

CANADA / JUDGMENT

R. v. Moazami

2015 BCSC 2055

COURT

Supreme Court of British Columbia

DECIDED

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2015 BCSC 2055 R. v. Moazami

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Moazami,

2015 BCSC 2055

Date: 20151110

Docket: 26108

Registry: Vancouver

Regina

v.

Reza Moazami

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that prohibits the publication, broadcast or transmission of any

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ordered. These Reasons for Judgment comply with the publication ban.

Corrected Judgment: The text of this judgment was corrected at paragraph 1,

where a change was made on November 19, 2015.

Before: The Honourable Madam Justice Bruce

Reasons for Sentence**Counsel for the Crown:**

Damienne F. Darby

Kristin Bryson

Counsel for the Offender:

David G. Milburn

Brian Coleman, Q.C.

Jeremy H. Fung

Place and Date of Hearing:

Vancouver, B.C.

September 21, 22

and October 26, 2015

Place and Date of Judgment:

Vancouver, B.C.

November 10, 2015

INTRODUCTION

- [1] Mr. Moazami stands before me convicted of 30 counts of prostitution-related offences, sexual exploitation, sexual assault and sexual interference involving 11 complainants and spanning a period of approximately two-and-one-half years between February 2009 and October 2011. At the time of the offences the complainants were between the ages of 14 and 19 years old.
- [2] Although there has been a substantial delay between the date of conviction (September 15, 2014) and the date of sentencing, I find the delay has been entirely due to decisions Mr. Moazami made regarding his legal counsel. Mr. Moazami began the trial represented by Mr. Markovitz and Ms. Bastow but terminated Mr. Markovitz's services during the trial. At the conclusion of the trial, Ms. Bastow asked to be removed from the record due to the likelihood that she would be called as a witness in a hearing before the Law Society of British Columbia into a complaint filed by Mr. Moazami against Mr. Markovitz. I permitted her to withdraw for this reason.
- [3] Mr. Moazami retained Mr. Coleman for the sentencing set for dates in December 2014; however, Mr. Coleman was not available for these dates and the sentencing had to be adjourned to September 2015 due to a combination of Mr. Coleman's and the court's schedules. During the sentencing proceedings in September 2015, Mr. Moazami terminated

the services of Mr. Coleman and retained Mr. Milburn to act for him in the sentencing. As a result, the sentencing was completed on October 26, 2015 and sentence imposed today on November 10, 2015.

- [4] The Crown submits that where Mr. Moazami has been convicted of both sexual assault and sexual interference with regard to the same complainant, the sexual assault conviction should be conditionally stayed pursuant to the Kienapple principle. The defence does not dispute the Crown's submission on Kienapple. Accordingly, I enter a conditional stay of proceedings in regard to Counts 4, 9, 12 and 36.

APPLICABLE LEGAL PRINCIPLES

A. General Sentencing Principles

- [5] The fundamental objectives of sentencing that govern all offenders are found in s. 718 of the Criminal Code. A just sanction has one or more of the following objectives:
- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
 - (b) to deter the offender and other persons from committing offences;
 - (c) to separate offenders from society, where necessary;
 - (d) to assist in rehabilitating offenders;
 - (e) to provide reparations for harm done to victims or to the community; and
 - (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.
- [6] Because eight of the 11 complainants were under the age of 18 years at the time of the offences, it is necessary to refer to s. 718.01 of the Code, which requires the Court to give primary consideration to the objectives of denunciation and deterrence when sentencing Mr. Moazami. In *R. v. Worthington*, 2012 BCCA 454, the Court of Appeal held that this new provision "re-set the approach of the criminal justice system to offences against children" and rendered unhelpful, sentencing judgments drawn from earlier eras (at paras. 32 and 34). In my view, the more recent authorities indicate that in general, offences involving abuse of children have attracted more severe sentences. Harsher sentences are in part due to society's awareness of the impact of sexual abuse on children: *R. v. K.R.J.*, 2014 BCCA 382 at paras. 33 and 34.
- [7] Further, s. 718.1 stipulates that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. Section 718.2 also mandates a consideration of the relevant mitigating and aggravating circumstances. Of particular significance in this case are several deemed aggravating factors: (1) that the offender abused his common-law spouse in committing the offence; (2) that the offender abused a person

under the age of 18 in committing the offence; and (3) that the offender's offence had a significant impact on the victims considering their age and personal circumstances.

