing cause to the commission of this offence.
- [137] Neither Dr. Lohrasbe nor Dr. Tomita were asked to conduct any sort of risk assessment or proffer an opinion in respect of the future dangerousness of Mr. Grantham. And, neither psychiatrist offered an opinion on the risk of future dangerousness posed by Mr. Grantham.

Mr. Grantham's Post-Offence Efforts at Rehabilitation (Ex. #8: Tabs 1, 12A-J and Ex. #9)

- [138] The materials addressing Mr. Grantham's post-offence efforts at rehabilitation demonstrate that rehabilitation is a realistic probability in this case. Mr. Grantham has taken all the programming he can take while detained at North Fraser. The materials include certificates of completion for all 20 modules of the Essential Skills to Success Program offered in provincial correctional facilities.
- [139] In addition, Mr. Grantham has been employed while detained.

- [140] Of considerable significance, in my view, is Mr. Grantham's dedicated involvement to counselling with Dr. Farstad, a psychologist at North Fraser. Dr. Farstad provided a letter dated March 7, 2022, confirming that Mr. Grantham has been involved in psychological counselling every one to two weeks since April 6, 2020. This fact speaks volumes to Mr. Grantham's deep commitment to addressing the complex psychological factors that compromised his mental health in the lead up to this offence.
- [141] With two exceptions, Mr. Grantham has been a model inmate while detained in custody. One exception was the discovery of Mr. Grantham's involvement in contraband substances early on in his detention. He acknowledged responsibility and has had no documented issues since. The second exception is not an example of disruptive institutional behaviour or a flagrant breach of institutional rules. Rather, in December 2020 Mr. Grantham attempted suicide. He has been intermittently suicidal and struggles with the enormity of his actions in committing this offence. He is prescribed anti-depressant medication. His largely exemplary behaviour while detained in custody is a further indicator of the realistic probability of rehabilitation in this case.

The Letters of Support (Ex #.8: Tabs 4-11)

- [142] Letters of support were also filed from a number of colleagues Mr. Grantham worked with in the movie industry, as well as from members of his father's side of the family. All of the authors are aware of the circumstances that Mr. Grantham faces. All are universally shocked at what Mr. Grantham has done and find his acts completely incongruous to the calm, kind, gentle person they know. All of the authors condemn Mr. Grantham's act of murdering his mother but they also offer him their love and support while he serves his sentence. They will continue to do so if and when he is released on parole.
- [143] The thoughtful letters provided in support of Mr. Grantham are reassuring in that Mr. Grantham does have, and will continue to have, collective familial and community support as he moves forward serving his sentence and, if released, when he returns to the community. Community and family support are critical to ensuring that the reasonable prospects of rehabilitation that are so apparent in this case are actually achieved by Mr. Grantham.

Mr. Grantham's statement to the Court pursuant to s. 726 of the Code (Ex. #10)

- [144] Mr. Grantham expressed his remorse, his utter shame and pain for what he did to his mother, and acknowledged the devastating impact his offence has had on his sister, his aunts and other family members as result of his callous act. I ordered a transcript of his statement. It has been marked as Ex. #10 today to form part of the record of these proceedings.

- [145] I have heard many expressions of remorse from offenders through my years on the bench. I can say, unequivocally, that I do not know that I have witnessed a more profound and genuine expression of sorrow and remorse than what I heard and saw from Mr. Grantham on June 15, 2022.
- [146] While this may provide little solace for the victims of this offence, I can say that what they likely could not see when Mr. Grantham came up to the podium and made his statement to the Court was that he had the courage to look this judge in the eye and acknowledge how many people he has so badly hurt, indeed devastated, by his actions.
- [147] Mr. Grantham looked haunted. I was concerned that he might collapse under the weight of the guilt and grief that he was experiencing as he spoke. I unreservedly accept that his remorse is profound and genuine.

