

CANADA / JUDGMENT

R. v. H.C.D.

2025 BCSC 450

COURT

Supreme Court of British Columbia

DECIDED

27 January 2025

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2025 BCSC 450 R. v. H.C.D.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. H.C.D.,

2025 BCSC 450

Date: 20250127

Docket: 95486-2

Registry: Abbotsford

Rex

v.

H.C.D.

Restriction on Publication: Pursuant to s. 486.4 of the Criminal Code Canada

Before: The Honourable Justice Dley

Oral Reasons for Sentence

Counsel for the Crown:

B.G. Oros

Counsel for the Accused:

W.M. Finch K.C.

Place and Dates of Trial/Hearing:

Abbotsford, B.C.

October 3, 2024

December 12, 2024

Place and Date of Judgment:

Abbotsford, B.C.

January 27, 2025

- [1] THE COURT: Other than in rare circumstances, jail is the appropriate sentence for an indictable sexual assault.
- [2] Mr. H.C.D. has pled guilty to sexual assault. His moral blameworthiness was significant. The Crown seeks a jail term of two years less a day. Mr. H.C.D. submits that because of compelling mitigation, the sentence can be served in the community with strict house conditions.

Background Facts

- [3] Mr. H.C.D. and Ms. A.M. (the "complainant") were on-call members of the Fire Service ("the Service") and had known each other for about two years. Mr. H.C.D. was a mentor to members of the Service, including the complainant.
- [4] On December 22, 2021, Mr. H.C.D. and the complainant were part of a group engaged in evening holiday festivities. They had consumed alcohol and were intoxicated. They were driven by a co-worker to the complainant's home. Mr. H.C.D. asked if he could stay over and she agreed. The complainant had no intention to engage in any form of intimate activity with Mr. H.C.D.
- [5] Mr. H.C.D. offered a massage, to which the complainant eventually agreed. Mr. H.C.D. squeezed her nipples. The complainant told him to stop. The complainant went to her bed at about 6:00 a.m. and fell asleep.
- [6] Mr. H.C.D. came into her bedroom and asked the complainant if she was awake. She awoke, but pretended that she was asleep and did not respond. Mr. H.C.D. placed his hand on her thigh and vagina and again asked her to awaken. Mr. H.C.D. went to her dresser and rummaged through the drawers. He returned to the bed and inserted his finger for about 20 seconds. Mr. H.C.D. went to the washroom, washed his hands, and returned again to engage in digital penetration. He left the room and the complainant crossed her heels together. She was crying.
- [7] Mr. H.C.D. returned and forced her heels apart. He pulled her to the edge of the bed and tried to pry her mouth open. He placed his penis to her mouth; he stopped when he was unable to open her mouth. Mr. H.C.D. attempted penile penetration, but was unable to. He again left the room.

- [8] Upon his return, The complainant pretended to awaken and asked Mr. H.C.D. what he was doing. Mr. H.C.D. said that he was concerned that the complainant might oversleep. When she assured him that her alarm was on, he left the room.
- [9] Five minutes later, Mr. H.C.D. returned and asked the complainant if she was awake. She did not respond. Mr. H.C.D. digitally penetrated her and performed oral sex, after which he covered her up with a blanket and left the room.
- [10] The complainant was very scared. She texted a co-worker at 6:45 a.m. The co-worker arrived at about 7:15 a.m. Mr. H.C.D. answered the door and then left the residence when told to do so by the co-worker who had spoken with the complainant.
- [11] Later that morning, the complainant and Mr. H.C.D. exchanged text messages, where she accused him of sexually assaulting her and provided him with details of what he had done. Mr. H.C.D. apologized and said that he would resign from the Service.