[8] Lastly, s. 718.2(b) enshrines the principle that similar offences committed by similar offenders should be accorded similar sentences.

[9] I agree with the defence submission that while retribution may be a legitimate objective in sentencing, vengeance is not. As the Supreme Court of Canada says in *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500 at para. 80 [C.A.M.]:

80 retribution bears little relation to vengeance, and I attribute much of the criticism of retribution as a principle to this confusion. As both academic and judicial commentators have noted, vengeance has no role to play in a civilized system of sentencing. See Ruby, *Sentencing*, supra, at p. 13. Vengeance, as I understand it, represents an uncalibrated act of harm upon another, frequently motivated by emotion and anger, as a reprisal for harm inflicted upon oneself by that person. Retribution in a criminal context, by contrast, represents 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. As R. Cross has noted in *The English Sentencing System* (2nd ed. 1975), at p. 121: "The retributivist insists that the punishment must not be disproportionate to the offender's deserts." [Emphasis in original.]

[10] Retribution as an objective in sentencing is also qualitatively different from denunciation, which is described at para. 81 of C.A.M.:

81 Retribution, as well, should be conceptually distinguished from its legitimate sibling, denunciation. Retribution requires that a judicial sentence properly reflect the moral blameworthiness of that particular offender. The objective of denunciation mandates that a sentence should also communicate society's condemnation of that particular offender's conduct. In short, a sentence with a denunciatory element represents a symbolic, collective statement that the offender's conduct should be punished for encroaching on our society's basic code of values as enshrined within our substantive criminal law. As Lord Justice Lawton stated in *R. v. Sargeant* (1974), 60 Cr. App. R. 74, at p. 77: "society, through the courts, must show its abhorrence of particular types of crime, and the only way in which the courts can show this is by the sentences they pass". The relevance of both retribution and denunciation as goals of sentencing underscores that our criminal justice system is not simply a vast system of negative penalties designed to prevent objectively harmful conduct by increasing the cost the offender must bear in committing an enumerated offence. Our criminal law is also a system of values. A sentence which expresses denunciation is simply the means by which these values are communicated. In short, in addition to attaching negative consequences to undesirable behaviour, judicial sentences should also be imposed in a manner which positively instills the basic set of communal

values shared by all Canadians as expressed by the Criminal Code. [Emphasis in original.]