Positions of Counsel

Crown Counsel

- [148] The Crown contends that the circumstances of this case are as close to first-degree murder as one can get. Indeed, that offence was originally charged but reduced to second-degree murder in recognition of Mr. Grantham's guilty plea. The Crown asserts that when the nature of the offence, the circumstances surrounding the commission of this murder, and the character and background of the offender are considered, Mr. Grantham fits within the second elevated range of parole ineligibility outlined in Cerra, at paras. 17 and 26 and Bennight, at paras. 14 and 18: 15-20 years. Specifically, the Crown seeks to have the period of parole ineligibility set at 17-18 years.
- [149] The Crown elaborated on the need for a higher parole ineligibility period as being grounded in concerns over Mr. Grantham's future dangerousness. These concerns, contends the Crown, are established in light of the following:
- Mr. Grantham's ability to hide his seemingly precarious mental state from family and friends for months and that he was able to function 'normally';
 - Mr. Grantham's demonstrated ability to engage in introspection as reflected in his journal entries but his choice in not taking any prophylactic measures to alter his course from this path, such as removing his firearms from his home;
 - Mr. Grantham's mental health; and,
 - Mr. Grantham's plan to kill others - including the Prime Minister - and the significant steps he took to realize this goal.
- [150] Counsel for the Crown relied on the following cases to support their position:
- R. v. Hoang, 2002 BCCA 430 - 20 years parole ineligibility reduced to 15 years parole ineligibility;

- R. v. F.K., 2003 BCCA 703 - 20 years parole ineligibility upheld;
- R. v. Bennight, 2012 BCCA 461 - 18 years parole ineligibility upheld;
- R. v. Tang, 2015 BCSC 2516 - 17 years' of parole ineligibility imposed;
- R. v. O.V., 2016 BCCA 454 - 15 years parole ineligibility upheld;
- R. v. Tankard, 2017 BCSC 171 - 18 years parole ineligibility imposed;
- R. v. Lescano, 2018 BCSC 1771 - 15 years' parole ineligibility imposed;
- R. v. Simard, 2019 BCSC 741 - 18 years' parole ineligibility imposed; and,
- R. v. Forshaw, 2021 BCSC 1009 - 18 years' parole ineligibility imposed.

[151] In seven of these nine cases, the offenders murdered women they knew--either a partner, a mother, or a guest. Three of these offenders killed their mothers. In five of the seven cases where women were killed, the offenders were sentenced after a trial.

Defence Counsel

[152] In the case at bar, defence counsel acknowledges that Mr. Grantham's conduct in the lead up to, and commission of, this offence is very concerning. They also recognize that the presence of aggravating circumstances moves the offence into the first level of elevated parole ineligibility as outlined in Cerra, at paras. 17 and 26, and Bennight, at para. 18 - the 12 to 15 years' parole ineligibility period. The defence acknowledges that the primary principles of sentencing that inform the analysis are deterrence and denunciation.

[153] The defence further contends that with the passage of time and some significant work on the part of Mr. Grantham while detained in custody, he has gained considerable insight into his conduct and has demonstrated his commitment to rehabilitation to ensure he does not slip back into the dark place he found himself in back in March 2020. These points, argue the defence, establish that the concerning homicidal urges experienced by Mr. Grantham in the lead up to, and, the immediate aftermath of, this offence are no longer a motivating factor in Mr. Grantham's life. The defence submits that while the future dangerousness of Mr. Grantham was a serious issue in the immediate aftermath of the offence, that concern has been significantly attenuated through the extensive counselling and educational steps undertaken by Mr Grantham since his arrest and detention.

[154] The defence also advance that Mr. Grantham's young age, lack of criminal record, genuine remorse, and diminished moral blameworthiness in light of his mental health issues at the time of the offence, all militate in favour of a period of parole ineligibility much lower than what the Crown seeks.