Sentencing Positions

- [12] The Crown seeks a jail sentence of two years less a day, to be followed by two years of probation. The Crown also asks for a 10-year firearm prohibition (s. 109(2)(a)), a primary designated DNA order (s. 487.051(1)), a non-communication order regarding the complainant, a 20-year SOIRA order (s. 490.012 (3)), and a \$200 Victim Fine Surcharge.
- [13] Mr. H.C.D. does not take issue with the orders sought by the Crown, save and except for the imposition of a jail sentence and the SOIRA order. Mr. H.C.D. is agreeable to the length of the proposed sentence, provided it can be served in the community pursuant to a Conditional Sentence Order. In the alternative, he submits that a jail sentence should be at the lower end of a 15-month to two-year range. Mr. H.C.D. also argues that the SOIRA order is unnecessary in his particular circumstances.

Principles of Sentencing

- [14] The principles and objectives of sentencing are set out in ss. 718 to 718.201 of the Criminal Code and they require the court:
- (a) to denounce unlawful conduct ;
 - (b) to deter the offender and other persons from committing offences;
 - (c) to separate offenders from society, where necessary;
 - (d) to assist in rehabilitating offenders;
 - (e) to provide reparations for harm done to victims or to the community; and
 - (f) to promote a sense of responsibility in offenders and acknowledgment of the harm done to victims and to the community.

- [15] The sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.
- [16] The court shall also take into account the following principles:
- 1) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender;
 - 2) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
 - 3) an offender should not be deprived of liberty if less-restrictive sanctions may be appropriate in the circumstances; and
 - 4) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.
- [17] The circumstances of this offence require that denunciation and deterrence be emphasized. At the same time, the court must always exercise restraint in sentencing and keep rehabilitation in mind.
- [18] Sentencing is an individualized process. Each offender must be sentenced in the particular circumstances of the offences committed and the particular circumstances of the offender.
- [19] Other cases are of assistance to ensure that there is parity in sentencing. The range of sentences are helpful but must not be treated as a straitjacket so as to eliminate the individualized nature of sentencing.

Mr. H.C.D.'s Personal Circumstances

- [20] Mr. H.C.D. is 43 years of age. He is married with two children. His youngest child, aged 16, has autism which requires the full-time care of his wife. Mr. H.C.D. is the sole breadwinner for the family. He lives with his family and parents, all of whom are aware of these events. Mr. H.C.D. has accepted his wife's anger and the humiliation of disclosing the offence to his family and relatives.
- [21] Mr. H.C.D. was born and raised in Mexico City. His family emigrated to B.C. in 1999, when he was 18 years of age. Mr. H.C.D. took some schooling to learn the English language and adjusted to life in Canada.
- [22] He has been steadily employed in various occupations, including the food industry and construction. He worked for eight years as an on-call member of the Service with the goal of becoming a full-time member. That opportunity is no longer open to him as a result of this offence. Since the offence, Mr. H.C.D. has resigned from the Service. He is now employed as a heavy equipment operator.

- [23] Following this incident, Mr. H.C.D. sought counselling and has abstained from consuming alcohol.
- [24] Psychologist, Dr. Bodnarchuk has assessed Mr. H.C.D. The purpose of the assessment was to gain insight about causation or how the offence occurred, the propensity for Mr. H.C.D. to reoffend, and what effect the prosecution of the offence has had on Mr. H.C.D.
- [25] Dr. Bodnarchuk's report outlined the explanation of events provided by Mr. H.C.D. Dr. Bodnarchuk was of the view that Mr. H.C.D.'s motivation for the offence was to achieve a sexual arousal response from the complainant, which would result in her wanting to have sex with him.
- [26] Dr. Bodnarchuk concluded that Mr. H.C.D. needed offence-specific treatment and continued support from his family and church.
- [27] Dr. Bodnarchuk assessed Mr. H.C.D. with respect to his risk for re-offending. Dr. Bodnarchuk opined that the likelihood that Mr. H.C.D. would engage in a similar offence was "low". He stated at page 17 of his report:

Mr. [H.C.D.]'s risk for future sexual offences is low compared to large numbers of individuals convicted of sexual offences. On the Static - 2002, an actuarial measure, his future risk is estimated to be between about 2% to 8% in five years, and 2% to 13% in ten years. Using the RSVP, his risk is low for future sexual offences and is decreased further by his fear of future criminal justice system consequences, the potential effects on his wife and children, remorse, and the community's response if he re-offended. I believe his remorse is genuine and is much greater than many individuals I have assessed who have committed a sexual offence.

