
CANADA / JUDGMENT

R. v. Martel

2019 BCSC 2233

COURT

Supreme Court of British Columbia

DECIDED

15 August 2019

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

2019 BCSC 2233 R. v. Martel

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Martel,

2019 BCSC 2233

Date: 20190815

Docket: 34064-2

Registry: Williams Lake

Regina

v.

Michael Edward Martel

Before: The Honourable Madam Justice Church

Oral Reasons for Sentence

Counsel for the Crown:

R. Fernyhough

S.K. Hopkins

Counsel for the Accused:

K.L. Neurauter

D. Ferguson

Place and Date of Hearing:

Williams Lake, B.C.

June 28, 2019

Place and Date of Judgment:

Williams Lake, B.C.

August 15, 2019

- [1] THE COURT: Michael Martel is charged on Indictment 34064-2 with the first degree murder of Vesna Dumstrey-Soos on or about January 3, 2016, near 100 Mile House, British Columbia.
- [2] On January 21, 2019, the first day of his trial on that charge, Mr. Martel pleaded guilty to the lesser included offence of second degree murder of Ms. Dumstrey-Soos, contrary to s. 235 of the Criminal Code.
- [3] This matter was adjourned for a sentencing hearing to allow for the preparation of various reports.

Circumstances of the Offence

- [4] Exhibit 1 on the sentencing hearing includes an Agreed Statement of Facts and Admissions, which sets out the circumstances of the offence.
- [5] Very briefly, Michael Martel was in a common law relationship with Vesna Dumstrey-Soos and towards the end of their relationship, they resided together at a home on Norman Road near 100 Mile House, together with Mr. Martel's son, who was also Ms. Dumstrey-Soos' nephew. Sometime in late 2015, the relationship broke down and Mr. Martel and his son moved out of the Norman Road residence and back into his former residence on Valhalla Road in 100 Mile House.
- [6] Ms. Dumstrey-Soos began a relationship with Mr. Todorowich, who resided in Williams Lake, and she spent some time with Mr. Todorowich in Williams Lake over the 2015 holiday season. Mr. Martel became aware of that relationship shortly before Christmas 2015.
- [7] Ms. Dumstrey-Soos returned to her residence on Norman Road on January 2, 2016. On January 3, 2016, Mr. Martel attended Ms. Dumstrey-Soos' residence on Norman Road in the afternoon and then returned to her home sometime after 9:00 p.m. that same evening.
- [8] On the second visit to Norman Road and shortly after his arrival, Mr. Martel physically attacked Ms. Dumstrey-Soos in and around the laundry area of the house. He struck her multiple times in the back of the head with a wooden club known as a fish bonker, causing significant skull fractures and extensive scalp lacerations, as well as numerous fractures and other defensive wounds to her hands, arms, and shoulders. Blood spatter and pieces of hair and scalp were located in various locations in the laundry room, indicating a prolonged and violent struggle.

- [9] Following the assault of Ms. Dumstrey-Soos, Mr. Martel placed Tuck tape over her mouth, bound her hands behind her back with Tuck tape, and then pulled her sweater over her head and bound it around her head with multiple wraps of Tuck tape. Mr. Martel then procured a .22-calibre rifle from within the residence. While the events that occurred after this are admitted, the order of those events is not entirely clear.
- [10] In the Agreed Statement of Facts and Admissions, Mr. Martel admits that after he procured the .22-calibre rifle, he shot Ms. Dumstrey-Soos four times in the head and face, through the sweater and tape. He shot her in the left eye, the mouth, the top of the head, and the back of the head. Mr. Martel intended to cause the death of Ms. Dumstrey-Soos when he assaulted and shot her. Ms. Dumstrey-Soos died as a direct result of her injuries.
- [11] The Agreed Statement of Facts and Admissions describes that, after shooting Ms. Dumstrey-Soos, Mr. Martel then shot and killed the dog that he shared with Ms. Dumstrey-Soos and left the body of the dog in the bathroom.
- [12] In the psychological assessment report, dated April 30, 2019 and authored by Dr. David J. Wiebe, Mr. Martel reported that he taped Ms. Dumstrey-Soos' mouth shut, then decided to put the dog down, and then, "I guess I proceeded to, just out of spite, I think I just shot her."
- [13] In a forensic psychiatric assessment report, dated June 6, 2019 and authored by Dr. Andrew Kolchak, Mr. Martel also reported that he assaulted Ms. Dumstrey-Soos with the club before shooting the dog, and that he shot the dog before he shot Ms. Dumstrey-Soos.
- [14] Mr. Martel entered the Norman Road house at 9:00 p.m. on January 3, 2016, and did not return to the Valhalla Road house until approximately 6:00 a.m. on January 4, 2016. At some point after he returned home, Mr. Martel shot and killed two cats with the same .22-calibre rifle he had used to shoot Ms. Dumstrey-Soos.
- [15] Mr. Martel left his home on Valhalla Road at approximately 10:00 a.m. on the morning of January 4, 2016, leaving behind clothing that was saturated in the blood of Ms. Dumstrey-Soos. He attended at the 100 Mile House transfer station, attended a local convenience store where he purchased pizza and a drink, and then fled to Kamloops. He remained at large until he turned himself in to police two days later, on the afternoon of January 6, 2016.
- [16] Mr. Martel disposed of the firearm that he used to shoot Ms. Dumstrey-Soos and the animals, and it has never been recovered.