[155] Accordingly, the defence contends that when the following are examined - the nature of the offence; the circumstances surrounding the commission of this murder; Mr. Grantham's character and background; and his demonstrated steps towards rehabilitation - then properly assessed within the governing legal framework, the Court should exercise mercy and fix the period of parole ineligibility at 12 years. This is essentially at the bottom end of the first elevated range established in the jurisprudence.

[156] Defence counsel relied on the following cases to support their position:

- R. v. Literski, 2005 BCSC 335 - 12 years' parole ineligibility imposed;
- R. v. Reeves, 2011 BCSC 821 - 10 years' parole ineligibility imposed;
- R. v. G.C.Z., 2015 BCSC 2518 - 12 years' parole ineligibility imposed;
- R. v. Whitlock, 2017 BCSC 1998 - 12 years' parole ineligibility imposed;
- R. v. Meers, 2018 BCSC 465 - 10 years' parole ineligibility imposed;
- R. v. Lescano, 2018 BCSC 1771 - 15 years' parole ineligibility imposed; and
- R. v. Salifu, 2019 ONSC 483 - 10 years' parole ineligibility imposed.

[157] Similar to those provided by the Crown, most of the above cases involved the offenders murdering their mothers. One case involved the murder of a young child and one involved the murder of the offender's father. Five of the seven cases were instances of sentences imposed following a trial.

[158] I do not propose to review all the cases provided by the Crown and the defence in these reasons. They were thoroughly reviewed both in the written submissions and during the sentencing hearing. I have reviewed them further while this case has been under reserve. They provide some useful guidance in respect of the parity principle; when determining the sentence to be imposed in this case it should be, as far as possible, comparable to those imposed on similar offenders in similar circumstances.

[159] Justice Thompson addressed this point more eloquently in Simard, at paras. 28-29:

[28] I have found each of these cases and the others that were referred to by counsel to be of some assistance in grappling with this challenging issue of setting the appropriate parole ineligibility period. However, not surprisingly, close examination of each case reveals important distinguishing features.

[29] Parity is an important sentencing principle, and it constrains the otherwise wide discretion granted to sentencing judges. Similar offenders who commit similar offences ought to receive similar sentences. As McEachern C.J. observed in Mafi, the problem is that it is "usually impossible to find appropriate comparators, particularly when it comes to finding 'similar offenders' and 'similar circumstances'" (para. 56). In a similar vein, the Supreme Court of Canada explained in R. v. C.A.M., 1996 CanLII 230 (SCC), [1996] 1 S.C.R. 500 that

sentencing is "an inherently individualized process, and the search for a single appropriate sentence for a similar offender and a similar crime will frequently be a fruitless exercise of academic abstraction" (para. 92). Chief Justice Wagner put the point this way in *R. v. Lacasse*, 2015 SCC 64 at para. 58:

The determination of a just and appropriate sentence is a highly individualized exercise that goes beyond a purely mathematical calculation. It involves a variety of factors that are difficult to define with precision.

In the specific context of setting parole ineligibility, our Court of Appeal has repeatedly said that reference to other cases is of limited value because setting parole ineligibility is a very fact sensitive process: *R. v. Purdy*, 2012 BCCA 272 at para. 29; *R. v. Van Ossleaer*, 2004 BCCA 3 at para. 24; *R. v. Grimsson* (1997), 100 B.C.A.C. 253 at para. 78.

[160] And, in *Meers*, at para. 41, Justice Devlin, quoting Justice Arnold-Bailey, noted:

[41] As stated in *Bennight*, parole ineligibility greater than 10 years is justified when there is some particularly aggravating feature. I am guided by Madam Justice Arnold-Bailey's comments in *R. v. Balbar*, 2015 BCSC 1953 regarding the exercise of discretion:

[64] I am also of the view that the discretion to increase parole ineligibility above the statutory 10-year minimum is to be used sparingly and judiciously. Each offender and each case of second degree murder is to be considered on its own unique facts, and while the decided cases, in terms of range and other sentences imposed, are often instructive, they also present a wide and sometimes disparate range.

