

CANADA / JUDGMENT

R. v. MacLeod

2023 BCSC 1411

COURT

Supreme Court of British Columbia

DECIDED

9 August 2023

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

2023 BCSC 1411 R. v. MacLeod

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. MacLeod,

2023 BCSC 1411

Date: 20230809

Docket: 75377

Registry: Prince George

Rex

v.

David Brayden MacLeod

Before: The Honourable Justice Basran

Oral Reasons for Sentence

Counsel for the Crown:

J.D. Hempstead

Counsel for the Accused:

D.M. Turko, K.C.

Z. Zwanenburg

Place and Date of Hearing:

Prince George, B.C.

August 8, 2023

Place and Date of Judgment:

Prince George, B.C.

August 9, 2023

Introduction

- [1] I am delivering these reasons for sentence orally. If a transcript is ordered, I reserve the right to edit them but the result will not change.
- [2] On February 13, 2023, Mr. MacLeod pleaded guilty to committing the second-degree murder of Jacob Larsen on April 10, 2021, contrary to s. 235(1) of the Criminal Code, R.S.C. 1985, c. C-46. This is Count 1 on the indictment.
- [3] On February 13, 2023, Mr. MacLeod also pleaded guilty to the aggravated assaults of Hope MacLeod and Reed Jackson on April 10, 2021, contrary to s. 268(1) of the Criminal Code. These are Counts 2 and 3 on the indictment respectively.
- [4] The Crown and defence, by way of a joint submission, propose the following sentence:
 - a) Count 1 - second-degree murder - life imprisonment with parole ineligibility of 12 years;
 - b) Count 2 - aggravated assault of Hope MacLeod - five years less remand time at a ratio of 1 to 1.5, pursuant to s. 719 of the Criminal Code, concurrent to the life sentence;
 - c) Count 3 - aggravated assault of Reed Jackson - seven years less remand time at a ratio of 1 to 1.5, pursuant to s. 719 of the Criminal Code, concurrent to the life sentence; and
 - d) Several ancillary orders including the payment of a \$600 victim surcharge.
- [5] The Crown and defence agree that Mr. MacLeod has been in custody on the charges in the indictment for 851 days from the time of his arrest on April 10, 2021 to August 8, 2023 inclusive. On a 1:1.5 basis, that is 1277 days or approximately three-and-a-half years.
- [6] The issue I must consider is whether this proposed sentence is reasonable such that informed persons would not view it as a breakdown in the proper functioning of the justice system.

Circumstances of the Offence

- [7] The Crown and defence have prepared an Agreed Statement of Facts, signed by them and by Mr. MacLeod. The Agreed Statement of Facts sets out in detail the circumstances of the offences and the offender, Mr. MacLeod. It is marked as Exhibit 1 in the sentencing hearing and I have considered it carefully, and adopt it, for the purposes of determining a fit sentence for Mr. MacLeod.

Victim Impact Statements

- [8] Hope MacLeod ("Ms. MacLeod"), Ms. Brenda Jackson ("Ms. Jackson") and Mr. Steve Jackson ("Mr. Jackson") (the parents of Reed Jackson), Carol Larsen ("Ms. Larsen") (the grandmother of Mr. Larsen), and Sarah Keller ("Ms. Keller") (the aunt of Mr. Larsen), provided victim impact statements.
- [9] Ms. MacLeod noted that the emotional impact of the offences caused her stress, depression, suicidal thoughts, and feelings of paranoia and abandonment. She also sustained physical injuries including scarring, blurred vision, dizziness, hearing problems, loss of memory, and panic attacks. She remains afraid of Mr. MacLeod and fears for her security generally.
- [10] Mr. Jackson described the horror he felt in respect of the violence inflicted by Mr. MacLeod. The injuries sustained by his son, Reed Jackson, continue to affect him (Reed Jackson) physically and emotionally, and they have taken a significant toll on Mr. and Ms. Jackson. Ms. Jackson identified increased anxiety, panic, depression, and sleep loss.
- [11] Ms. Larsen and Ms. Keller read their statements into the record during the sentencing hearing. They describe the profound loss and sorrow caused by Mr. MacLeod's murder of Mr. Larsen. The loss of Mr. Larsen has been devastating to both of them individually and to their extended family.