- [28] Mr. H.C.D. has been affected by the prosecution of his offending behaviour. He lost a significant part of his identity, which was helping others in circumstances involving fires and accidents. He acted illegally and immorally against his religion and personal values.
- [29] Mr. H.C.D. has recognized the effect that his offending behaviour has had on the complainant. His family has also understood the harm that he inflicted and, although he has their support, he has not been excused. Mr. H.C.D.'s wife submitted a letter which provided helpful information about Mr. H.C.D. and their family, highlighted by the following comments:

It has been a very strange, overwhelming and painful experience for me to know of the incident and related charge against my husband. I am also so profoundly hurt to know of what has happened to [the complainant], and my heart breaks for the wound she is experiencing even now. I hate that this happened to her and I wish that no woman would have to experience this type of torture to their mind as it attacks their sense of safety and value of themselves. My heart goes out to her and I have prayed for her every day since that day, and will keep doing so.

- [30] Mr. H.C.D. has been a model citizen, but for this offence. He has no criminal history. He has volunteered and provided his service for community events. He has assisted in English language tutoring and counselling new immigrants. Mr. H.C.D. has given of his time and provided support for young persons and the elderly, who otherwise had no family support.
- [31] Mr. H.C.D. says that the consumption of alcohol was the reason for his wrongful actions. He does not proffer alcohol as an excuse or rationale for his offending behaviour, but merely as an explanation for what occurred.
- [32] Mr. H.C.D. says that in these particular circumstances, a conditional sentence is appropriate because incarceration is not necessary. He says that all of the sentencing principles and objectives can be satisfied by a strict and restrictive conditional sentence order.

Discussion

- [33] In *R. v. Maslehati*, 2024 BCCA 207 at paras. 11-13 and 58, the Court reviewed the principles, objectives, and factors relevant to sentencing in sexual assault cases:
- 1) where aggravating circumstances are present, a conditional sentence will be rare, even for first-time offenders;
 - 2) unless there is reduced moral blameworthiness or compelling mitigation, a prosecution by indictment will generally result in a penitentiary sentence of at least two years;
 - 3) in the absence of diminished moral blameworthiness or compelling mitigation with aggravating circumstances, a conditional sentence will generally be inconsistent with the purpose and principles of sentencing, even if the term of imprisonment is for less than two years.
- [34] The following aggravating circumstances (which are not exhaustive) must be considered: *Maslehati* at para. 74:
- [74] Circumstances that may be found to elevate the already-inherent seriousness of a sexual assault (and are therefore aggravating), include:
- highly invasive, violative and/or demeaning sexual conduct;
 - prolonged duration and/or repeated occurrences;
 - additional physical violence and/or physical injury;
 - administering drugs or alcohol to incapacitate the victim, or taking advantage of incapacity;
 - threats and/or the use of a weapon;
 - persistence in the face of communicated non-consent, or acts intended to overcome resistance;
 - more than one offender involved;

- sexual assault in the presence of children;
- the violation occurs in the victim's home;
- planning and/or steps taken to facilitate the offence;
- attempts to prevent disclosure or avoid detection;
- age of the victim;
- a particularly vulnerable victim;
- actual and reasonably foreseeable harms that flowed from the offence, including significant impact on the victim; and,
- breach of trust.

[35] Maslehati also provides the following instructions:

- 1) an offender's personal circumstances that might diminish their moral blameworthiness or provide mitigating factors do not make the offence less serious (para. 76);
- 2) sentences for sexual assault must consider the harmfulness and wrongfulness of the offending conduct (para. 83);
- 3) the individual circumstances of the offender, where there is diminished moral blameworthiness or compelling mitigation, may justify a departure from a penitentiary sentence in the two- to six-year range (para. 85);
- 4) the appropriate sentence must address proportionality and account for the gravity of the offence and the offender's circumstances and moral culpability (para. 86); and
- 5) a punitive conditional sentence can give meaningful effect to the principles of denunciation and deterrence (para. 110).