B. Consecutive and Concurrent Sentences and the Totality Principle

- [11] In a case such as this where the offender has been convicted of multiple offences involving multiple complainants, the Court must decide whether the sentence for each offence should be served concurrently or consecutively to each other. However, the proper approach is to first determine the fit sentence for each offence and then decide if the sentences should be served concurrently or consecutively: *R v. Li*, 2009 BCCA 85 at para. 28. If the sentences are to be served consecutively, the Court must go on to address the totality principle.
- [12] In general, a concurrent sentence is imposed where the offences are sufficiently interrelated or have a sufficiently close nexus. In general, a consecutive sentence is imposed where the offences are separate and distinct from each other. However, offences can be sufficiently connected and still attract a consecutive sentence where there are multiple complainants. Where the offences are similar but separated by time and by victim, a concurrent sentence fails to consider the individual harm done to the complainants and, in effect, makes crime "cheaper by the dozen." The inappropriateness of a concurrent sentence in these circumstances was recognized by the Court of Appeal in *R. v. Maliki*, 2005 BCCA 495 at para. 23.
- [13] The Crown argues that the newly enacted s. 718.3(7) of the Code, which mandates consecutive sentences whenever an offender commits a sexual offence against a child, codifies existing common law principles. In my view, however, with regard to the offences committed by Mr. Moazami, the Court must still examine the circumstances of each instance to determine if the sentence imposed should be served concurrently or consecutively. The Court cannot automatically decide that sexual offences against children attract consecutive sentences for offences committed prior to the enactment of this provision.
- [14] Turning to the totality principle, the Supreme Court of Canada in *C.A.M.* held that this concept, in the context of consecutive sentences, is based on the fundamental tenet of our law that sentences must be proportionate to the gravity of the offence and the moral culpability of the offender. The court must review the aggregate sentence, where sentences for individual offences are imposed consecutively, to determine if the sentence is just and appropriate: *C.A.M.* at para. 42. The totality principle is codified in s. 718.2(c), which provides that where consecutive sentences are imposed the combined sentence should not be unduly long or harsh.
- [15] Further, in *R. v. Abrosimo*, 2007 BCCA 406, the Court of Appeal made it clear that the fact a combined sentence is above the normal range of sentence for the most serious offence does not render it unduly harsh or long. It is only when the aggregate sentence exceeds the overall culpability of the offender that the totality principle is violated: *Abrosimo* at para. 31. Whether the combined sentence exceeds the blameworthiness of the offender involves a

consideration of where the offender's conduct falls in the range of gravity or seriousness as compared to other cases, the aggravating and mitigating circumstances of the case, and the nature and quality of the harm caused to the victims: *R. v. Hassan*, 2012 BCCA 201 at para. 20.

- [16] Additional factors have been identified by courts in other provinces. For example, in *R. v. Hutchings*, 2012 NLCA 2, the following factors were identified: (1) the length of the combined sentence in relation to the normal range of sentence for the most serious offence; (2) the number and gravity of the offences; (3) the offender's criminal record; and (4) the impact of the sentence on his prospects for rehabilitation in the sense that it may be harsh or crushing (at para. 84).

C. The Impact of Minimum Sentences

- [17] In this case, Mr. Moazami has been convicted of a number of offences against children that carry a minimum sentence. In *R. v. B.C.M.*, 2008 BCCA 365, the Court of Appeal discussed the interaction between a statutory minimum sentence and the general principles of sentences at paras. 31-34:
- [31] While the views of Arbour J. are not precedentially authoritative, the sentencing judge was entitled to adopt them as a logical and appropriate statement of the interaction between minimum sentences and the traditional sentencing principles, notably proportionality, which requires that similar offenders receive similar sentences. A minimum sentence does not oust that fundamental principle. The search for a fit sentence is still guided by similar sentences imposed in the past on similarly situated offenders. Nevertheless, a mandatory minimum sentence introduces a higher starting point and therefore a narrower range within which that principle will operate. The notion of a fit sentence must be adjusted accordingly if the principle of proportionality is to remain operative.
- [32] For example, in this case, the introduction of the mandatory minimum sentence of one year for making child pornography significantly shrinks the range of sentencing options. It excludes consideration of a suspended sentence and probation under s. 731, or a conditional sentence under s. 742.1 of the Code. The only remaining sentencing options are terms of imprisonment between the statutory minimum of one year and the statutory maximum of ten years. Thus, the least culpable offender in the least serious circumstances, who might have received a more lenient sentence prior to Bill C-2, will now be sentenced to one year in prison. It would be inconsistent with proportionality if worse offenders in more serious circumstances, who might have received a one year sentence prior to Bill C-2, continue to be sentenced to one year under the new regime. The principle that similar offenders should receive similar sentences requires acknowledgement that a minimum sentence has a proportionate inflationary effect on the balance of the sentencing range.

