

CANADA / JUDGMENT

R. v. Khouchaba

2025 BCSC 2592

COURT

Supreme Court of British Columbia

DECIDED

15 December 2025

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

2025 BCSC 2592 R. v. Khouchaba

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Khouchaba ,

2025 BCSC 2592

Date: 20251215

Docket: 41838-2

Registry: Port Alberni

Rex

v.

Victor Khouchaba

Before: The Honourable Justice K. Wolfe

Oral Reasons for Sentence

Counsel for the Crown:

C.J. Gibson

Counsel for the Accused:

J.D. Watt

Place and Date of Hearing:

Nanaimo, B.C.

December 15, 2025

Place and Date of Judgment:

Nanaimo, B.C.

December 15, 2025

[1] These are edited oral reasons for judgment.

Introduction

[2] THE COURT: These are my oral reasons for judgment with respect to the joint sentencing submission that I have heard this morning in the matter of Mr. Khouchaba. I reserve the right to edit for grammar, clarity, style, case citations and references, but the substance of my decision will not change.

[3] Mr. Khouchaba stands charged with nine counts on Indictment 41838-2 in this matter, all arising from an incident with police on May 26, 2022, in Port Alberni.

[4] Mr. Khouchaba originally pled not guilty and his trial commenced in mid-June 2025 with a two-part voir dire as a result of alleged Charter violations during his interactions with police. On June 20, 2025, I delivered oral reasons for judgment finding four Charter breaches. I then heard arguments seeking to exclude evidence as a result of those breaches. I delivered a further set of oral reasons on July 29, 2025, refusing to exclude the evidence under s. 24(2) of the Charter.

[5] Mr. Khouchaba's trial was set to continue this week. However, counsel have reached a resolution on this file. I have conducted the plea inquiry required under s. 606(1.1) of the Criminal Code, R.S.C. 1985, c. C-46, and Mr. Khouchaba has now pleaded guilty to two of the nine counts on the indictment. The Crown has advised it intends to stay the other seven counts at the conclusion of this sentencing hearing.

[6] The two counts to which Mr. Khouchaba has pleaded guilty are as follows:

- a) Count 7: on May 26, 2022, at or near Port Alberni, that he was in possession of a loaded prohibited firearm, namely, a Ruger 22 LR semi-automatic rifle with a barrel length of less than 660 millimetres, without holding an authorization, licence or registration certificate for the firearm, contrary to s. 95(1) of the Criminal Code; and
 - b) Count 8: on May 26, 2022, at or near Port Alberni, that he was in possession of a prohibited device, namely, a Butler Creek detachable box magazine with a capacity of 24 cartridges, while not being the holder of a licence under which he was entitled to possess it, contrary to s. 91(2) of the Criminal Code.
- [7] The question before me is, in light of the applicable principles of sentencing, what sentence is to be imposed given the specifics of these offences and Mr. Khouchaba's circumstances and background, including his guilty pleas.

[8] The Crown and defence have put forward a joint submission on sentence which proposes the following:

a) A jail sentence of 36 months or three years incarceration, divided as follows:

- i. On Count 7, 36 months concurrent to Count 8; and
- ii. On Count 8, six months concurrent to Count 7.

Mr. Khouchaba has not served any pre-trial custodial time so is not entitled to any credit against the proposed incarceration.

b) The Crown also seeks the following ancillary orders, which are not opposed:

i. A mandatory 10-year firearms prohibition order pursuant to ss. 109(1)(b) and 109(2) of the Criminal Code;

ii. On the basis that it is in the best interests of the administration of justice, an order under s. 487.051(3) of the Criminal Code that Mr. Khouchaba provide a sample of his DNA as he has been charged with an offence which is a "secondary designated offence" under s. 487.04 of the Criminal Code; and

iii. An order for forfeiture of offence-related property pursuant to s. 490.1(1) of the Criminal Code in respect of items 3-12 and 24 on the first six pages of the Exhibit Flowchart that has been marked as Exhibit 4 on this sentencing hearing, noting that the controlled substances listed on Exhibit 4 on this sentencing hearing are to be destroyed pursuant to the Controlled Drugs and Substances Act, S.C. 1996, c. 19.

[9] The defence also seeks waiver of the victim fine surcharge, and the Crown takes no position on that particular request.

Circumstances of the Offences

[10] The factual circumstances of the offences were addressed by Crown and agreed to by defence on this sentencing hearing. In short, it is agreed that on the evening of May 26, 2022, Mr. Khouchaba was driving in a vehicle when he was stopped by police at or near Port Alberni. At the time he was driving the vehicle, Mr. Khouchaba admits he knew that in the trunk of the vehicle, underneath certain other items, was a loaded prohibited firearm as described in Count 7, and a prohibited device in the form of a magazine for ammunition containing live ammunition as described in Count 8. Both items are identified on the Certificate of Analyst marked as Exhibit 1 on this sentencing hearing. Pictures of the items were entered as Exhibits 2 and 3 respectively on this sentencing hearing.