[36] Mr. H.C.D. does not take issue with the aggravating circumstances. He acknowledges his significant moral blameworthiness. However, he argues that there is compelling mitigation to the extent that, in his particular circumstances, it is sufficient to warrant the imposition of a punitive conditional sentence. In particular, Mr. H.C.D. submits that the guilty plea is of such significance that it tips the balancing of the sentencing principles and objectives towards a conditional sentence.

[37] The aggravating factors are:

- 1) The complainant was vulnerable, highly intoxicated and asleep when the initial assault began. As far as Mr. H.C.D. was concerned, the complainant was asleep throughout most of his offending conduct.
- 2) The complainant trusted Mr. H.C.D. as a colleague and mentor. She allowed him into her home and provided him with a place to stay overnight.

- 3) The assault took place within her home where she would expect to be safe.
- 4) The assault was prolonged over the course of about 45 minutes. Although Mr. H.C.D. came and went from her bedroom, he was persistent and determined in his efforts to achieve intimacy when he knew there was no consent.
- 5) Mr. H.C.D. used some force when he tried to insert his penis into the complainant's mouth and pried apart her locked heels.
- 6) There was a significant age difference between the parties; Mr. H.C.D. was 21 years older.
- 7) The assault has had a devastating effect on the complainant, as evidenced by her victim impact statement. I also note that she was unable to remain in the courtroom and left when Mr. H.C.D. apologized for his offending behaviour.

[38] The mitigating factors are:

- 1) Mr. H.C.D. has no criminal history; this was an isolated and out-of-character occurrence.
- 2) Mr. H.C.D. apologized shortly after the offence and again during the sentencing hearing. His remorse is genuine and continuing.
- 3) Mr. H.C.D. was under the influence of alcohol at the time of the offence. He has abstained since and is committed to abstaining in the future.
- 4) Mr. H.C.D. is of low risk to reoffend.
- 5) Mr. H.C.D. is receptive to counselling as may be recommended.
- 6) Mr. H.C.D. has complied with the terms of his bail release and has not had any further contact with the complainant.
- 7) Mr. H.C.D. has pled guilty to the charge and not contested the factual allegations, all of which has saved the complainant from being re-victimized.

[39] Since the Maslehati decision, this Court has imposed a conditional sentence for a sexual assault prosecuted by indictment. In *R. v. Townsend*, 2024 BCSC 1313, the offender ripped off his victim's clothing and penetrated her with his penis. The victim repeatedly told the offender to stop. She was able to end the assault by kicking him off.

[40] Mr. Townsend was a 22-year-old Indigenous man with no criminal record. He had achieved much, in spite of difficult circumstances, as outlined in a Gladue report. Mr. Townsend was described as "polite, respectful, law-abiding, productive, and hard-working."

[41] The Crown had proposed a custodial sentence range beginning with 12 months. Justice Giaschi considered the sentencing principles, the circumstances of the offence, Gladue factors, and Mr. Townsend's personal circumstances before deciding that a conditional sentence was fit and just. The court determined that the gravity of the offence was at the lower end of the spectrum of sexual assaults. That finding considered the very serious

violation of the victim. The assault was of relatively short duration. The only aggravating factor alleged by the Crown was that the victim was in a position of vulnerability because she was asleep or unconscious at the time of the offence.

