

CANADA / JUDGMENT

R. v. Grasdal-Hessler

2025 BCSC 2313

COURT

Supreme Court of British Columbia

DECIDED

20 November 2025

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

2025 BCSC 2313 R. v. Grasdal-Hessler

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Grasdal-Hessler,

2025 BCSC 2313

Date: 20251120

Docket: 37195

Registry: Cranbrook

Rex

v.

Zachary Grasdal-Hessler

Restriction on publication: A publication ban has been imposed under s. 486.4(2) of the Criminal Code restricting the publication, broadcasting, or transmission in any way of information that could identify the victim referred to by her initials in these Reasons. This publication ban applies indefinitely unless otherwise ordered.

Before: The Honourable Madam Justice Forth

Oral Reasons for Sentence

Counsel for the Crown:

A. Zelmer

Counsel for the Offender:

D. Forbes

Place and Date of Hearing:

Cranbrook, B.C.

November 20, 2025

Place and Date of Judgment:

Cranbrook, B.C.

November 20, 2025

Introduction

- [1] The following are my oral reasons for sentencing. On April 28, 2025, Zachary Grasdall-Hessler pled guilty to one count of sexual interference of a person under the age of 16 contrary to s. 151 of the Criminal Code, R.S.C. 1985, c. C-46 [Code].
- [2] The sentencing was put over to allow for a pre-sentence report and a psychiatric/psychological assessment. The pre-sentence report ("PSR") was completed by Rhonda McLeod, probation officer, and filed on August 13, 2025. The forensic psychiatrist report was completed by Dr. Richard Magee on July 11, 2025 ("Report of Dr. Magee"). I have read both reports.
- [3] There is a joint submission made by counsel seeking a three-year jail sentence, a mandatory s. 109 weapons prohibition for 10 years, registration with the Sex Offender Information Registration Act, S.C. 2004, c. 10 ("SOIRA") for 20 years, and a DNA Order. In addition, the Crown and defence agree that a s. 161 order restricting Mr. Grasdall-Hessler from private and direct contact with a person under the age of 16, and two additional terms, for a period of five years after his release from prison.
- [4] As the Court of Appeal recently commented on in *R. v. Murtagh*, 2024 BCCA 390, a sentencing judge should not depart from a joint submission unless the proposed sentence would bring the administration of justice into disrepute or would otherwise be contrary to the public interest: para. 31; *R. v. Anthony-Cook*, 2016 SCC 43 at paras. 33-34. The rationale being that joint submissions are vitally important to the proper functioning of the criminal justice system and the justice system at large. When properly conducted, they benefit the accused, victims, witnesses, counsel and the administration of justice generally: *Murtagh* at para. 30.
- [5] It falls to me to find the facts and impose a fit sentence that is proportionate to the circumstances of the offence, including the gravity, and the circumstances of the offender, including Mr. Grasdall-Hessler's degree of personal responsibility, in the context of the joint submission on sentencing that was made.

Circumstances of the Offence

[6] The parties agreed to admissions of facts made pursuant to s. 655 of the Code which set out the following circumstances of the offence:

- On January 5, 2024, A.R. was 15 years of age and the offender was 22 years of age.
- At no point during the interaction between A.R. and the offender did the offender take any reasonable steps to ascertain A.R.'s age.
- On the early morning of January 5, 2024, A.R. was hanging out with a friend and had planned to spend the night at her friend's residence.
- At approximately 2 a.m. it became apparent to A.R. that continuing to stay at her friend's residence was not an option. Her friend, who knew the offender, suggested to A.R. that the offender may be able to give A.R. somewhere to stay the night. A.R.'s friend reached out to the offender.
- A.R. and the offender had never met each other before.
- A.R. and the offender met at approximately 2:30 a.m. at the Save On Foods parking lot. Over the next couple of hours, they drove around while drinking alcohol.
- The offender drove to an industrial area in the northern part of Cranbrook behind the Walmart Supercentre, where he parked the truck. By this time A.R. was intoxicated by alcohol.
- The offender lifted the center console between the driver and passenger seats in the front of the truck. The offender asked A.R. if she consented to sexual contact, and the offender understood that she had communicated that she did.
- The offender inserted his penis in her vagina and penile-vaginal intercourse lasted for 10 to 20 minutes. The offender drove A.R. to the Western Financial Place recreational centre in downtown Cranbrook, where she exited the vehicle and walked to a nearby grocery store.

