

CANADA / JUDGMENT

R. v. McCrae

2025 BCSC 2668

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Supreme Court of British Columbia

DECIDED

28 November 2025

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2025 BCSC 2668 R. v. McCrae

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. McCrae,

2025 BCSC 2668

Date: 20251128

Docket: 97183-2

Registry: Kelowna

Rex

v.

Richard Brant McCrae

Restriction on publication: Pursuant to s. 486.5(1) of the C.C.C.

Before: The Honourable Justice Wilson

Oral Reasons for Sentence

Counsel for the Crown:

M. Ogi-Harris

J.C. Young

Counsel for the Accused:

D.M. Turko, KC

C. McLaughlin

Place and Date of Trial/Hearing:

Kelowna, B.C.

October 15,

November 19, 2025

Place and Date of Judgment:

Kelowna, B.C.

November 28, 2025

- [1] THE COURT: I found Mr. McCrae guilty following trial arising out of events that occurred on March 27, 2022, when he punched, kicked, and stabbed a police officer and attempted to take the officer's gun. Mr. McCrae was convicted of aggravated assault of Constable Jason Tymofichuk contrary to s. 270.02 of the Criminal Code. He was also convicted of attempting to take his weapon contrary to s. 270.1 and resisting or wilfully obstructing a police officer in the execution of his duty pursuant to s. 129(a).
- [2] Mr. McCrae was acquitted of attempted murder and possession of a weapon for a dangerous purpose.
- [3] Mr. McCrae argues that the count for wilfully obstructing Constable Tymofichuk in the execution of his duty should be stayed under the Kienapple principle despite a finding of guilt because all of the elements of that charge, both with regard to the factual circumstances and the legal consequences, were subsumed within the aggravated assault conviction. The Crown agrees and there will therefore be a stay of that count. The circumstances of the offence are described in my trial reasons indexed at 2025 BCSC 1372.
- [4] The following statutory provisions apply to Mr. McCrae's sentencing. Pursuant to s. 270.1, disarming a peace officer, the maximum imprisonment is a term of not more than five years. Aggravated assault of a police officer under s. 270.02 renders a person liable for imprisonment of a term not more than 14 years. Section 270.03 requires that certain offences involving police officers must be served consecutively.
- [5] The Crown submits that a fit global sentence for Mr. McCrae is 10 years' imprisonment with individual sentences as follows: eight years under Count 2, one year under Count 3, and one year under Count 5, all consecutive. Count 4 is the one that I just stayed pursuant to the Kienapple principle.
- [6] The defence argues that Mr. McCrae is in a time-served position and he is entitled to his release.
- [7] Both parties agree that certain ancillary orders should be made and I will address those at the end of this decision.

- [8] The parties also agree that a one-year sentence is appropriate under Count 3 which must be served consecutively to whatever I determine is the appropriate sentence under Count 2.
- [9] Finally, both sides also agree that Mr. McCrae is entitled to receive credit for his time served in custody at the rate of 1.5 days for each day spent in pretrial detention pursuant to *R. v. Summers*, 2014 SCC 26. Mr. McCrae has been in custody since his arrest on March 27 of 2022.