- [42] However, Justice Giaschi found as a fact that she was not asleep or unconscious as alleged and not vulnerable on that basis. He concluded that the victim was vulnerable because she had trusted the offender by going to his bed in his home while intoxicated.
- [43] The court concluded that while vulnerability is an aggravating factor, it was less of a factor because the victim was neither asleep nor unconscious. The court stated at para. 54:
- [54] Considering all of the circumstances of the offence, it is my view that, although undoubtedly serious, the gravity of this offence is towards the lower end of the spectrum of sexual assaults. It was not planned or premeditated, but rather was an act triggered by excessive alcohol consumption. It was a single incident of relatively short duration. There was no additional or gratuitous violence.
- [44] Mr. Townsend had experienced alcohol abuse and physical, sexual and emotional abuse. The court identified the Gladue factors as having played a very significant role in Mr. Townsend's offending behaviour and they operated to significantly reduce his moral culpability.
- [45] Justice Giaschi reviewed similar fact patterns in *Maslehati, R. v. T.H.*, 2024 BCCA 123, and *R. v. Henry*, 2024 BCCA 132 at paras. 61-67, and concluded that although there were many similarities, the distinguishing features of Mr. Townsend, included his young age and the Gladue factors. The court imposed a conditional sentence of two years less one day and three years of probation.
- [46] Although Mr. H.C.D.'s offending conduct encapsulates many of the same facts as those outlined and referred to in Townsend, no two cases are exactly the same. Here, there are more aggravating factors to consider than was the case in Townsend. The mitigating factors have some similarities, with the most significant difference being the positive impact of Mr. H.C.D.'s guilty plea.
- [47] Whether a conditional sentence should be imposed depends upon the two-step process as set out in *R. v. Proulx*, 2000 SCC 5 at paras. 58-60 and *R. v. Wells*, 2000 SCC 10 at paras. 27-30.
- [48] First, I must determine whether the sentence could be less than two years and that the safety of the community would not be endangered by a conditional sentence. The danger of the community is decided upon an assessment of the offender's risk of re-offending and the gravity of the damage that could result if there was to be re-offending behaviour. If those prerequisites have been met, I would then move to the second step.
- [49] The second step is a more comprehensive determination as to whether a conditional sentence would be consistent with the fundamental purpose and principles of sentencing as set out in the Criminal Code.

- [50] With respect to the first step, I am satisfied that the sentence could be less than two years, based on all of the circumstances and the aggravating and mitigating factors. In addition, the position of the Crown seeking a sentence of less than two years carries some weight. The psychological assessment indicates that Mr. H.C.D. would not endanger the safety of the community if bound by a conditional sentence order.
- [51] The more difficult question is whether a conditional sentence in these circumstances would address the fundamental principles and purpose of sentencing, and in particular the principles of denunciation and deterrence. Although rare in sexual assault cases, conditional sentences should not simply be rejected as always being inappropriate. A conditional sentence can be punitive and give meaningful effect to the principles of denunciation and deterrence: *Maslehati* at paras. 109-110, and *R. v. Proulx* at paras. 40-41.
- [52] Where there are aggravating circumstances, a conditional sentence may be available in those cases where there is diminished blameworthiness or compelling mitigation. At paras. 11-13 of *Maslehati*, the Court stated:
- [11] in cases involving an adult sexual assault with aggravating circumstances, a conditional sentence will rarely be available, even for offenders without a criminal record.
- [12] First, in the absence of a factual finding of diminished moral blameworthiness or compelling mitigation, a penitentiary term of at least two years' imprisonment will generally be required for a sexual assault with aggravating circumstances that the Crown prosecutes by indictment.
- [13] Second, even where imprisonment of less than two years is imposed, an absence of diminished moral blameworthiness or compelling mitigation in a case with aggravating circumstances will generally render a conditional sentence inconsistent with the fundamental purpose and principles of sentencing.
- [53] This is not a case where diminished moral blameworthiness exists. The question is whether, in light of the whole of the circumstances, there are compelling mitigating factors that justify a departure from a presumptive jail sentence.
- [54] The issue of compelling mitigation must be considered in conjunction with aggravating circumstances. Compelling mitigation cannot be considered in an isolated context. In those cases where the compelling mitigation is significant, a conditional sentence is generally not appropriate if there are also aggravating circumstances.
- [55] Here, the aggravating circumstances are significant. There is no need to repeat what I have already stated. The aggravating circumstances are of such significance that they are not overtaken by the mitigating factors.