[11] It is agreed that Mr. Khouchaba knew he possessed those items. They were accessible to him and he did not have a licence, authorization or other permission to possess those items.

- [12] The police seized the prohibited firearm and prohibited device along with a number of other items, including certain controlled substances, which are set out in the first six pages of Exhibit 4 on this sentencing hearing.

Circumstances of the Offender

- [13] Defence counsel made submissions to alert the court to Mr. Khouchaba's circumstances as part of the joint sentencing submissions this morning.
- [14] I have also benefitted from hearing from Mr. Khouchaba himself, who made some very brief, but in my view, genuine comments when invited to do so at the conclusion of his sentencing hearing. He has acknowledged that he went down the wrong path, expressed that he did not realize what he was doing, and expressed that he is committed to getting his life back on track. I accept his submissions in that regard.
- [15] Mr. Khouchaba is currently 39 years of age. He does not identify as Indigenous. Mr. Khouchaba was born in Iraq as the eldest of a family of many children. When the Gulf War broke out in 1990, his family relocated to refugee camps - first in Syria, and then in Lebanon. He eventually immigrated to Canada when he was 10, first to Ontario and then came west.
- [16] Mr. Khouchaba's life was difficult between the ages of four and 10. He underwent multiple relocations to different countries and suffered a disruption of his education and family life, and his war-time trauma continues to this day.
- [17] Mr. Khouchaba has advised that his life changed on coming to Canada. He has been a contributing member of his family, helping to take care of his aging parents and provide for them. He completed high school and did some post-secondary studies but was unable to complete them due to finances. He has always been gainfully employed since the age of 16. He has skills in the construction industry and as a stylist.
- [18] Mr. Khouchaba had a significant long-term relationship that unfortunately ended abruptly in around 2020. Unfortunately, this led to his involvement and engagement with substances and to an addiction to cocaine, as well as the associated lifestyle. That is what gave rise ultimately to the incident for which he has pleaded guilty to the two counts before me today.
- [19] Mr. Khouchaba was arrested in May 2022 and released in short order. He was originally released on an undertaking and was required to return to court to address an issue of non-reporting, but he has had no further charges or convictions, including for any breaches. He has been on bail on conditions since November 2024 without incident.
- [20] Mr. Khouchaba has no prior criminal record.
- [21] In terms of his future prospects, as indicated Mr. Khouchaba has skills that he can apply upon his release. He has expressed a desire to use the time in custody to better himself, to truly separate himself from the substance use issues that led him to this place and the lifestyle associated with those behaviours, and to get his life back on track.

Analysis

- [22] By way of analysis, sentencing is necessarily an individualized process, but it is always informed by the principles and purposes of sentencing set out in ss. 718-718.2 of the Criminal Code. The sentencing objectives in the Criminal Code are paralleled in s. 10 of the CDSA.
- [23] The fundamental principle is 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 Criminal Code.
- [24] The Criminal Code specifies that a sentence should be adjusted to reflect any aggravating or mitigating factors (s. 718.2(a)) and should reflect the principle of parity - in other words, a sentence should be similar to those imposed on similar offenders for similar offences committed in similar circumstances (s. 718.2(b)). As well, where consecutive sentences are imposed, the "totality principle" provides that the overall sentence should not be unduly long or harsh (s. 718.2(c)). This is not a circumstance where the joint sentencing proposal is for consecutive sentences.
- [25] In the present case, the Crown and defence propose a joint sentence of three years jail. In the Crown's written submission, the Crown provided a breakdown of how the three years' total time breaks down between the two counts to which Mr. Khouchaba has pleaded guilty; this is set out above.
- [26] The defence indicates this is a true joint sentencing submission following productive discussions between counsel and appropriate considerations being taken into account on both sides.
- [27] The law is clear that 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: *R. v. Anthony-Cook*, 2016 SCC 43, at paras. 5 and 32-33.
- [28] I have carefully considered the proposed joint submission in light of the circumstances of the offences, Mr. Khouchaba's circumstances and the purposes and principles of sentencing, including the principles of denunciation and deterrence that are paramount in relation to these types of offences, and the principle of rehabilitation that applies in particular when dealing with a first-time offender.
- [29] I was referred to two cases in addition to *Anthony-Cook*: *R. v. Holt*, 2015 BCCA 302, and *R. v. Buchanan*, 2025 BCSC 2435. The case authorities, including those referenced in those two decisions, such as the Supreme Court of Canada's decision in *R. v. Nur*, 2015 SCC 15, confirm that despite the mandatory minimum sentence for these types of offences having been found unconstitutional, the appropriate range for a first-time offender for possession of prohibited firearms and ammunition is somewhere between 30 months and four years.