Pre-Sentence Report and Pre-Sentence Psychiatric Assessment

- [10] The court has the benefit of both a presentence report and a presentence psychiatric assessment in custody as it relates to Mr. McCrae. Additionally, the court heard a great deal of evidence with regard to Mr. McCrae's psychiatric history during the trial. While Mr. McCrae's defence of not criminally responsible by reason of mental disorder was not accepted, there was no question as to Mr. McCrae's diagnosis of schizophrenia, amongst other things.
- [11] The presentence report writer, Ms. Veiner, describes Mr. McCrae as having an unremarkable childhood. It appears that his behavioural issues began when he was in his early teens around the time that his parents separated. His highest level of education was grade 10. Mr. McCrae first reported experiencing auditory hallucinations at age 14, but he did not seek help until later in life. He was diagnosed with schizophrenia in his thirties. He moved to British Columbia from Ontario in 2019.
- [12] The presentence report writer summarized Mr. McCrae's substance abuse history. The writer explains how Mr. McCrae was using methamphetamine starting in 2019 and was still using it up to the time of his arrest. The court also heard about his methamphetamine use during the trial. Mr. McCrae has indicated that he wishes to abstain from using methamphetamines upon his release and he appears to have some insight now as to how they impact his state of mind and his behaviour.
- [13] Mr. McCrae's closest relative is his twin sister, Laura McCrae. Their parents are now both deceased, but Mr. McCrae remains in contact with his sister with whom he speaks regularly. She believes that he can abstain from the use of illicit drugs in a supportive environment, but voices her concern if he returns to homelessness.
- [14] The Crown observes that the PSR writer reported that the offender, Mr. McCrae, advised he was taking his prescription medications at the time of the offence. However, we know this was probably not the case based on the evidence at the trial. Mr. McCrae told the presentence report writer that he was under the influence of marijuana and methamphetamines at the time of the offences. While he did indicate he consumed methamphetamine on the date of the offence at trial, the Crown suggests Mr. McCrae downplayed the impact of the methamphetamines that he had consumed on that day, and denied that he was under the influence of methamphetamines at the time of the assault on Cst. Tymofichuk.

[15] The writer noted that Mr. McCrae describes his recollections of the underlying events from a third-person perspective and, arguably, does not take responsibility for his actions. He maintains that when he is stressed, he gets possessed and he loses control.

[16] The writer also suggests that Mr. McCrae continues to have no insight into the seriousness of this offence and how it impacted on Constable Tymofichuk, even though he witnessed the police officer and his fellow officers testify to the impact during the trial. In her report, the report writer stated the following on page 5:

Mr. McCrae initially stated that he thought the offence likely did not harm the officer "that much", but could have scared him. He indicates that "as a cop, he's trained to deal with such things", but "as a human, he's vulnerable to memories he doesn't want". He acknowledges that his actions could have scarred the victim "psychologically". He also acknowledges that it could affect his family, as he hopes they never worry about the victim losing his life while on duty. He states that he had no personal issues with the officer, and would not attack him again.

[17] However, I note Mr. McCrae apologized directly to Constable Tymofichuk who was present for the sentencing, and I accept that he meant what he said to him.

[18] A presentence report and psychiatric assessment report was prepared by Dr. Anhoury, a forensic psychiatrist. The report followed an 80-minute remote interview before the commencement of the sentencing hearing. The writer reviewed Mr. McCrae's history which was corroborated by information obtained from others, including his sister. The writer indicated the following with regard to her psychiatric diagnoses of Mr. McCrae:

The most appropriate psychiatric diagnoses at the present time as per the DSM-5 (Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, American Psychiatric Association, 2013) are:

1. Schizophrenia
2. Alcohol use disorder in remission
3. Stimulant use disorder
4. Cannabis use disorder
5. Opioid use disorder, currently in remission
6. Cluster B personality traits

[19] Dr. Anhoury then outlined a risk assessment that was prepared through the use of a risk assessment tool that serves as a framework that provides a structured way to examine variables associated with violent offending. These included a prior conviction for violent offending, a confirmed history of mental disorder, a previous diagnosis of personality disorder, a history of substance misuse, and history of employment difficulties as well as relationship difficulties.

[20] In terms of items relevant to violence risk which have been present in the preceding six months, the writer indicates in the fourth paragraph on page 9 of her report that there do not appear to be any current symptoms of major mental disorder in the form of auditory hallucinations:

With regard to the clinical items of the HCR-20, which are those items relevant to violence risk which have been present in the preceding six months, there do appear to be currently some symptoms of major mental disorder in the form of auditory hallucinations. There is no evidence of negative attitudes towards others. There is evidence of instability in the form of outbursts of temper. Mr. McCrae reported frequently feeling anger and having difficulty controlling his emotions. He reported episodes of difficulty controlling his emotions occurring every two weeks. He denied experiencing violent ideation, but said that when he is angry, he feels he loses the ability to control himself. Mr. McCrae reports he no longer uses stimulants, opioids or alcohol, although his insight into cannabis use is somewhat poor. With regard to insight into his offending behaviour, Mr. McCrae acknowledges his offending behaviours.