- [33] There has been little appellate comment on this issue. The Alberta Court of Appeal in *R. v. Colville*, 2005 ABCA 319 at paras. 21-26, 201 C.C.C. (3d) 353, and *R. v. Ferguson*, 2006 ABCA 261 at para. 85, 212 C.C.C. (3d) 161, both cases dealing with mandatory minimum sentences for firearms offences, adopted Justice Arbour's view that a mandatory minimum sentence acts as an inflationary floor and sets a new minimum punishment for the best offender. The Supreme Court of Canada upheld the decision of the Court of the Appeal in *Ferguson* without comment on this point: 2008 SCC 6, 228 C.C.C. (3d) 385.
- [34] The view that a minimum sentence creates an inflationary floor is consistent with Parliament's clear intent in enacting Bill C-2, that offenders who victimize young people receive longer sentences.
- [18] Accordingly, the Court must take into account the inflationary impact of a minimum sentence on the appropriate range of sentence for affected offences and, in turn, consider the impact of this inflationary floor on its evaluation of the totality principle. In other words, a longer sentence due to a statutory minimum sentence may not necessarily signal a violation of the totality principle where consecutive sentences are imposed.

CROWN AND DEFENCE POSITION ON SENTENCE

- [19] The Crown argues that the sentence imposed upon Mr. Moazami should be in total 17 years after time served of three years and eight months is credited to the sentence. The Crown argues that the sexual offences sentences should be served consecutively to the prostitution-related offences and, further, that the offences against each complainant should be served consecutively. The total sentence recommended by the Crown, having regard to the minimum sentences, aggravating factors, and mitigating factors, is 50 to 59 years. That total is reduced to 17 years plus time served based on the totality principle. To arrive at this figure, the Crown notionally designated the sexual offences as concurrent to the prostitution-related offences.
- [20] The defence argues that a sentence of 10 to 12 years, minus time served is the appropriate range of sentence, taking into account the seriousness of the offences, the offender's moral blameworthiness in comparison to other similar cases, and the mitigating factors. The defence does not dispute the overall years of sentence as calculated by the Crown. Nor does the defence argue that the Crown has inappropriately asked for consecutive jail terms in regard to the sexual offences. Further, the defence accepts the mandatory minimum sentences proposed by the Crown, which reflect the durations required by the Code at the time of the offences, and are therefore applicable in this sentencing. The defence argues that the totality principle simply calls for a far shorter sentence than submitted by the Crown. The defence argues that the sentence called for by the Crown is unduly harsh and crushing compared to Mr. Moazami's overall moral culpability. The defence refers to a number of cases of manslaughter where the sentence imposed is in the ten-year range, and argues that the circumstances of these cases are far more serious for obvious reasons. The defence points to more serious cases relied upon by the Crown where the offender breached

a trust relationship, committed more violent acts, and caused permanent physical harm to the victims and was still sentenced to less jail time than the Crown proposes in this case.

RANGE OF SENTENCE FOR EACH OFFENCE

[21] Neither the Crown nor the defence have been able to locate a single authority in which the offender has been convicted of similar offences in similar circumstances to Mr. Moazami. There are a multitude of factors that render this case extraordinary and unique. These include: (1) the large number of complainants; (2) the lengthy offence period; (3) the range of prostitution-related offences that run the full gamut prohibited by the Code; (4) the large number of times that Mr. Moazami committed sexual offences against the complainants over the offence period; (5) the young age of the victims and their vulnerable circumstances; (6) the existence of multiple minimum sentences for the offences committed and maximum sentences that range from 10 to 14 years' jail; (7) the failure of Mr. Moazami to take responsibility for his actions after conviction and his lack of remorse; (8) his relatively young age at the time of the offence; and (9) his lack of a related criminal record.