Sentencing for Second Degree Murder

- [17] The sentence on a charge of second degree murder is life imprisonment. That is the sentence I must impose today.
- [18] The only matter for determination is the period for which Mr. Martel will not be eligible to apply for parole on his life sentence for second degree murder.

- [19] The general sentencing principles set out in s. 718 of the Criminal Code apply to the determination of Mr. Martel's parole ineligibility.
- [20] Section 718 of the Criminal Code provides that the purpose of sentencing is to contribute to respect for the law and the maintenance of a just, peaceful, and safe society by imposing just sanctions that have one or more of the following objectives:
- Denunciation of unlawful conduct;
 - Deterring the offender and other persons from committing offences;
 - Separating offenders from society where necessary;
 - Assisting in rehabilitation of offenders;
 - Providing reparation for harm done to the victims or the community; and
 - Promoting a sense of responsibility in offenders and acknowledging the harm done to the victims and the community.
- [21] The emphasis to be given to each of these objectives will vary according to the offence for which the offender is being sentenced. For the offence of second degree murder, the most important sentencing objectives are denunciation and deterrence.
- [22] Pursuant to ss. 718.1 and 718.2 of the Criminal Code, a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender and a sentence should be similar to the sentences imposed on similar offenders for similar offences committed in similar circumstances.
- [23] A sentence should be increased or decreased to take account of any aggravating or mitigating factors.
- [24] In addition to the general sentencing principles that apply, s. 745(c) of the Criminal Code provides that for the offence of second degree murder, the sentencing judge must fix the period for which the offender will not be eligible to apply for parole. That section provides that the period of parole ineligibility must be a minimum of 10 years, although a judge may substitute a longer period of up to 25 years of the sentence. The sentencing judge must consider certain factors in determining whether or not to substitute a parole ineligibility period of more than 10 years.
- [25] Section 745.4 of the Code sets out that a sentencing judge must, in addition to the general sentencing principles to which I have referred, consider the character of the offender and the nature of the offence and the circumstances surrounding its commission.

[26] The Supreme Court of Canada in *R. v. Shropshire*, [1995] 4 S.C.R. 227, established the principles of sentencing in determining the appropriate period of parole ineligibility in cases of second degree murder. The court recognized that this determination is a very fact-sensitive process and the factors set out in s. 745.4 permit the sentencing judge to exercise his or her discretion on the particular facts.

[27] At para. 23, the court observed that the difference in terms of punishment between first and second degree murder, the duration of parole ineligibility:

... clearly indicates that parole ineligibility is part of the 'punishment' and thereby forms an important element of sentencing policy. As such, it must be [considered] with deterrence, whether general or specific. The jurisprudence of this Court is clear that deterrence is a well-established objective of sentencing policy.