[21] The writer acknowledged the existence of evidence of instability in the form of outbursts of temper and noted that Mr. McCrae reported having experienced frequently feeling anger and having difficulty controlling his emotions. The writer said that, while Mr. McCrae denied experiencing any violent ideation, it was of concern to her that he reported that, when he is angry, he feels he loses the ability to control himself. Mr. McCrae has abstained from non-prescription drugs while in custody.

[22] The report writer provided the opinion that, in terms of risk management factors, Mr. McCrae is likely to experience difficulties with professional services and plans and that his future living situation could be problematic, and that stress may give rise to increased levels of aggression:

In terms of the risk management items, Mr. McCrae is potentially likely to experience difficulties with professional services and plans. His living situation is also potentially problematic. Mr. McCrae has indicated he would like to reside in a group home in future which may be beneficial from a risk management perspective, although currently no such arrangement is approved. He does have personal support, having a good relationship with his sister, and a partner. He has indicated that he will adhere to any conditions of the court with respect to alcohol and substance use. Mr. McCrae may be vulnerable to stress in future based on his previous experience with coping with difficult circumstances. A stressful situation may therefore serve to increase his risk of aggression.

[23] Of note, the writer concluded that Mr. McCrae's risk of future violence is high as is the potential risk for serious harm:

In considering the potential for future violence and risk management, I note there is a previous pattern of violence in Mr. McCrae's history. The likelihood of future violence is high, as is the potential for serious harm. The likelihood of recidivism offending is also high.

- [24] The writer concluded by asking the court to consider a forensic treatment order because Mr. McCrae's mental disorder continues to require ongoing assessment and treatment.
- [25] Constable Tymofichuk prepared a victim impact statement.
- [26] It is clear from that statement that this offence has had and continues to have a significant impact on Constable Tymofichuk. He described not only the physical consequences but the emotional ones, as well, including a diagnosis of posttraumatic stress disorder. He described that his daughter was afraid of him based upon how he looked after the events. He remains a police officer but no longer works in the same role and was off work for several months.
- [27] Constable Tymofichuk suffered fractures to the right side of his face. Because of an infection resulting from the attack, he had to take strong antibiotics with side effects. He has subsequently had another surgery to repair his eye socket and has been left with scarring and nerve damage resulting in a loss of sensation. It was also clear from the evidence at the trial that the officers who came to assist Constable Tymofichuk were also deeply impacted by this offence as evidenced by the testimony we heard at trial from Constable Erbes and Constable Backman.

Aggravating and Mitigating Circumstances

- [28] In terms of aggravating and mitigating circumstances, Mr. McCrae has one previous conviction for an aggravated assault in Ontario. He received 285 days' custody and a two-year probation order along with a weapons' prohibition. Section 718.2(a)(iii.1) stipulates that evidence that the offence had a significant impact on the victim considering their age and other personal circumstances, including their health and financial situation, should be deemed to be an aggravating circumstance. The aggravating circumstances pertaining to this specific event are:
- a) Constable Tymofichuk had his back to Mr. McCrae when he was suddenly and violently attacked;
 - b) the attack was a sustained and prolonged attack that only ended when bystanders and, in particular, S.L. intervened;
 - c) the police officer was stabbed in the eye and suffered significant and life-threatening injuries; and
 - d) the weapon used by Mr. McCrae was a knife.
- [29] Mitigating here is that Mr. McCrae has had mental health struggles for his whole life and he has abstained from drugs while in custody. He has been in custody since this event and has had no issues relating to violence since he has been in a correctional facility.