Offender's Statement to the Court

- [12] Mr. MacLeod read a statement to the court in which he apologized to those who have been affected by his crimes, especially the family and friends of Mr. Larsen, Mr. Jackson, and Ms. MacLeod. He expressed remorse for the crimes he committed and vowed that he would never do anything like this again.

The Psychological Assessment Report and Pre-sentence Report

- [13] Dr. Dylan Gatner completed a psychological assessment of Mr. MacLeod pursuant to a court order. This report was filed on August 2, 2023 and is marked as Exhibit 5.
- [14] The psychological assessment report sets out Mr. MacLeod's background and includes opinions about his mental health and risk factors. It is helpful in assessing Mr. MacLeod's character, which is one of the criteria to be considered under s. 745.4 of the Criminal Code.
- [15] Mr. MacLeod was raised in a broken home and had poor relationships with his parents. He used alcohol and marijuana during his teenage years, but was not under the influence of either of these intoxicants on the day he committed the offences. He does not appear to have any major medical concerns or acute psychiatric issues.

- [16] Dr. Gatner states that Mr. MacLeod experiences mixed personality disorder including borderline personality traits while having difficulties with periods of interpersonal suspiciousness, perfectionism, rigidity and occasional over controlled emotions. He concludes that Mr. MacLeod is a moderate risk for future intimate partner violence and a low risk for institutional violence.
- [17] The pre-sentence report recounts Mr. MacLeod's background as well as the impact of his actions on his victims. This information is set out in significant detail in the Agreed Statement of Facts.

Relevant Legal Principles

- [18] The principles of sentencing applicable in this matter are set out at ss. 718, 718.1, 718.2, 745(c), and 745.4 of the Criminal Code.
- [19] The mandatory sentence for second-degree murder is life imprisonment: s. 235 of the Criminal Code. The court must also set the number of years that Mr. MacLeod must serve before becoming eligible for parole. The period of parole ineligibility is a minimum of ten years and maximum of 25 years: s. 745(c).
- [20] In determining the appropriate number of years of parole ineligibility, s. 745.4 of the Criminal Code directs the court to have regard to certain factors, including the character of the offender, the nature of the offence, and the circumstances surrounding its commission. I note, however, that parole ineligibility is a sentencing exercise so ss. 718, 718.1, and 718.2 of the Criminal Code also apply.
- [21] The objectives of sentencing are: denunciation, deterrence, protection of the public, rehabilitation, reparation, and the promotion of a sense of responsibility in offenders and an acknowledgement of the harm done to the victims and the community: s. 718 of the Criminal Code.
- [22] In *R. v. C.A.M.*, [1996] 1 S.C.R. 500 at para. 82, the Supreme Court of Canada held:
- [] the meaning of retribution must be considered in conjunction with the other legitimate objectives of sentencing, which include (but are not limited to) deterrence, denunciation, rehabilitation and the protection of society. Indeed, it is difficult to perfectly separate these interrelated principles. [], the relative weight and importance of these multiple factors will frequently vary depending on the nature of the crime and the circumstances of the offender. In the final analysis, the overarching duty of a sentencing judge is to draw upon all the legitimate principles of sentencing to determine a "just and appropriate" sentence which reflects the gravity of the offence committed and the moral blameworthiness of the offender.
- [23] Retribution relates to the moral blameworthiness of an offender's actions. In *C.A.M.*, at para. 80, the Court held that Retribution is:

[] an objective, reasoned and measured determination of an appropriate punishment which properly reflects the moral culpability of the offender, having regard to the intentional risk-taking of the offender, the consequential harm caused by the offender, and the normative character of the offender's conduct. Furthermore, unlike vengeance, retribution incorporates a principle of restraint; retribution requires the imposition of a just and appropriate punishment, and nothing more.