- [56] Mr. Finch has made a forceful argument that the mitigating factors are so compelling that, even though this may be a close call, nonetheless a conditional sentence is appropriate. In the absence of aggravating factors, that argument would be sound. However, I conclude that the aggravating circumstances in this case render a conditional sentence inconsistent with the fundamental purpose and principles of sentencing and therefore not available.
- [57] The remaining question is with respect, then, to the length of the jail sentence.
- [58] The aggravating factors would tend to favour the position advanced by the Crown, that is two years less a day.
- [59] This was a serious offence and the aggravating factors make the offence objectively graver: Maslehati at para. 73.
- [60] The mitigating factors indicate this offence to be out of character. Mr. H.C.D. has strong support and is committed to rehabilitate himself through whatever counselling is indicated. His otherwise good judgment may have been clouded by the mist of intoxication. He has abstained from alcohol consumption since then. He has shown genuine remorse and has taken full accountability.
- [61] I have detailed the mitigating factors not to give them greater emphasis than the aggravating factors, but merely to outline Mr. H.C.D.'s personal circumstances in the search for a fit and proportionate sentence. All factors are to be considered - the assessment is not to be done on a piecemeal basis.
- [62] The impact of Mr. H.C.D.'s guilty plea is significant. A guilty plea will always be a mitigating factor, although the weight attached to it may be affected by its timing. An early guilty plea will have more significance than one late in the day.
- [63] A guilty plea to an offence involving victims at large, such as in drug trafficking, results in the benefit of saving trial time and expense, but not necessarily addressing the impact to a specific victim. A guilty plea in a case involving a direct victim, such as in a home invasion or sexual assault, carries the additional benefit of saving the victim from the rigours of trial testimony and reliving the trauma associated with the offence. As such, a guilty plea to sexual assault must be given significant mitigating weight because re-victimization has been avoided.
- [64] The primary focus remains on the sentencing principles of denunciation and deterrence. A fit sentence must keep those sentencing principles at the forefront, with the ultimate objective being the protection of the public.
- [65] Sentencing in sexual assault cases is best summarized in Maslehati at paras. 4-5:

- [4] In all cases of sexual assault, whether prosecuted summarily or by indictment, judges must impose a sentence that is "proportionate to the gravity [seriousness] of the offence and the degree of responsibility [blameworthiness] of the offender": Criminal Code, s. 718.1. "The goal in every case is a fair, fit and principled sanction": R. v. Parranto, 2021 SCC 46 at para. 10.
- [5] However, what amounts to a fit sanction is determined case-by-case and informed by the circumstances surrounding the offence, the personal circumstances of the offender, relevant aggravating and mitigating factors, the community context in which the offence occurred, and the judge's application of various legal principles that govern the sentencing process. The individualized and contextualized nature of sentencing means that no two cases will ever be exactly alike and importantly, even where there are similarities between cases, the outcomes may be different.
- [66] But for the significant mitigating circumstances, the sentence proposed by the Crown would be appropriate. However, the strength of the mitigating circumstances militates in favour of Mr. H.C.D. receiving a lesser custodial term, together with rehabilitation measures that will satisfy the ultimate objective, which is to protect the public. A term of imprisonment will emphasize the principles of deterrence and denunciation, but not be so lengthy that the mitigating aspects are ignored and rehabilitation is disregarded.
- [67] I therefore conclude that a fit sentence is one of 18 months in prison followed by a probation order for a period of three years. The jail term focuses on the punitive nature of the sentence, while the period of probation addresses rehabilitation and ultimately the protection of the public.
- [68] In accordance with s. 743.21(1) of the Criminal Code, Mr. H.C.D. shall not directly or indirectly communicate with the complainant for the duration of the custodial sentence.
- [69] The Crown submits that Mr. H.C.D. be subject to a 20-year SOIRA order pursuant to s. 490.012(3) of the Criminal Code. I decline to so order. Mr. H.C.D. is a low risk to reoffend. He has no criminal history and this was an isolated incident out of character for him.
- [70] He will be required to provide a sample of his DNA, since this is a primary designated offence. Registration of Mr. H.C.D.'s DNA in the National Data Bank may assist police in the prevention and investigation of sex offences.
- [71] In R. v. Ndhlovu, 2022 SCC 38 at para. 79, the Court stated:
- [79] The sentencing judge concluded that mandatory registration is overbroad as it leads to the registration of offenders who are not at an increased risk of committing a future sex offence. We agree. As we explained, the purpose of mandatory registration is to capture information about offenders that may assist police prevent and investigate sex offences. Registering offenders who are not at an increased risk of reoffending bears no connection to this purpose.