[28] The standard set in s. 745.4 was described by the court at para. 27 as follows:

... as a general rule, the period of parole ineligibility shall be for 10 years, but this can be ousted by a determination of the trial judge that, according to the criteria enumerated in [then] s. 744, the offender should wait a longer period before having his suitability to be released into the general public assessed. To this end, an extension of the period of parole ineligibility would not be "unusual", although it may well be that, in the median number of cases, a period of 10 years might still be awarded.

[29] This sliding scale of parole ineligibility recognizes that within the category of second degree murder, there is a broad range of seriousness which reflects varying degrees of moral culpability.

[30] In *R. v. Cerra*, 2004 BCCA 594, Mr. Justice Donald, following a review of decisions of our Court of Appeal, suggested that in broad terms:

... parole [in]eligibility greater than 10 years is justified when there is some particularly aggravating feature; for a penalty of greater than 15 years, egregious circumstances of a higher order of moral culpability are present.

The Crown's Position

[31] The Crown submits that with Mr. Martel's life sentence for second degree murder, he should not be eligible to apply for parole for 17 years. Counsel submitted that many of the features of the offence and the circumstances of its commission, as set out in the Agreed Statement of Facts and Admissions and the psychological and psychiatric assessment reports, place it in the highest scale of moral blameworthiness, and thus the appropriate range for parole ineligibility is 15 to 20 years.

[32] The Crown submitted that it is aggravating that Mr. Martel and Ms. Dumstrey-Soos were in a spousal relationship and that Ms. Dumstrey-Soos was attacked in her own home, which she no longer shared with Mr. Martel. She was vulnerable and the attack was extremely violent

and prolonged. Ms. Dumstrey-Soos suffered extensive injuries prior to death, including devastating injuries to her skull, bruising, lacerations to her face and lips, extensive bruising to her forearms, fractures to both hands consistent with defensive wounds, and bruising to lower ribs and knees. The attack occurred throughout much of the laundry room and there were items strewn around the room, items overturned, blood spatter throughout much of the room, as well as blood smears on the wall, door jambs, and clumps of the victim's hair and scalp in numerous locations, all of which evidenced a prolonged and violent struggle.

- [33] The Crown further submitted that, while the savage and prolonged beating of Ms. Dumstrey-Soos may have been impulsive, the actions of Mr. Martel after that, in taping Ms. Dumstrey-Soos' hands and head and then locating a firearm and shooting her four times, demonstrates the kind of planning and deliberation that is particularly aggravating and egregious and lifts it into the highest level of moral blameworthiness.
- [34] The Crown submitted that these factors are such that this case bears greater similarity to those where the court imposed a period of parole ineligibility of between 15 and 20 years, and she invited me to impose such a period of parole ineligibility in this case.

Defence Position on Sentence

- [35] Ms. Neurauter for Mr. Martel did not deny or minimize the gravity of this offence for which Mr. Martel is solely responsible. She submitted that he will still receive a life sentence today, which means that unless he is found by the Parole Board to be fully rehabilitated and fit for release, he will remain in custody for life.
- [36] She further acknowledged that an increase in the period of parole ineligibility beyond 10 years is appropriate in this case, in light of a number of aggravating factors in this case. She submitted. However, that the appropriate range for parole ineligibility for cases such as this involving brutal spousal homicide is usually set between 12 and 15 years, and the appropriate period of parole ineligibility for Mr. Martel is 12 years.
- [37] Defence counsel submitted that, in general terms, the cases relied on by the Crown, where periods of parole ineligibility were fixed at more than 15 years, had aggravating features that are not present in this case, such as a prior violent criminal record, attempts to clean up or cover up the crime, attempts to create suspicion elsewhere, or more significant aspects of planning and deliberation. She further pointed out that many of the cases relied on by the Crown lack the mitigating factors present in this case, most notably Mr. Martel's guilty plea.

Sentencing Considerations

- [38] The paramount sentencing objectives in the circumstances of this case are denunciation of unlawful conduct and deterring the offender and others from committing such offences. I have also considered the need to separate Mr. Martel from society and assisting in his rehabilitation to be applicable objectives of the sentence in this case.

- [39] As I have already noted, s. 745.4 of the Code sets out that, in determining the period of parole ineligibility for the offence of second degree murder, I must not only consider the general sentencing principles to which I have already referred, but I must also consider the character of the offender and the nature of the offence and circumstances surrounding its commission.