Circumstances of the Offender

- [7] Mr. Grasdall-Hessler is currently 24 years old. The offence occurred in January 2024 when he was 22 years old. He was born and raised in Cranbrook. When he was eight or nine years old his parents separated with a shared custody agreement. He was raised as an only child and does have a few step siblings on both sides but he has very limited relationships with them. He reports his upbringing was normal. He denies any sexual abuse when he was younger. His parents confirm that Mr. Grasdall-Hessler was never a victim of sexual assault, nor had any traumatic event occurred.
- [8] He graduated from high school. He was diagnosed with having attention deficit hyperactivity disorder ("ADHD") when he was a child and was prescribed medication which he stopped using after a few years. He says that he is fine without it.

- [9] When he was in grade 11 he experimented with alcohol, cocaine and methamphetamine. In his twenties, he was drinking generally twenty-four beer a day, at times this was augmented with spirits. He says he is now six years sober from illicit substances but continues to use alcohol, on a reduced basis. He denies having any treatment for substance abuse nor does he feel he needs it.
- [10] He currently works with his father as a general contractor. He is interested in possibly attending schooling for becoming an electrician or plumber.
- [11] Dr. Magee noted that Mr. Grasdall-Hessler scored quite high on the risk assessment tool with a potential recidivism rate of between 10 to 19 percent after five years. Dr. Magee found no evidence of a psychopathic personality disorder, nor evidence of sexual deviance. There was no major mental illness except for a past diagnosis of ADHD, which he appears to be able to manage, and a consideration of alcohol use disorder.
- [12] Mr. Grasdall-Hessler reports meeting a woman who is 28 years old who he enjoys talking with.
- [13] Mr. Grasdall-Hessler has no criminal record.

Impact on the Victim and Community

- [14] In the PSR the victim's mother reported that her daughter relapsed with illicit substances immediately after the offence and has been in treatment. Her daughter still suffers from self harm and anxiety and blames herself for the offence.
- [15] The victim should understand that she is not responsible for what happened to her. In *R. v. Friesen*, 2020 SCC 9, the Court described the contemporary understanding of sexual violence against children. In doing so, it acknowledged the consequential harm of the offender's actions to victims and their families, caregivers, and communities.
- [16] I hope that once this sentencing has been concluded that A.R. can embark on a journey of self healing.

Principles of Sentencing

- [17] The determination of a just and appropriate sentence is a highly individualized exercise that goes beyond any mathematical calculation. Many courts have recognized that imposing a just and proportionate sentence in serious cases, such as this one, is one of the most challenging responsibilities for a judge. It involves a careful balancing of a variety of factors, in the context of a particular set of circumstances, in respect to a particular offender. This balancing process is to occur within the legislative framework, informed by common law principles. That framework is s. 718 of the Code.

[18] Section 718 of the Code provides that the fundamental purpose of sentencing is "to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions". This purpose is achieved by imposing sentences that have, among others, the following objectives:

- (a) denouncing the unlawful conduct;
- (b) deterring the offender and other persons from committing offences;
- (c) separating offenders from society, where necessary;
- (d) assisting in the rehabilitation of offenders;
- (e) providing reparations for harm done to victims and to the community; and
- (f) promoting a sense of responsibility in offenders and acknowledging the harm done to the victims and to the community.

[19] If there are no exceptional or unique circumstances, s. 718.1 of the Code provides that the "sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender". An offender should not be punished more than is necessary in the circumstances: *R. v. Nasogaluak*, 2010 SCC 6 at paras. 40, 42.

[20] A sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances (s. 718.2(b) of the Code).