Principles of sentencing

[30] The principles of sentencing are set out in s. 718 of the Criminal Code. The principles of denunciation and deterrence are always at the forefront of sentencing. In this case, there is a statutory requirement for such principles to be applied because, when a court imposes a sentence for an offence under s. 270(1), s. 270.01 or .02, or paragraph 423.1(1)(b), the court is obligated to give primary consideration to the objectives of denunciation and deterrence of the conduct that forms the basis of the offence.

[31] The role of police officers in our society is protection of the public. When members of the public feel they are in danger or feel threatened, it is the police who receive the call. The police do not have much of a choice as to whether to respond and they do not get to choose who they become involved with. As the Court of Appeal said in *R. v. Chaston*, 2017 BCCA 430, at para. 34, sentences must reflect the role of police officers in our communities when someone is to be sentenced for harming them:

The role of police officers is to protect the public. The officer was engaged in this very role when called to the break and enter committed by Mr. Chaston. Police officers are routinely required to place themselves in danger and to take serious risks to keep the public safe. Police officers hold a position of trust and high regard in the community. Their serious function and vulnerability must be recognized by the courts so those who cause them harm are held accountable with severe sentences.

[32] In *R. v. Telechea*, 2024 BCSC 2220, the accused was 28 years old and pleaded guilty to the aggravated assault of a police officer and to disarming the police officer. In that case, the accused was young and presented with Gladue factors. He received 21 months' incarceration for aggravated assault and three months for disarming a police officer followed by three years' probation.

[33] The victim police officer in *Telechea* was responding to a complaint that the accused was trespassing in a hotel lobby. When the officer asked the accused to get up and leave, he grabbed the officer's baton and attacked him with it and then punched and kicked him. The officer suffered three broken bones in his hand requiring surgery; back pain; facial numbness; and bruising. The officer was off work for seven months and suffered emotional and financial impacts as a result of the offence.

[34] In *R. v. C.A.H.*, 2012 BCCA 47, the Crown sought leave to appeal a sentence of two years' imprisonment plus two years' probation imposed on the accused for aggravated assault. The Crown appealed the sentence and sought an increase of the sentence for an effective sentence of seven years on the basis that the sentence imposed was unfit. The case involved the accused entering a bar and having been directed to leave his knife with the doorman. The knife was a boxcutter knife. When the accused was outside the bar later in the evening, he was heard by the victim to be yelling at and cursing at two women using vulgar language. The victim told the accused twice there was no need for that kind of behaviour and said he did not want to be involved. The accused then sliced the victim's neck with the knife. The

victim was rushed to hospital and underwent surgery and required 40 to 50 stitches. The Crown had charged the accused with attempted murder and aggravated assault and accepted a guilty plea to the lesser offence before trial. Although the Court of Appeal dismissed the appeal, the court said the following about the appropriate range for such an attack:

Although I am not persuaded that we should interfere with this sentence, I am reluctant to agree that the range here was two to six years. Where there is unrestrained violence such as occurred here, coupled with stalking and a surprise attack, I think the lower end is more than two years and the upper end is about eight years, with the possibility of sentencing above eight years in particularly egregious circumstances. This is a difficult offence for which to fashion an appropriate sentence and I am not attracted to a practice of breaking down the types of aggravated assault and suggesting a relatively narrow range for each type. Sentencing in this area is very subjective having regard to the particular aggravating and mitigating factors which can vary greatly from case to case.