- [24] The sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. I therefore must consider the length of parole ineligibility set in other second-degree murder cases.
- [25] I also must consider aggravating and mitigating circumstances relating to the offence or the offender including those set out in s. 718.2 of the Criminal Code.
- [26] Sentencing judges should only depart from a joint submission on sentencing in cases where "a submission [is] so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances [] to believe that the proper functioning of the justice system had broken down." R. v. Anthony-Cook, 2016 SCC 43 at para. 34.
- [27] I can only depart from a joint recommendation on sentencing where the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest: Anthony-Cook at para. 5.
- [28] The determination of parole ineligibility under s. 745.4 is a very fact sensitive process that recognizes a broad range of seriousness reflecting varying degrees of moral culpability within the category of second-degree murder: R. v. Shropshire, [1995] 4 S.C.R. 227 at paras. 18 and 29.
- [29] Parole ineligibility greater than ten years is justified when there is some particularly aggravating feature: R. v. Cerra, 2004 BCCA 594 at para. 17.
- [30] Crown counsel referred the Court to the decision in R v. Gladue, 2022 BCSC 1009 in which the accused pleaded guilty to a charge of second-degree murder and on the basis of a joint submission received, a life sentence with parole ineligibility fixed at 15 years. Mr. Gladue had a criminal record involving numerous crimes of violence and exhibited extreme violence toward the victim.
- [31] The Crown also referred to R. v. Poepl, 2021 BCSC 725 in which the accused pleaded guilty to second-degree murder where the victim was his former girlfriend. In that case, Justice Ker observed that the usual range of parole ineligibility in domestic or spousal homicide cases is 12 to 15 years.
- [32] Further, the Crown referred to R. v. Holt, 2022 BCSC 2364 and R. v. Klein, 2021 BCSC 1391 in support of the joint submission that Mr. MacLeod be ineligible for parole for 12 years.

Aggravating Factors

[33] The following aggravating factors apply in this case:

- a) The incident arose out of a marital breakdown where Mr. MacLeod was extremely suspicious of where Ms. MacLeod went, and who she was with. Ms. MacLeod wanted to end her relationship with Mr. MacLeod;
- b) Mr. MacLeod continued to follow Ms. MacLeod, even on foot, after intervention from police and family members;
- c) Mr. MacLeod waited in the background of the shop on Reed Jackson's property in the early morning hours. He acted out of intense jealousy and anger by stabbing Mr. Larsen multiple times with sufficient force to cause his death. He thereafter struck Mr. Jackson with a crowbar causing severe and prolonged injuries;
- d) Mr. MacLeod chased Ms. MacLeod, caught her, and shoved her to the ground. He kicked her and hit her in the face with the butt of a knife. He also attempted to stab her with the knife and Ms. MacLeod believed that he was going to kill her. Mr. MacLeod then choked her to the point where she lost consciousness. When she regained consciousness, Mr. MacLeod threateningly directed her not to move;
- e) Section 718.2(a)(ii) of the Criminal Code specifically sets out that committing an offence against the offender's intimate partner is an aggravating factor;
- f) Similarly, s. 718.2(a)(iii.1) identifies that evidence that the offence had a significant impact on a victim is an aggravating factor. I note that Mr. MacLeod's actions caused the death of Mr. Larsen and extensive and ongoing injuries to Ms. MacLeod and Reed Jackson.

Mitigating Factors

[34] The following mitigating factors apply:

- a) At the time of the offences, Mr. MacLeod had no prior criminal record;
- b) Mr. MacLeod is a young man. He was 25 years old at the time of the offences and is presently 27. I note however that his victims in this case were also young;
- c) After violently attacking Ms. MacLeod and Reed Jackson, Mr. MacLeod provided some assistance to them in respect of their injuries at the scene;
- d) Mr. MacLeod admitted his crimes to two police officers who attended at the scene; and
- e) On the first day of trial, Mr. MacLeod entered guilty pleas to all three offences on the indictment.