[21] Section 718.2(d) of the Code provides that:

an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances

[22] Because the offence in this case involves the abuse of a person under the age of 18, s. 718.01 of the Code requires me to give primary consideration to the objectives of denunciation and deterrence when imposing a sentence. In *Friesen*, the Supreme Court of Canada explained Parliament's choice to give the objectives of denunciation and deterrence priority in cases that involve sexual offences against children:

[105] Parliament's choice to prioritize denunciation and deterrence for sexual offences against children is a reasoned response to the wrongfulness of these offences and the serious harm they cause. The sentencing objective of denunciation embodies the communicative and educative role of law (*R. v. Proulx*, 2000 SCC 5, [2000] 1 S.C.R. 61, at para. 102). It reflects the fact that Canadian criminal law is a "system of values". A sentence that expresses denunciation thus condemns the offender "for encroaching on our society's basic code of values"; it "instills the basic set of communal values shared by all Canadians" (*M. (C.A.)*, at para. 81). The protection of children is one of the most basic values of Canadian society (*L. (J.-J.)*, at p. 250; *Rayo*, at para. 104) .

- [23] In Friesen, the Court further recognized the impact of sexual assault on girls and young woman, commenting:
- [68] Sexual violence also has a disproportionate impact on girls and young woman. Like the sexual assault of adults, sexual violence against children is highly gendered (Goldfinch, at para. 37). The "intersecting inequalities of being young and female" thus make girls and young women especially vulnerable to sexual violence ("The 'Statutory Rape' Myth", at p. 292). Sexual violence against children thus perpetuates disadvantage and undermines gender equality because girls and young women must disproportionately face the profound physical, emotional, psychological, and economic costs of the sexual violence (see R. v. Osolin, [1993] 4 S.C.R. 595, at p. 669; Goldfinch, at para. 37). Girls and young women are thus "still punished for being female" as a result of being disproportionately subjected to sexual violence [citation omitted].
- [136] At the same time, courts must also be particularly careful to impose proportionate sentences in cases where the victim is an adolescent. Historically, disproportionately low sentences have been imposed in these cases, particularly in cases involving adolescent girls, even though adolescents may be an age group that is disproportionately victimized by sexual violence [citation omitted]. In particular, sexual violence by adult men against adolescent girls is associated with higher rates of physical injury, suicide, substance abuse, and unwanted pregnancy [citation omitted].
- [24] The Supreme Court of Canada provided a list of significant factors the court should consider when determining a fit sentence for sexual offences against children: Friesen at paras. 121-147. The factors include:
- (a) the offender's likelihood to reoffend;
 - (b) the offender's abuse of a position of trust or authority;
 - (c) the duration and frequency of the sexual violence;
 - (d) the age of the victim; and
 - (e) the degree of physical interference.

Moral Blameworthiness

- [25] The relevant factors that are engaged in the assessment of an offender's moral blameworthiness were discussed by the Court of Appeal in R. v. C.K., 2023 BCCA 468. At para. 71, Justice DeWitt-Van Oosten held that the assessment of an offender's personal responsibility must consider their state of mind at the time of the offence. A non-exhaustive list of relevant factors is provided:

- the level of planning and/or intentionality brought to the crime;
- the degree, nature and extent of the offender's personal participation in the offence;

- the means or method by which the crime was committed;
- the motive or reasons for the offender's participation;
- the offender's awareness of the legal and moral wrongfulness of their conduct;
- their awareness of the actual or reasonably foreseeable harms flowing from their conduct (immediate and long-term); and
- their persistence in perpetrating the offence despite that awareness.

[26] In C.K., the Court of Appeal reminded us that sentencing judges must engage in a close examination of moral blameworthiness consistent with the harm-focused framework established by the Supreme Court of Canada in Friesen: at paras. 58, 73. The Court of Appeal provided guidance to sentencing judges to ensure that close consideration and proper effect be given to the significant harm caused to the victim and to not pay undue attention to the offender's personal mitigating circumstances. This is because to do so risks failing to give effect to the moral blameworthiness analysis mandated by Friesen in cases involving sexual offences against children: C.K. at paras. 61, 63, 68-74.

[27] I will return to an assessment of Mr. Grasdall-Hessler's moral blameworthiness later in my analysis.

Aggravating and Mitigating Factors

[28] Section 718.2 of the Code stipulates that, when imposing a sentence, the Court shall take into consideration any relevant aggravating or mitigating circumstances related to the offence and increase or decrease the sentence accordingly.

Aggravating Factors

[29] Aggravating factors are particularly informative of the offender's moral blameworthiness.