Character of the Offender

- [40] Michael Martel is 49 years of age. He has only a dated and unrelated criminal record for impaired driving from 2009. Much of the information regarding his background is set out in the Psychological Assessment Report of Dr. Wiebe and the Psychiatric Assessment Report of Dr. Kolchak, which were Exhibits 3 and 4 on sentence.
- [41] Mr. Martel reported being adopted together with his brother and growing up in the Lower Mainland. He said that his parents both had problems with substance abuse and his father had significant anger problems and was prone to violence when intoxicated. Mr. Martel's brother remains his main support.
- [42] Mr. Martel said that he was sexually abused by an older male family friend between the ages of approximately six years and nine years, but did not disclose the abuse to anyone until he was in his twenties. He began using marihuana in Grade 8 and using alcohol at age 12 years, both of which became regular habits.
- [43] Mr. Martel drank consistently over the 10 years leading up to the offence, typically between six to eight beers per day, and between 12 to 15 beers per day if he was binge drinking due to stress.
- [44] Mr. Martel was hospitalized in 1994 for depression and a significant suicide attempt while intoxicated by alcohol. The diagnostic impression with respect to that admission was that his major underlying problem was significant alcohol and drug abuse.
- [45] Although Mr. Martel worked at various times over the years in the forest industry, he also grew marihuana for profit, describing it to Dr. Kolchak as "quite lucrative at the time". He was earning approximately \$15,000 every two and a half months from this source when he was living in the Okanagan and he continued to grow marihuana when he moved back to the 100 Mile House area.
- [46] Mr. Martel was in a relationship with Ms. Dumstrey-Soos' sister, Tanya, for a number of years and they shared a son together, Nicholas Martel. Tanya Dumstrey-Soos was tragically killed in 2007 and Mr. Martel became the primary care parent to Nicholas. In the summer of 2009, Mr. Martel began his relationship with Vesna Dumstrey-Soos and they began living together.

- [47] Mr. Martel described his relationship with Ms. Dumstrey-Soos as starting off good and then deteriorating due to her jealousy for his unconditional love for his son. He said that she accused him of having an inappropriate relationship with his son because of his physical affection towards him.
- [48] Mr. Martel told Dr. Wiebe and Dr. Kolchak that he tried to end the relationship numerous times, but Ms. Dumstrey-Soos would not move out of the house and would threaten to report him to child protection services. He described that approximately one year prior to the offence, he and Ms. Dumstrey-Soos had purchased the Norman Road house together and he had been renovating it, but their relationship continued to deteriorate until he finally moved back to his own residence a few weeks before the offence.
- [49] I acknowledge the concern raised by Dr. Kolchak that Mr. Martel likely consumed alcohol on the night of the offence, which would have impaired memory formation and retention, and his memory might not be reliable as he has reviewed information from the files which may have either triggered or contaminated memories. Having said that, I tend to agree with the Crown that some concerning themes emerge from the information that Mr. Martel provided to both Dr. Wiebe and Dr. Kolchak during his interviews.
- [50] To Dr. Wiebe, Mr. Martel described Ms. Dumstrey-Soos as "crazy", "really jealous", making "crazy accusations", and said that she threatened him or would constantly be poking at him or complaining about his son. To Dr. Kolchak, he described the victim as someone who had "some serious issues going on in her head"; she was "crazy," making crazy comments to try to hurt him, poking at his emotions to hurt him, and making him crazy so that he would flip out, get emotional, choked, and mad.
- [51] To Dr. Kolchak, Mr. Martel said that, "I guess I hit her with a club", thinking about "just shutting her up," and that she was "obviously beaking off about Nicholas."
- [52] These descriptions of Ms. Dumstrey-Soos by Mr. Martel indicate a lack of responsibility and a tendency to focus blame on the victim as the problem. Other than suggesting that he should not have gone to the house when he was drunk, Mr. Martel appears to take little or no responsibility for his alcoholism or how that might have contributed to his offending. He simply told Dr. Kolchak, "I was drunk. I was in pieces. I know the gun was in the garage."
- [53] Both Dr. Kolchak and Dr. Wiebe describe Mr. Martel's risk for future violent offending as moderate and his risk for future violence against an intimate partner or ex-partner as moderate. Dr. Wiebe noted at page 12 of his report that:
- . . . Mr. Martel's risk for violence would increase if there is any combination of the following factors: a) heavy consumption of alcohol and/or drugs; b) jealousy and anger in relation to a current or former intimate partner; and c) significant frustration and stress in his life.
- [54] Dr. Wiebe recommended various programming available in the Correctional Service of Canada to manage that risk.