[161] At the end of the day, however, every case is to some extent, unique, and the sentence I impose in this case must be one that is a fit sentence for this particular offence and this particular offender.

Analysis

[162] I turn first to address the aggravating and mitigating circumstances

Aggravating Circumstances

[163] In addition to the offence's objective gravity, the circumstances surrounding the commission of the murder include the following aggravating circumstances:

- Mr. Grantham committed this offence against his mother, a woman who had devoted her life to his care and upbringing. The victim lived with her son. She had no reason to be vigilant or try to protect herself from him. Mr. Grantham's murder of his mother, matricide, was a profound abuse of a position of trust: s. 718.2(a)(iii) of the Code; *R. v. Boukhalifa*, 2013 ONSC 1255 at para. 24; *Tang* at para. 73; *Whitlock* at para. 48;
- A firearm was used to commit this offence: *R. v. Scott*, 2019 BCSC 1007 at paras. 48 and 51;

- The murder of Ms. Waite occurred in her own home, a place she was entitled to feel safe and secure: *R. v. Neumann*, 2005 BCSC 1820 at para. 28; *Whitlock* at para. 48. Although the observation that "a woman's home is her castle", made in *R. v. Meigs*, 2007 BCCA 394 at para. 25 was made in the context of a break and enter and sexual assault offence, it is equally relevant in the circumstances here;
- The circumstances of this case are, as noted earlier, much closer to first-degree murder than manslaughter; the journal materials establish that there was planning and forethought in this case: *Neumann*, at para. 37; *F. K.*, at para. 15. Mr. Grantham had been going back and forth as to whether he should kill his mother. He was aware he was in a dark place and had thoughts of violence months before the offence but did nothing to seek out help from his family, friends or counsellors: *Literski*, at para. 51; and
- Finally, pursuant to s. 718.2(a)(iii.1) of the Code, the murder of Ms. Waite has severely impacted her family and friends, particularly her immediate family being her daughter and her sisters. They are victims by virtue of s. 2 of the Code. The victim impact statements filed at the sentencing hearing amply demonstrate the breadth of the emotional and psychological devastation that they have experienced and will likely continue to experience for the rest of their lives.

Mitigating Circumstances

[164] The mitigating circumstances in this case include the following:

- Mr. Grantham's guilty plea and acceptance of responsibility for this offence. This has saved the Ms. Waite's family and friends the trauma and uncertainty of having to go through a lengthy trial with horrific details. They have been spared the gruelling ordeal of giving evidence in court proceedings. Moreover, the justice system has been spared the burdens associated with the trial;
- Mr. Grantham's longstanding and demonstrated genuine remorse, evident not only through his guilty plea and his comments to the Court, but also readily apparent in his discussions with the interviewing police officer, family, his psychologist, and both forensic psychiatrists;
- Mr. Grantham's largely exemplary behaviour while detained in custody for this offence;
- Mr. Grantham's efforts at rehabilitation thus far, which demonstrate a commitment to trying to make amends and to move forward conducting himself in a more prosocial manner. This includes reaching out for counselling and assistance should he start to experience disturbing thoughts or depression; and
- Mr. Grantham's youth and lack of a criminal record prior to this offence.

Future dangerousness and the role of Mr. Grantham's mental health issues in this offence