- [30] In Holt, the British Columbia Court of Appeal commented on the need to realign the range of sentences to accord with the seriousness of the offences and public concern over the proliferation of firearms-related offences.
- [31] Both counsel agree there are mitigating factors to be considered. First and foremost, Mr. Khouchaba is a first-time offender with no prior criminal record. Second, Mr. Khouchaba has pleaded guilty. As defence pointed out, although his was not an early guilty plea, the resolution of this file still allowed a savings of court time and resources and reflects a significant taking of accountability by Mr. Khouchaba. Third, Mr. Khouchaba has expressed a desire for rehabilitation, including as a first-time offender with an express desire to get his life back on track. Fourth, Mr. Khouchaba has no reported breaches or other offences and there has been no apparent relapse into the type of behaviour that led him to this point today; that signals a change on Mr. Khouchaba's behalf. Finally, the age of the file is a mitigating factor; this file is relatively dated at this point.
- [32] In this case, the main aggravating factor is the seriousness of the offences. Mr. Khouchaba possessed a significant firearm that, while not concealable, could have been readily accessed and poses a significant danger. The ammunition was also readily at hand.
- [33] As noted, I have been referred to cases that confirm that the appropriate range for these types of offences for a first-time offender is somewhere between 30 months and four years. In this case, the joint proposal is not for the bottom end of the sentencing range, but rather for a sentence that is slightly above, in the 36-month range.
- [34] Each case will ultimately turn on its facts as grounded in the relevant legal principles. In this case, the proposed sentence reflects, in my view, an appropriate balancing of the relevant considerations. I am satisfied that the proposed sentence will achieve the denunciation and specific and general deterrence objectives that are foremost. I am optimistic that the sentence may also address the rehabilitation objectives if Mr. Khouchaba is able to and commits to accessing programs while in custody.
- [35] Considering all of this, I am satisfied that the jointly-proposed sentence would not bring the administration of justice into disrepute and would not otherwise be contrary to the public interest. That being so, I accede to the joint submission and will impose the sentence proposed to me by the parties.

Sentencing

- [36] Mr. Khouchaba, please stand and listen carefully.
- [37] I sentence you to a global sentence of three years of incarceration, broken down as follows:
- a) On Count 7, 36 months concurrent to Count 8; and
 - b) on Count 8, six months concurrent to Count 7.
- [38] I also make the following ancillary orders:

- a) First, there will be a mandatory 10-year firearms prohibition pursuant to s. 109(2) of the Criminal Code.
- b) Second, given that some of the offences are secondary designated offences under s. 487.04 of the Criminal Code, I am satisfied it is in the best interests of the administration of justice to require Mr. Khouchaba to provide a sample of his DNA, pursuant to s. 487.051(3) of the Criminal Code.
- c) I am also granting an order of forfeiture in relation to items 3-12 and 24 on the first six pages of Exhibit 4, pursuant to s. 490.1(1) of the Criminal Code; and I understand that pursuant to the Controlled Drugs and Substances Act, the controlled substances that were seized will be destroyed.
- [39] I am also granting an order waiving the victim fine surcharge in this case. I am satisfied that given the length of sentence I have imposed, Mr. Khouchaba will not have the capacity to pay that surcharge in the near future, and I agree with defence that we should focus on the future for Mr. Khouchaba and what will happen on his release.
- [40] Is there anything further that I need to address, counsel?
- [41] CNSL C. GIBSON: Thank you, Justice, and I will make sure that the forfeiture order gets drafted and sent in.
- [42] THE COURT: Thank you.
- [43] CNSL J. WATT: Nothing further.
- [44] THE COURT: Thank you, Mr. Watt.
- [45] CNSL C. GIBSON: Oh, yes, I need to stay some counts. The Crown directs a stay of proceedings with respect to Count 1, 2, 3, 4, 5, 6 and 9. Thank you, Madam Registrar.
- [46] THE COURT: All right. Mr. Khouchaba, you have heard everything that was said here today. I thank you very much for taking responsibility for your actions. I hope that you will commit to taking advantage of the programming and resources that are available to you in custody and that you will build your capacity to contribute positively upon your eventual release, including by returning to supporting your family. This is a chance for you, Mr. Khouchaba, to have a clean break from the wrong path that you spoke of, and I wish you all the best in getting yourself back on the right path.
- [47] THE ACCUSED: Thank you, Your Honour.
- [48] THE COURT: All right, counsel. Unless there is anything else, we will adjourn.
- "K. Wolfe 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/25/25/2025BCSC2592.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-khouchaba-2025-bcsc-2592>

Prepared on 28 October 2026 · Esheria