- [55] Despite longstanding difficulties with alcohol abuse, Dr. Wiebe noted that Mr. Martel displayed a "somewhat lower motivation for treatment than other adults: his responses indicate that he is satisfied with himself the way he is, is not experiencing marked distress and sees little need for changes in his behaviour." Dr. Wiebe went on to note that Mr. Martel has some personal strengths that are good indicators of a relatively smooth treatment process "if he is willing to engage in treatment".
- [56] Similarly, Dr. Kolchak notes that Mr. Martel minimizes the effects of alcohol on his life and behaviour, as well as relationships, which indicates difficulty with developing insight into his behaviours. He described Mr. Martel as demonstrating "at least some motivation for intervention".
- [57] Defence counsel submitted that Mr. Martel's underlying issues with alcohol and drugs have been kept under some control while he has been incarcerated, although he used opiates while in prison in 2016 and is now on a methadone maintenance program. He has recently participated in an eight-week violence prevention program.
- [58] While counsel submitted that Mr. Martel is motivated to address the issues that led to this offence, namely alcohol and substance abuse, I am persuaded by the opinions of Dr. Wiebe and Dr. Kolchak that Mr. Martel's motivation is somewhat lower than other adults. In my view, Mr. Martel's prospects for rehabilitation are somewhat guarded and this directly impacts his risk for future violence against intimate partners.

The Nature and Circumstances of the Offence

- [59] As I have previously noted, s. 745.4 of the Criminal Code requires that I consider the nature and circumstances of the offence in reaching a determination on the period of parole ineligibility.
- [60] The circumstances of this offence indicate significant uncontrolled rage on the part of Mr. Martel. The rage is evident from the extensive skull fractures and scalp lacerations from the initial assault as shown in the autopsy photographs, and the defensive wounds to the victim's hands, shoulders, and back.
- [61] The blood evidence and the pieces of the victim's hair and scalp were spread over a large area, further indicating a prolonged and violent assault.
- [62] There is nothing to indicate that Mr. Martel went to the Norman house with the intent to cause harm or use violence, and his actions were, by all accounts, completely out of character. The initial violence likely unfolded without planning or forethought.

- [63] However, after the initial assault of Ms. Dumstrey-Soos stopped, Mr. Martel's actions demonstrated a degree of planning and deliberation. He applied adhesive tape directly over Ms. Dumstrey-Soos' mouth with the effect that she could not call for help, and he bound her hands behind her with the effect that she could not escape. He then used all of the remaining tape on the roll to wrap the sweater around her head.
- [64] According to Mr. Martel's own report, after Ms. Dumstrey-Soos was bound in this fashion, he went and located the rifle in the garage of the home and decided to shoot Ms. Dumstrey-Soos' dog. He said that it was after this that he decided to also shoot Ms. Dumstrey-Soos.
- [65] Although Mr. Martel had ceased his assault on Ms. Dumstrey-Soos, he demonstrated chilling deliberation by not only fully restraining her, but then using the rifle he had procured to shoot her four times in the face and head at close range. By this time, she was likely unconscious and not resisting.
- [66] The degree of savagery and violence involved in the beating, the confinement and restraint, the deliberation in locating the rifle in the garage and shooting the victim in the face and head at close range are of such magnitude as to increase the moral culpability of Mr. Martel.
- [67] The circumstances of this case do not include some of the aggravating factors identified in the cases where much higher periods of parole ineligibility were imposed, such as attempts to clean up the crime scene or divert suspicion onto others. However, the restraint and confinement of Ms. Dumstrey-Soos following the initial assault and the resumption of violence against her using a firearm are, in my view, aggravating factors.
- [68] I am not persuaded by the defence submission that Mr. Martel simply panicked when he awoke the next morning, and there was no effort to hide or conceal what he had done. Mr. Martel removed the rifle from the home and disposed of it, such that it has never been located. While I accept that there was no effort by Mr. Martel to clean up or tamper with the scene, his action in disposing of the rifle demonstrated a deliberate effort by Mr. Martel to conceal evidence of the crime. He did, however, turn himself in to police not long after fleeing from 100 Mile House, and I accept the submission of defence counsel that Mr. Martel made inculpatory statements to the RCMP.