[30] I find the following aggravating factors:

- a) The circumstances of the sexual assault involved a penetrative act that took place in the cab of a truck in a remote area after Mr. Grasdall-Hessler had supplied alcohol to A.R. and she was intoxicated; and
- b) The application of s. 718.01 of the Code that the primary objectives of denunciation and deterrence as a priority in cases that involve sexual offences against children.

Mitigating Factors

[31]

With respect to the mitigating factors, Mr. Grasdall-Hessler plead guilty, sparing the victim from having to testify and with the consequential savings in court time. He has no criminal record.

- [32] I note that Mr. Grasdall-Hessler was 22 years old at the time of the offence, being relatively young.
- [33] Mr. Grasdall-Hessler has expressed a willingness to undergo treatment.
- [34] Mr. Grasdall Hessler shares a close and supportive relationship with his family. He maintains a business with his father and resides with him and his grandparents.
- [35] Mr. Grasdall-Hessler chose not to address the Court. It is not clear to me whether he has any remorse for his actions. The PSR notes that he continues to deny responsibility for the current offence, he presents with a lack of insight into the precipitating factors leading to his sexual offending behaviours and the effect of his offending upon the victim. The PSR writer is of the view that Mr. Grasdall-Hessler would benefit from participation in comprehensive sex offender treatment programs, which are often designed and aimed at addressing denial and minimization. As already noted, Mr. Grasdall-Hessler said that he is willing to undergo treatment.
- [36] I accept that based on Dr. Magee's assessment of Mr. Grasdall-Hessler, he is at a moderate risk in terms of potential for sexual violence.

Determining the Appropriate Sentence

- [37] The maximum sentence for sexual interference is 14 years.
- [38] I accept that the applicable sentencing range for sexual assault involving penile-vaginal penetration is a custodial sentence of two to six years: *R. v. T.H.*, 2024 BCCA 123 at para. 24; *R. v. Maslehati*, 2024 BCCA 207 at para. 79. I also note the Supreme Court of Canada's instruction regarding sentencing for sexual offences against children, including adolescents, as summarized in *Maslehati*:
- [67] Friesen sent a strong message to judges tasked with sentencing for child sexual assault: mid-single digit penitentiary terms should be considered normal and upper-single digit and double-digit penitentiary terms should be neither unusual nor reserved for rare or exceptional circumstances: at para. 114. Appellate decisions released post-Friesen show that substantial penitentiary terms are no longer unusual for child sexual assault, even for first-time offenders: *R. v. C.K.*, 2023 BCCA 468 at para. 112; *R. v. G.J.M.*, 2024 BCCA 82 at para. 71 [G.J.M.].
- [68] The Crown says the same thing should happen for sexual assaults against adults. These sentences should also increase. Friesen held that sexual violence against children should generally be "punished more severely" than sexual violence against adults: at para. 116. However, the Court also made it clear that this does not mean sentences for sexual offences against adults should decrease: at para. 118.
- [39] When considering the factors set out in *Friesen*, I find the following:

- I accept the opinion of Dr. Magee that there is a moderate risk in future relationships of Mr. Grasdall-Hessler reoffending and he has the potential for future sexual violence;
- Mr. Grasdall-Hessler was not in a position of trust or authority over A.R.;
- The sexual violence was one instance of short duration, although undertaken when A.R. was intoxicated;
- A.R. was below the age of 18 at the time of the assault, though I note that she was not a young child in a position of total dependence. Without intending to diminish the seriousness of this crime, it is important to raise that this was not a case of a much older adult abusing a young child;
- It does not appear this was a pre-planned assault; and
- The assault involved a serious physical interference, being sexual intercourse, which carries with it a high degree of moral culpability.