Determination of a Fit Sentence

- [35] Mr. MacLeod viciously and without any notice or provocation violently attacked Mr. Larsen by hitting him on the head with a crowbar. Mr. MacLeod then stabbed Mr. Larsen to death using a knife he brought to the scene. This act of barbaric violence is unconscionable.
- [36] Mr. MacLeod next attacked Mr. Jackson with a crowbar rendering him unconscious. Mr. Jackson continues to suffer from the consequences of this unprovoked attack both physically and emotionally. He also must bear the loss of his close friend, Mr. Larsen.
- [37] Mr. MacLeod then assaulted his wife, Ms. MacLeod, by kicking and punching her. He also attempted to stab her and eventually strangled her to the point of unconsciousness.
- [38] Mr. MacLeod's actions involved stalking, surprise attacks on his victims, followed by unrestrained violence that resulted in Mr. Larsen's death, serious and ongoing injuries to Reed Jackson, and ongoing fear and trauma suffered by Ms. MacLeod.
- [39] A life sentence is mandated for second-degree murder. I am satisfied that the parole ineligibility period of 12 years is reasonable because it takes into account the impacts of these terrible crimes on the victims and the aggravating factor that this violence was perpetrated on Mr. MacLeod's intimate partner and her friends.
- [40] A significant custodial sentence is appropriate, even for a first-time offender for serious aggravated assault. For this reason, I am satisfied that sentences of five and seven years ought to be imposed in respect of Counts 2 and 3 respectively.
- [41] In my view, the sentence proposed as a joint submission is reasonable such that informed persons would not view it as some sort of unhinged breakdown in the proper functioning of the justice system. In particular, the period of parole ineligibility is within the guidelines established in similar cases.

Imposition of Sentence

- [42] Mr. MacLeod, please stand.
- [43] I impose on you a life sentence with no eligibility for parole for 12 years for the offences set out in the indictment, to be served concurrently. The sentences will be entered as follows:
- a) On Count 1 - life imprisonment with no possibility of parole for 12 years;
 - b) On Count 2 - five years to be served concurrently; and
 - c) On Count 3 - seven years to be served concurrently.
- [44] You may now have a seat Mr. MacLeod.
- [45] There will also be the following ancillary orders:

- a) Pursuant to s. 109(2)(a) of the Criminal Code, the accused is prohibited from possessing any of the items listed in subsections (a) and (b) for life.
- b) Mandatory DNA order (primary designation offences) under s. 487.051 of the Criminal Code.
- c) Pursuant to s. 743.21 of the Criminal Code, for so long as Mr. MacLeod is in custody serving his sentence, an order that he have no direct or indirect communication with the following people:
 - Hope MacLeod;
 - Reed Jackson;
 - Cora-Lee Larsen;
 - Carol Larsen;
 - Brenda Jackson; and
 - Steve Jackson.
- d) Pursuant to s. 743.2 of the Criminal Code, as Mr. MacLeod will be sentenced to a term of custody in a penitentiary, the following documents will be forwarded to the Correctional Services of Canada (CSC):
 - a copy of these reasons for sentence;
 - recommendations relating to the sentence or committal;
 - pre-sentence material; and the victim impact statements.
- e) Pursuant to ss. 490 and 491 of the Criminal Code, exhibits seized in this matter will be either forfeited or returned to numerous individuals as agreed to by the parties.
- f) Pursuant to s. 737(2)(b) of the Criminal Code, a victim surcharge of \$600.

[46] That concludes my oral reasons for sentence. Counsel, anything further at this time?

[47] We are adjourned.

"Basran 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/23/14/2023BCSC1411.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-macleod-2023>

Prepared on 29 October 2026 · Esheria