The Impacts of the Offence

- [69] This offence has had profound, far-reaching, and devastating impacts on the family and friends of Ms. Dumstrey-Soos, as was evident from the victim impact statements that were filed and presented in court during the sentencing hearing.
- [70] Her father, Leon Dumstrey-Soos, will likely never heal from the profound loss of his daughter in such brutal circumstances. He has quite literally lost everything.

- [71] Ms. Dumstrey-Soos' friends and co-workers described their pain and loss, and their ongoing emotional turmoil as they imagine the terror of her final hours and, in the case of her co-worker, the horror of walking in on the murder scene when she went to check on her friend. It is difficult to imagine how her friends and family will work through their pain and despair.
- [72] The impacts of this offence are not limited to the friends and family of Ms. Dumstrey-Soos. There is also damage to the welfare and security of the community as a whole, which is particularly profound when the murder occurs in a small community such as 100 Mile House. As the court noted in *R. v. Panghali*, 2011 BCSC 421:

. . . the larger community loses and suffers too. Murder is among the most serious offences known to our law, along with offences like treason and certain terrorism offences that threaten the larger structures of our society. Murder not only destroys an individual life, with immediate effects on the individuals around that person; it also attacks the welfare and security of the community in general, by reducing the trust and confidence that members of the community have in each other. This offence does even greater damage, because it struck within the fundamental social structure, the family, in its most private and personal space, the home.

- [73] The court in that case went on to note that this kind of murder tells people in positions similar to the victim that even in a relationship and in a place where they should feel the safest, they may be vulnerable to deadly violence. Thus, this kind of murder devalues the very fabric of our society and reduces the quality of life for all, particularly vulnerable women.

Application of Sentencing Principles

- [74] It is clear from the jurisprudence that, in broad terms, the range for parole ineligibility for "brutal, second degree murders of an unarmed wife or girlfriend" is 12 to 15 years: *R. v. McKnight*, 135 C.C.C. (3d) 41.
- [75] While a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances, no two cases are the same.
- [76] The Crown relied on a number of cases in support of its submission that the circumstances in this case are so egregious that they warrant a period of parole ineligibility outside of this range, and those cases included the following:
- [77] *R. v. Lenius*, 2007 SKCA 65: in that case, the Court of Appeal upheld a period of parole ineligibility of 15 years where the offender had killed his wife by strangling her in the former family home while the children were present elsewhere in the house. The offender had been found guilty after a trial.
- [78] *R. v. Borbely*, 2013 ONSC 3355: the court imposed a life sentence with no chance of parole for 17 years. In that case, the offender had beaten his estranged spouse to death while in the midst of a custody dispute. He then concealed her body under the cottage that he had been

renovating and claimed that the victim had run off with another man. The offender had no criminal record and was gainfully employed. The offender was found guilty by a jury, who then recommended a period of parole ineligibility of 10 years. The sentencing judge found that the nature and circumstances of the offence, including the severe nature of the beating, and the post-offence conduct of dismembering and concealing the body, together with aggravating factors of domestic violence, warranted a period of parole ineligibility outside the range of 12 to 15 years.