- [35] The accused in that case was 22 years-of-age at the time of the offence. He had a related youth and criminal record with convictions for violence and was assessed as having a high risk for serious violence. That said, the accused in that case was found to be genuinely remorseful.
- [36] A significant consideration here is the degree to which Mr. McCrae's mental health challenges constitute a mitigating factor. In *R. v. Russell*, 2024 BCCA 353, the Court of Appeal overturned the trial judge's sentence because the court failed to give sufficient weight to the accused's mental health, confirming that his mental health was a mitigating factor on sentencing because it attenuated his moral culpability.
- [37] In *Russell*, the accused had fired shots at the local police station, knowing it was occupied. He was acquitted of attempted murder but convicted of lesser offences. There was evidence at the sentencing hearing about the accused's mental health issues, including that he was experiencing psychotic symptoms and, in fact, that he generally appeared to hold the police in high regard. His 10-year sentence was reduced to five years on appeal, four years for reckless use of a firearm and one-year consecutive for flight from police. In *Russell*, I note that, notwithstanding the extremely risky behaviour of shooting a gun at the police station, no one was physically injured unlike in this case, and Mr. McCrae does have a prior conviction for a similar offence, whereas Mr. Russell did not.
- [38] On the question of whether Mr. McCrae's mental health should be viewed as mitigating, the Crown points out that Mr. McCrae ran a not criminally responsible by reason of mental disorder defence and that was unsuccessful and that I acquitted Mr. McCrae of attempted murder because his purpose was to protect the woman in the tent and not to kill Constable Tymofichuk. While that is all obviously true, it does not detract from the principle in *Russell* which is that mental illness may be viewed as mitigating on sentencing. Put another way, although I did not find Mr. McCrae to be NCRMD, it does not follow that I found him to be

mentally well, either.

- [39] In *Telechea*, the Crown submitted that it was appropriate to look at the range of sentence for aggravated assault and then consider the additional aggravating factor that the assault was on a police officer in the execution of his duty. However, upon review of that case, this simply summarizes the submissions made in that case as opposed to the finding of the court. As counsel for Mr. McCrae argues, assaulting a police officer is a separate offence and it would therefore not necessarily be appropriate to look at a regular assault case and then consider the victim as an aggravating factor.
- [40] All of that said, the case that is, arguably, the most similar on the facts, in my view, is *R. v. Adamec*, 2021 BCSC 1832. That case did not involve a police officer but involved an unprovoked stabbing with significant consequences to the victim. The facts were that the victim had been invited to the accused's apartment by the accused's girlfriend. The accused and the victim had a verbal argument. The accused went into the kitchen, took out a large kitchen knife and, without warning, stabbed the victim in the chest. Like *Cst. Tymofichuk*, the victim had no opportunity to defend himself.
- [41] The victim in *Adamec* left the apartment and collapsed on the street, striking his head on the ground. He suffered a life-threatening injury and was treated in hospital and could have died from his injuries but for medical intervention. At the sentencing hearing, the accused apologized to the victim and his family, but the court found he lacked any insight into his offence and had no apparent remorse or empathy for the victim. The accused had pleaded guilty to aggravated assault. The Crown sought a sentence in the range of six to eight years' imprisonment. Defence sought a sentence of four to five years. The court sentenced the accused to five years and four months of imprisonment.
- [42] A challenge in terms of crafting an appropriate sentence for Mr. McCrae is, regardless of whether he is in a time-served situation or not, the time will come when Mr. McCrae has served his sentence and he will be entitled to his release. From a practical perspective, it would seem unreasonable to expect that Mr. McCrae is going to be reintegrated into the community such that he would be economically self-sufficient and otherwise able to fend for himself whether he is released now or at some point in the future.
- [43] Mr. McCrae's counsel submits that Mr. McCrae himself would prefer to be in a hospital or other therapeutic setting such that he could be cared for. He has been receiving different medication while incarcerated and feels that this has been the most successful medication to date in terms of managing his symptoms.
- [44] Mr. McCrae would appear to recognize that his use of methamphetamines has contributed to past behavioural issues and he is aware that he needs to avoid the use of non-prescription and illegal drugs. It would seem that Mr. McCrae would benefit from greater structure than he received at the supportive housing facility where this event occurred and substantially more structure than if he were to return to homelessness which would seem inevitable absent some creative solution. Constable Tymofichuk wrote in his victim impact statement

that he holds no ill will towards Mr. McCrae and hopes that he gets the supports and the services that he needs. I agree.