- [165] As noted earlier, the major substantive issue between the parties in this case is whether Mr. Grantham's mental health issues at the time of the offence is solely a mitigating circumstance or whether the features as outlined in the psychiatric reports establishes that it should also be viewed as aggravating in light of the potential for future dangerousness that the Crown contends Mr. Grantham presents.
- [166] The Crown argues that in the unique circumstances of this case, which include the complex psychological profile of Mr. Grantham, and his ability to function normally despite the significant mental health difficulties he was experiencing at the time of the offence (as outlined in Dr. Tomita's report), make this factor both an aggravating and mitigating circumstance.
- [167] The defence contends that the psychiatric reports clearly establish that Mr. Grantham was experiencing significant mental health issues at the time he shot his mother. Both psychiatric reports opine that Mr. Grantham was suffering from a Major Depressive Disorder at the time he murdered his mother, as well as a number of other complex psychological disorders. The defence contends that when the totality of the circumstances are examined, and the opinions of the two respected forensic psychiatrists are considered, it is readily apparent that Mr. Grantham's mental health issues at the time contributed to the commission of this offence. As such, his mental health issues that causally contributed to his committing this offence reduces his moral culpability and should be viewed as a mitigating circumstance in this case.
- [168] In so far as future dangerousness is concerned, I am not able to find, in the context of this case, that it is an aggravating circumstance. To be sure, future dangerousness is a relevant consideration in setting parole ineligibility for someone convicted of second-degree murder: Whitlock, at para. 59, citing R. v. Leslie and Najafi-Chaghabori, 2012 BCSC 1888 at para. 116. However, in my view, Mr. Grantham's circumstances are distinguishable from the ongoing risk to public safety concerns so evident in the decisions in Whitlock, at para. 57, O.V., at paras. 5 and 9-10; and Lescano, at paras. 58-60. In those cases, the offender either failed to acknowledge the mental health issues at play in their offending (Whitlock, at para. 57; O.V., at para. 28) or that the offender did not suffer from mental disabilities at the time the offence was committed and appeared to have committed the offence in a drug-fuelled rage (Lescano, at paras. 83-86).
- [169] Significantly, neither forensic psychiatrist was asked to provide any sort of risk assessment or prognosis for future dangerousness in this case. I have no doubt that if Mr. Grantham returned to the circumstances of personal isolation, experiencing a major depressive disorder, and relapsed into his continued and prodigious use of cannabis, there might be significant concerns about his risk to the safety of the public. That scenario, however, appears to be highly unlikely in light of the significant counselling and rehabilitative work

Mr. Grantham has engaged in since the commission of this offence. Moreover, it is something that will be more accurately assessed at the time he is eligible to apply for parole which remains at least a decade away.

- [170] To Mr. Grantham's credit, he has undertaken significant counselling and rehabilitative steps since being arrested and detained for this offence. In my view, these significant steps have attenuated the risk of future dangerousness from its apex in April 2020.
- [171] What I take from the facts overall is this. At the time of this offence Mr. Grantham was experiencing significant mental health difficulties, exacerbated by significant cannabis use over a number of months. Although Mr. Grantham's moral blameworthiness for this offence is elevated given the planning and forethought involved, it is attenuated to a degree due to the mental health difficulties he was experiencing and which ultimately contributed to the commission of this horrendous and tragic offence. To that end, I am satisfied that in the totality of the circumstances, Mr. Grantham's mental health difficulties played a contributing causal role in the commission of the offence, and as such should be considered as a mitigating circumstance, not an aggravating circumstance in this case.
- [172] I have listed the cases relied upon by the Crown and defence to support the ranges they contend govern in this case. In my view, the circumstances in Whitlock, and Salifu are the most similar cases to the case at bar. Both cases involved the murder of their mother. In each case, one of the underlying contributing factors to the commission of the offence was the offender's mental illness. And, as in Salifu, at paras. 24, 62-63 and 65, Mr. Grantham's remorse has been genuine, profound and fundamentally apparent since his arrest. I do not doubt the genuineness and depth of Mr. Grantham's remorse.
- [173] I note, however, that the increased level of planning coupled with the contemplation and vacillation over committing other acts of violence, including murdering the Prime Minister and engaging in a mass shooting, distinguishes this case from Salifu and Whitlock. To be sure, the thoughts accompanying these acts of violence were far from logical or rational, but their existence is a distinguishing feature in this case.
- [174] Much like the circumstances and the question in Cerra, at para. 17, the key issue in Mr. Grantham's case is whether there was something more that raises the level of moral blameworthiness such that it moves into the further elevated range of parole ineligibility of 15-20 years, therefore mandating the imposition of 17-18 years ineligibility as sought by the Crown.
- [175] I have already outlined the aggravating factors present in this case but I do not find them to be so extraordinarily aggravating as to lift this case into the higher elevated range set out in the jurisprudence. Moreover, the enhanced elevated range is to be reserved for cases with extremely aggravating facts or egregious circumstances placing the offender at the highest order of moral culpability or dangerousness. Mr. Grantham is not at the highest order of moral culpability. Indeed, his moral blameworthiness is attenuated in light of the contributing role that his mental disorder played at the time of the offence.