- [79] R. v. Purdy, 2012 BCCA 272: the Court of Appeal upheld a period of 19 years of parole ineligibility where the offender travelled some distance to confront his former spouse about her new relationship and then attacked her on her way to work, stabbing her 21 times. The murder was described as brutal and viciously performed and having elements of pre-thought out planning.
- [80] R. v. Daigle, 2017 BCCA 86: the Court of Appeal upheld a period of parole ineligibility of 15 years where the offender was convicted by a jury of killing her former spouse by stabbing him 12 times. At the time of the murder, the offender was subject to a recognizance that prohibited her from having contact with the victim. In breach of that recognizance, she entered the former family residence and stabbed the victim while he was sleeping. She then attempted to clean up the scene, took the victim's cellphone, and returned to her own home. The victim was discovered the following day by co-workers who were checking on his welfare when he failed to show up for work.
- [81] R. v. Panghali, 2011 BCSC 421: the offender was found guilty of murdering his wife by manual strangulation and then disposing of her body by burning it at a nearby beach. The sentencing judge imposed a life sentence without eligibility for parole of 15 years. The offender had no criminal record and there was no history of violence or evidence of motive for the crime.
- [82] As I have already noted, defence counsel submitted that many of these cases relied on by the Crown had aggravating factors that were not present in this case, such as a prior violent record, attempts to clean up or cover up the crime or create suspicion elsewhere, or more significant aspects of planning and deliberation. She further submitted that all of the Crown cases lack the mitigating factors in this case, most notably that of a guilty plea.
- [83] Defence counsel relied on a number of cases, including the following:
- [84] R. v. Wu, 2017 BCSC 2271: the offender was convicted of second degree murder of his wife after a trial. The offence was committed in front of the couple's seven-year-old child and was a prolonged knife attack where the victim sustained over 250 knife wounds. The offender had no criminal record and the trial judge imposed a period of parole ineligibility of 12 years.

- [85] R. v. Benham, 2009 BCSC 1863: the offender strangled his partner and was convicted of second degree murder after a trial. Although he had no criminal record, there had been allegations of violence in the relationship and the offender was subject to a no-contact condition at the time of the offence. The trial judge set the period of parole ineligibility at 12 years.
- [86] R. v. Neumann, 2005 BCSC 1820: the 62-year-old offender shot his ex-wife five times in their home. He had no criminal record or history of violence. He was convicted of second degree murder at trial and sentenced to life imprisonment without being eligible for parole for 12 years.
- [87] R. v. Friesen, 2017 BCSC 702: the offender shot his ex-wife twice in the garage while suicidal due to financial and other stressors. He had a dated and unrelated criminal record and was convicted at trial. The trial judge imposed a period of parole ineligibility of 12 years.
- [88] In all of these cases, the Crown sought a period of parole ineligibility within the 12-to-15-year range, which has been accepted as the usual range for domestic homicide.
- [89] In my view, the features in this case are more egregious than the cases relied on by the defence counsel and call for a strong message of condemnation and deterrence and a longer period of parole ineligibility than the 12 years suggested by defence counsel.
- [90] However, the period of parole ineligibility sought by the Crown does not adequately recognize the two most significant mitigating factors; namely the offender's guilty plea and the absence of any prior criminal history for violence. Mr. Martel acknowledged that he committed the unlawful act of killing Vesna Dumstrey-Soos and that he meant to cause her death. His guilty plea made it unnecessary for the family and friends of Ms. Dumstrey-Soos to go through the trauma of a trial. In light of the extremely graphic evidence contained in Exhibit 1 on sentence, the trauma of sitting through a trial would have been difficult to bear.
- [91] Mr. Martel has only a dated, minor, unrelated criminal record and he has no record or history of violence. This crime appears to have been out of character for Mr. Martel and inconsistent with who his brother, Rob Martel, knew him to be.
- [92] Mr. Martel has expressed remorse in his interviews with Dr. Wiebe and Dr. Kolchak, and his wish to apologize to Ms. Dumstrey-Soos' father but his inability to do so. I accept that his expression of remorse is genuine.
- [93] All of those mitigating factors, in my view, bring this case within the usual range of 12 to 15 years of parole ineligibility for domestic homicide, although at the upper end of that range. In all of the circumstances, I find that the fit period of parole ineligibility is 14 years.
- [94] Mr. Martel, would you please stand, sir?
- [95] For the offence of second degree murder, I sentence you to imprisonment for life. You will not be eligible to apply for parole for a period of 14 years.

[96] There will be a firearms prohibition order under s. 109 of the Criminal Code, and there will also be an order under s. 487.051 that Mr. Martel provide a sample of bodily substances suitable for DNA analysis.

"The Honourable Madam Justice Church"

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/19/22/2019BCSC2233.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-martel-2019>

Prepared on 26 October 2026 · Esheria