- [45] The challenge here is that, if Mr. McCrae is released without any kind of supports, he is unlikely to fair well. All of the evidence suggests that his schizophrenia is only going to get worse and, while I accept that he recognizes his use of street drugs exacerbates his condition and that he intends not to use them, releasing him without any sort of supports would seem to be more an exercise in hope than anything else and we have already witnessed what can happen when Mr. McCrae's symptoms are not managed. The real question, then, is whether anything can be done to perhaps mitigate the risk.
- [46] In *Telechea*, the sentence in that case was reduced to provincial time in order to permit an order for probation. I raised with counsel whether probation was available here and, upon review of the Supreme Court of Canada's decision in *Mathieu*, [2008] 1 S.C.R. 723, all would suggest probation is available so long as the time remaining on the sentence is less than two years.
- [47] I was provided with a supplemental presentence report which confirms that finding long-term housing involves a referral process through a transitional treatment team, but waitlists are long. Curiously, the more complex the person's need, the longer it seems that person might have to be waitlisted and, in this context, waitlisted might mean in the community without assistance. We are perhaps left to hope that at least temporary housing can be found when those with the highest risk to reoffend are entitled to release. However, a sentence cannot be lengthened simply because of concerns regarding appropriate resources.
- [48] The *Telechea* case has some similarities in that the police officer was attacked in the execution of his duty and was subject to a surprise attack. However, the injuries suffered by Constable Tymofichuk were significantly more serious and, in all of the circumstances, I conclude that the facts in the *Adamec* case are much closer to those here: a knife and a serious and possibly life-threatening injury. In this case, the victim, of course, was a police officer, clearly acting within the scope of his duties which, based on the principles in *Chaston*, would suggest a higher sentence. This was a particularly violent attack on a police officer who was simply doing his job and it could have been fatal.
- [49] Against that is the attenuated moral culpability as described in *Russell* regarding Mr. McCrae's well-documented mental health issues. Mr. McCrae expressed his remorse for what happened and apologized when given the opportunity to address the court.

Sentence

- [50] Mr. McCrae, please stand.
- [51] After reviewing all of the authorities and the submissions, I find that the appropriate sentence here is six years under Count 2. You may be seated.

- [52] The parties agree that one year on Count 3 that is consecutive to the sentence under Count 2 is appropriate and therefore I make that order, as well.
- [53] Mr. McCrae is entitled to credit for time spent in pretrial custody and I will go through those calculations shortly.
- [54] In addition, I am also going to impose a sentence of three years of probation given that there are less than two years remaining in the sentence. When we were here last time, I was provided with a Picklist of probation terms that counsel have reviewed and discussed.
- [55] Madam Clerk, I will hand you a copy.
- [56] I will go through the Picklist numbers just for confirmation.
- [57] The compulsory conditions:
- a) You must keep the peace and be of good behaviour.
 - b) You must appear before the court when required to do so by the court.
 - c) You must notify the court or your probation officer in advance of any change of name, address, and promptly notify the court or the officer of any change of employment or occupation;
 - d) You must have no contact or communication, directly or indirectly, with Corporal Jason Tymofichuk with the exception of when he is in the course of his duties;
 - e) You must not go to any place where Corporal Tymofichuk lives, works, attends school, worships, or happens to be. If you see him, you are to leave his presence immediately without any words or gestures, excluding the RCMP detachment;
 - f) You must report in person to a probation officer at 1st Floor, 1355 Water Street, Kelowna, BC, within two business days 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 time frame. After that, you must report as directed by your officer.
 - g) You must live at an address approved in writing in advance by your probation officer and you must provide your probation officer with your phone number if you have one. You must not change them without prior written permission from your probation officer;
 - h) You must not possess or consume alcohol, illegal drugs, or any other intoxicating substances, marihuana, prescription medications except in accordance with a medical prescription;
 - i) You must attend, participate in and complete any intake, assessment, counselling, education program as directed by a probation officer. This may include counselling or programming for: (a) alcohol or substance use; (b) mental health; or (c) trauma recovery;
 - j) Having consent in court, you must:

- (1) Report to Psychiatric Services or elsewhere for any intake, assessment, counselling, or treatment program as directed by the probation officer;
 - (2) Attend all scheduled appointments with your doctor, psychiatrist, psychologist, counsellor and mental health worker;
 - (3) Take all medications and medical treatment prescribed for you;
 - (4) Provide your probation officer with the names, addresses and phone numbers of your doctor, psychiatrist, psychologist, counsellor and mental health worker;
 - (5) Authorize your probation officer to give all professionals identified in this condition a copy of this order;
 - (6) Authorize your probation officer to tell all professionals identified in this condition that if you do not follow this order, they have your permission to inform your probation officer;
 - (7) Sign any document that is necessary for your probation officer and all professionals identified in this condition to confirm your attendance and completion of any intake, assessment, counselling, or treatment program;
 - (8) If you decide not to follow these directions, you must immediately report this in-person to your probation officer and tell them why. If their office is closed, you must return immediately on the next business day during regular business hours.
- k) You must not possess directly or indirectly any weapon as defined by the Criminal Code, including: (a) Firearms; (b) Ammunition; (c) Crossbows, prohibited or restricted weapons or devices, or explosive substances; (d) 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; (e) Any imitation firearms or weapons, including any compressed air guns, BB or pellet guns; (f) Any related authorizations, licences and registration certificates and you must not apply for any of these;
- l) You must not possess any pepper spray, bear spray, or any form of incapacitating spray;
- m) You must not possess any knives, axes, or other sharp-bladed instrument used, designed to be used, or intended to be used to cut things. The exceptions are: (a) You can possess a knife when preparing and eating food; (b) You can possess these items inside the place where you live and regularly sleep; (c) For the purposes of lawful employment, while at or going directly to and from your place of lawful employment. If asked, you must provide your probation officer with the details of your location and hours of employment; or (d) With the prior written permission of your probation officer. If you are given permission, you must carry it with you in paper or electronic format at all times when you possess any of these items outside the place where you are living. If a peace officer finds you in possession of these items and requests to see the permission, you must show it to the officer.

I am not going to exclude a carving knife from the knives' prohibition. I thought about that, but given what happened in this case, I am not prepared to grant that exclusion and so therefore the prohibition would cover a carving knife;

- n) Returning, then, to the other orders, there will be a DNA order;
- o) This is a primary designated offence under 487.051(1) of the Criminal Code; there will be a mandatory lifetime firearms prohibition pursuant to s. 109(3) of the Criminal Code; and
- p) There will be a forfeiture order for those items that were seized.

[58] Anything arising?

[59] CNSL M. OGI-HARRIS: Nothing arising for the Crown.

[60] THE CLERK: Victim surcharge?

[61] CNSL D. TURKO: I'm just wondering for Mr. McCrae's sake, the six years is calculated -- the dead time is --

[62] THE COURT: We can do the math. So the --

[63] CNSL D. TURKO: I think Mr. McCrae may be thinking he is getting six more years. So, I want to make sure that we know how it works.

[64] [Discussion, counsel and the court]

[65] THE COURT: 2,555 minus 2,022, equals 533 days remaining. Thank you.

[66] CNSL M. OGI-HARRIS: Thank you.

[67] THE COURT: All right. Unless there is anything else, we are concluded.

[68] CNSL D. TURKO: Not from the defence.

[69] CNSL M. OGI-HARRIS: Nothing from the Crown.

[70] THE COURT: Thank you.

[71] THE CLERK: Victim surcharge?

[72] CNSL M. OGI-HARRIS: Oh, victim surcharges that apply.

[73] CNSL C. MCLAUGHLIN: We would ask that that be waived given the fact that he will still be in custody for a year.

[74] CNSL D. TURKO: Waived.

[75] CNSL M. OGI-HARRIS: It should be adjusted, yes.

[76] THE COURT: Yes, there is no possibility.

[77] CNSL M. OGI-HARRIS: Thank you.

[78] THE COURT: Thank you.

[79] CNSL M. OGI-HARRIS: Thank you.

[80] THE CLERK: Order in court. Court stands adjourned.

"Wilson J."

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