- [176] I recognize that the Court has an independent responsibility to assess the risk posed by an offender at the time of sentencing: Whitlock, at para. 98. Here, there is no psychiatric risk assessment. However, since the commission of this offence, Mr. Grantham has engaged in a continued course of counselling and a commitment to continuing counselling and any other form of treatment to assist in his ongoing rehabilitation. These factors significantly attenuate concerns in relation to the risk of harm that he might pose to others in the future. In my view, the totality of the circumstances of this case do not place Mr. Grantham into this upper enhanced category.
- [177] It is Mr. Grantham's antecedents, the contributing role of his mental health difficulties at the time of this offence, his profound, long-standing genuine remorse and his guilty plea, as well as his developed insight and his steadfast commitment to counselling and understanding himself since this offence, all of which support the conclusion that there are significant prospects for rehabilitation, that militate in favour of placing him in the first elevated range of parole ineligibility not the enhanced elevated range.
- [178] Thus, similar to the observations of Justice Schultes in *R. v. Forster*, 2012 BCSC 1682 at paras. 52-55, Mr. Grantham's personal factors, including his youth, lack of criminal record, genuine remorse and his guilty plea, are far from inconsequential in this analysis. Indeed, it is those personal factors and the reduced level of moral culpability that keep the period of parole ineligibility within the lower enhanced range of 12-15 years parole ineligibility as set out in *Cerra*.
- [179] An individualized sentence that is proportionate to the gravity of this offence and the moral blameworthiness of this offender is what the jurisprudence mandates. In my view, anything lower than 14 years would not accurately reflect the gravity of this offence and the circumstances of its commission, and would give insufficient recognition to the pressing need for denunciation and general deterrence that arises from this case. To state it another way, setting parole ineligibility at 14 years appropriately balances the aggravating and mitigating factors in this case; gives meaningful effect to the objectives of sentencing, including protection of the public; and it strikes a proportionate balance between the gravamen of the offence committed by this offender and his moral culpability.
- [180] In the end, it will be up to the PBC to determine whether Ryan Grantham is granted parole and released from prison after 14 years of his sentence has been served. My task at sentencing is simply to establish how much time must pass before he is eligible for any such determination.

Sentence

Period of Parole Ineligibility

- [181] Mr. Grantham, will you please stand.

- [182] Having considered the nature of the offence, the circumstances surrounding its commission, your own background circumstances and character, the aggravating and mitigating circumstances, and the object and principles of sentencing and their application in this case, pursuant to s. 745 (c) of the Code I sentence you, as I must, to imprisonment for life.
- [183] You will not be eligible to apply for parole for a period of 14 years.
- [184] Mr. Grantham was arrested on April 1, 2020, when he surrendered to the VPD. He has remained in custody since that time. When a life sentence is imposed, no consideration is given to time served in pre-sentence custody. However, parole eligibility runs from the date of arrest. Accordingly, Mr. Grantham will become eligible to apply for parole on April 1, 2034.
- [185] You may be seated Mr. Grantham.