Disposition

- [40] Given that this is a joint sentence made on behalf of defence and Crown counsel for this offence, I would only depart from that joint submission if I considered the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. In the circumstances, as a whole, I see no principled basis on which to depart from the joint submission. The proposed sentence does not bring the administration of justice into disrepute or is otherwise contrary to the public interest.
- [41] I have considered the joint submissions that have been made, as well as the materials I have been given, and I accept that an appropriate sentence for the offence is three years.
- [42] Mr. Grasdall-Hessler please stand. I sentence you to a period of three years' imprisonment. You may be seated.
- [43] There will be the following ancillary orders made.
- [44] Sexual interference is a primary designated offence pursuant to s. 487.04 of the Code. I authorize the taking of bodily substances from you under s. 487.051(1). The samples will be taken from you while you are in custody, and you must submit to the taking of the samples.
- [45] Pursuant to ss. 490.012(1) and 490.013(2.1) of the Code you are required to comply with SOIRA for 20 years.
- [46] Pursuant to s. 109 of the Code, you are prohibited from possessing:
- a) any firearm, other than a prohibited firearm or restricted firearm, and any cross-bow, restricted weapon, ammunition and explosive substance for a period of ten years after your release from prison; and

- b) any prohibited firearm or restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life.
- [47] As part of the joint submission, the parties proposed that the following conditions be imposed on the offender after his discharge from prison pursuant to s. 161 of the Code:
- 1. seeking, obtaining, or continuing any employment, whether or not the employment is renumeralated, or becoming or being a volunteer in a capacity that involves being in a position of trust or authority towards persons under the age of 16 years;
 - 2. having any contact with a person who is under the age of 16 years in a private place except:
 - a. under the supervision of an adult who is aware of this order; or
 - b. if you reside in the same dwelling unit as the person who is under the age of 16 years and only if that person's parent or guardian is aware of this order; and
 - 3. if you enter into an intimate relationship with anyone who is a parent or guardian of a person who is under the age of 16 years, you must notify your nearest RCMP or law enforcement office within 48 hours.
- [48] A s. 161 order requires an evidentiary basis upon which to conclude that the particular offender poses a risk to children. The sentencing judge must be satisfied that the specific terms of the order are a reasonable attempt to minimize the risk: *R. v. Williams*, 2019 BCCA 295 at para. 98.
- [49] As noted by the Court of Appeal in *R v. R.J.H.*, 2021 BCCA 54, the sentencing judge should take into account the principles expressed in *Friesen* when considering s. 161 orders, and to fully reflect and give effect to the profound wrongfulness and harmfulness of sexual offences against children: at para. 20.
- [50] I find that the proposed orders are appropriate in light of the offence that Mr. Grasdall-Hessler has plead guilty to and the concerns raised in the Report of Dr. Magee. Mr. Grasdall-Hessler took advantage of a 15-year-old while she was intoxicated. As noted by Dr. Magee, if the accused returns to drinking after his release, he could apply the technique of getting girls intoxicated so he could engage in sexual activity with an unwilling victim again. As Dr. Magee also notes that Mr. Grasdall-Hessler poses a risk if he is involved in a relationship and an opportunistic situation was presented, then he may re-offend. I agree with submissions of counsel that this risk could well present while engaging in employment or volunteer work with young people or if he enters a relationship with someone who has a child. His opportunity to take advantage of underage females should be curtailed.
- [51] I order that upon Mr. Grasdall-Hessler's release from prison, he is prohibited from, for a period of five years:

1. seeking, obtaining, or continuing any employment, whether or not the employment is remunerated, or becoming or being a volunteer in a capacity that involves being in a position of trust or authority towards persons under the age of 16 years.
 2. having any contact with a person who is under the age of 16 years in a private place, except:
 - a. under the supervision of an adult who is aware of this order; or
 - b. if you reside in the same dwelling unit as the person who is under the age of 16 years and only if that person's parent or guardian is aware of this order.
 3. if you enter into an intimate relationship with anyone who is a parent or guardian of a person who is under the age of 16 years, you must notify your nearest RCMP or law enforcement office within 48 hours.
- [52] In light of the significant sentence, I find that the victim surcharge should be waived due to financial hardship.
- [53] A further condition, which is agreed to by defence, is that during your term of custody you must not have any contact, direct or indirect, with A.R. and E.G, pursuant to s. 743.21(1) of the Code.
- [54] Finally, pursuant to s. 743.2 of the Code, I direct the Court Services Branch to forward a copy of these reasons, the PSR, and the Report of Dr. Magee to the Correctional Service of Canada.
- [55] This concludes my sentencing reasons.

"Forth J."

Source & reproduction note

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

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/23/2025BCSC2313.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-grasdal-hessler-2025>

Prepared on 26 October 2026 · Esheria