- [72] I therefore conclude that Mr. H.C.D. is not required to register under SOIRA.
- [73] Mr. H.C.D. does not take issue with the other ancillary orders sought by the Crown.
- [74] Pursuant to s. 109(2)(a), Mr. H.C.D. is prohibited, for a period of 10 years, from possessing any firearms, ammunition, explosive substances, crossbows and restricted weapons.
- [75] Pursuant to s. 487.051, Mr. H.C.D. shall, within 30 days, provide a sample of DNA for registration into the National DNA Data Bank.
- [76] Mr. H.C.D. shall pay a victim fine surcharge of \$200.
- [77] At the conclusion of the custodial sentence, Mr. H.C.D. shall be bound by a probation order for a period of three years. In addition to the mandatory terms set out in the Criminal Code, the following terms apply.
- [78] You must report in person to a probation officer at Abbotsford Community Corrections located at 32375 Veterans Way, Abbotsford, B.C., within two years after your release from custody, unless you have obtained, before your release from custody, written permission from a probation officer to report elsewhere or within a different timeframe. After that, you must report as directed by your probation officer.
- [79] When first reporting to a probation officer, you must provide them with the address or location where you live and regularly sleep, and your phone number if you have one. You must not change them without notifying your probation officer before making the change.
- [80] Your reporting ends when you have satisfied your probation officer that you have completed all your counselling and treatment and your officer has told you that you are no longer required to report.
- [81] You must attend, participate in, and complete any intake, assessment, counselling, or education program as directed by your probation officer.
- [82] You must have no contact or communication, directly or indirectly, with the complainant, A.M.
- [83] You must not go to or be within 200 metres of any place where A.M. lives, works, attends school, worships, or happens to be. If you see them, you must leave their presence immediately without any words or gestures.
- [84] You must not possess, directly or indirectly, any weapon as defined by the Criminal Code, including firearms and ammunition, crossbows, prohibited or restricted weapons or devices or explosive substances, anything used, designed to be used, or intended for use in causing death or injury to any person or to threaten or intimidate any person, any imitation firearms or weapons, including any compressed airguns, BB or pellet guns, any related authorizations, licences, and registration certificates, and you must not apply for any of these.

- [85] You must not possess or consume alcohol, illegal drugs, intoxicating substances, marihuana, or prescription medication, except in accordance with a medical prescription.
- [86] Do you understand those terms, Mr. H.C.D.? All right.
- [87] Mr. Finch, time to pay the victim fine surcharge?
- [88] CNSL M. FINCH: Justice, I would ask for perhaps four months, and that's just out of an abundance of caution. I don't expect that it will take that.
- [89] THE COURT: Ms. Oros, any position?
- [90] CNSL B. OROS: No, Justice.
- [91] THE COURT: All right. Four months to pay the victim fine surcharge.
- [92] CNSL M. FINCH: Justice, if I could, I would just seek clarification with respect to the probation order. You had indicated that he was to report to Abbotsford Community Corrections within two years.
- [93] THE COURT: I am sorry, it should have been two days.
- [94] CNSL M. FINCH: That is what I thought, that would be - well, thank you.
- [95] THE COURT: Ms. Oros, anything?
- [96] CNSL B. OROS: No, Justice.
- [97] THE COURT: I am also going to order that all of the exhibits at this sentencing hearing, save and except for the victim impact statement, be provided to B.C. Corrections in order to assist with the assessment of counselling and programs relevant to Mr. H.C.D.'s rehabilitation while he is in custody. I have not ordered the release of the victim impact statement because of privacy considerations.
- [98] CNSL M. FINCH: Thank you, Justice.
- [99] CNSL B. OROS: Thank you.
- [100] THE COURT: Thank you, counsel, for your detailed and thoughtful submissions.
- "Dley J."

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