Ancillary Orders

- [186] I also make the following ancillary orders.
- [187] Pursuant to s. 487.04 of the Code, murder is classified as a primary designated offence, meaning the DNA order is mandatory, not discretionary. Accordingly, pursuant to s. 487.051(1) of the Code, I make an order in Form 5.03 authorizing the taking of samples of bodily substances from Mr. Grantham for the purpose of registration in the DNA National Databank.
- [188] As well, Mr. Grantham, pursuant to s. 109 of the Code I order that you are prohibited from possessing any firearm, prohibited firearm, restricted firearm, prohibited weapon, as well as any crossbow, restricted weapon, ammunition, explosive substance, prohibited device and prohibited ammunition for life following your release on parole.
- [189] Pursuant to section 737(2.1) of the Code, I decline to order the payment of a victim fine surcharge.
- [190] Finally, pursuant to s. 743.2 of the Code, I order that a copy of these reasons for sentence, once finalized and published, as well as a copy of Exs. #1 through #11 filed on the sentencing hearing, be forwarded to the Correctional Service of Canada.
- [191] There being nothing further from the Crown or the defence, before we adjourn, I wish to include three comments as a post-script to these reasons for sentence.
- [192] First, at my request, counsel obtained information about the usual process for placement of offenders within the penitentiary system who have been sentenced for murder. By letter dated July 14, 2022 (Ex. #11), counsel advised the Court as follows:

[F]ollowing the imposition of a life sentence, the offender is sent to the Pacific Institution/ Regional Treatment Centre. The offender is assessed, a correctional plan is completed, and the offender is then placed in an institution with the appropriate security classification. Generally

speaking, those convicted of second-degree murder are placed in a maximum security institution for the first two years. However, the Assistant Commissioner has the authority to initially classify those serving a life sentence to other than maximum security, on the basis of a non-exhaustive set of factors.

[193] Based on the totality of the thorough information addressing the personal circumstances of this offender as outlined in the two psychiatric reports and the rest of the materials filed at this sentencing hearing, I would recommend, indeed urge in the strongest possible terms, that the Assistant Commissioner of the Correctional Service of Canada please classify Mr. Grantham to an institution other than a maximum-security institution to commence serving his life sentence. I am aware that a judicial recommendation probably carries little, perhaps no weight. But in the circumstances, I feel compelled to make that recommendation and have it placed on the record.

[194] Second, Mr. Grantham, you have had a long hard journey to today and you still have a long road ahead of you. No doubt there will be challenges and set backs, some significant, and likely many difficulties. I won't sugar coat it - this is going to be hard. But, hopefully no more difficult than where you have already journeyed through to get to today. As you go forward, continue on your path of treatment. Remain true to the commitment you told me about on June 15, 2022 of bettering yourself - of continuing to reach out to others for help, continuing to be honest about your feelings and thoughts rather than repressing them like you did in the months leading up to this offence. There are good, professional people who are more than willing to help you if you ask. You also told me:

if someday I'm ever released from prison, I hope to continue on this path of bettering myself, of being a changed person, dedicating myself to helping others in whatever way I can, and I see that as the only way to repay my debt to society and to those who I've hurt.

Write that on your heart, Mr. Grantham. Carry it with you every day. Let it be one of the major guideposts on this journey that you are now about to embark upon. Good luck to you Mr. Grantham.

[195] Lastly, but definitely not least, I wish to thank counsel for their professionalism and sensitivity in their conduct of this case and for their extremely thoughtful and helpful submissions. You have assisted the Court immeasurably in a very difficult case and are to be commended for your efforts in that regard. It has been my absolute privilege to have you appear before me in this proceeding. Thank you so very much.

[196] Thank you all. We are adjourned.

"Ker J."

[1] Ex. #3, pp. 9-10.

[2] Lisa Silver, "Placing Parity in Perspective" (August 18, 2022), online: ABlawg, http://ablawg.ca/wp-content/uploads/2022/08/Blog_LS_Germain_Aug2022.pdf

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