[22] The range of sentence by offence type is reflected in the authorities cited by the Crown and defence. In regard to the sex-related offences, the defence relies on *R. v. Mackie*, 2014 ABCA 221, where the offender was sentenced globally to 11 years' jail for convictions for 39 counts related to child internet luring, extortion, making or counseling others to make child pornography, distribution of child pornography, accessing child pornography, invitation to sexual touching, identity fraud, and unauthorized use of a computer to commit an offence. The appeal was dismissed. The court noted at paras. 17-20 of the judgment, the high priority that must be given to protection of children and the prominent position that specific and general deterrence must play in determining an appropriate sentence:

17 More importantly, these decisions were rendered some time ago; Innes in 2007 and Miller in 2011. We know better now than we did then. We have come to understand the full magnitude of the impact such crimes have on children and that some have even resorted to suicide to find relief from online tormentors. In fact, one of the victims here reported having thoughts of suicide to escape the appellant. This and the other victim impact statements provided in this case are poignant reminders of the trauma and suffering caused by these crimes.

18 Society cannot tolerate such offences and we are determined to do what we can to protect children from cyberbullying and exploitation. In cases such as that before us, we must resort to imprisonment, emphasizing the sentencing objectives of protection, punishment and deterrence.

19 As was the situation in *R. v. Pretty*, 2010 ABCA 246, we have before us a man who has a strong sexual attraction to children, with apparently no ability or desire, to control those urges. The appellant is highly skilled at manipulating children to meet his sexual needs, while hiding behind the shield of online anonymity. He is oblivious to the damage he causes the victims, which is serious and often long lasting. He has engaged in these crimes for many years and we are told that he is most likely to do so again in the future.

20 In such circumstances, the protection of children is the paramount sentencing objective. And, we hope that the certain knowledge that a lengthy prison sentence awaits them will deter others who may be thinking of exploiting children in this way. The global sentence imposed was not unfit.

[23] The defence also relies on *R. v. Husain*, 2011 CarswellOnt 16004 (S.C.J.), where the offender pleaded guilty to sexual assault, attempting to procure a person into prostitution, procuring prostitution services from a person under 18, and breach of recognizance. The victims were ages 13 and 15. There was a joint submission for a global sentence of five years.

[24] In regard to the sex-related offences, the Crown relies upon *B.C.M.*, where the accused pleaded guilty to two counts of sexual touching of a person under 14 and two counts of child pornography (making and possession). The victims were the offender's stepdaughters. A global sentence of six years was upheld. Three years for each sexual touching count was imposed but to be served concurrently. In *Worthington*, the offender pleaded guilty to sexual assault of his teenaged stepdaughter. Aggravating circumstances were proven at the trial sentencing. A sentence of four years' jail was imposed, and notwithstanding the Court of Appeal found the aggravating facts were not proven, it upheld the sentence. In *K.R.J.*, a sentence of six years was upheld by the Court of Appeal for incest in aggravated circumstances, along with a consecutive three-year sentence for making child pornography.

[25] In *C.A.M.*, the accused pleaded guilty to numerous counts of sexual assault, incest, and assault with a weapon in relation to a long history of child abuse. At trial the offender was given a cumulative sentence of 25 years, which was reduced to 18 years and eight months by the Court of Appeal. The Supreme Court of Canada restored the sentence of 25 years. In regard to the defence argument that there was a constraint on a trial judge's discretion to impose a sentence greater than 20 years, the Supreme Court of Canada says at para. 56:

56 With the greatest respect, I find no evidence in either the Code or the Corrections Act that Parliament intended to constrain a trial judge's traditionally broad sentencing discretion through the imposition of a qualified legal ceiling on numerical sentences pegged at 20 years' imprisonment. Rather, in my reading of both statutes, beyond setting statutory maximum and minimum sentences which reflect the relative severity of different offences, Parliament intended to vest trial judges with a wide ambit of authority to impose a sentence which is "just and appropriate" under the circumstances and which adequately advances the core sentencing objectives of deterrence, denunciation, rehabilitation and the protection of society. Accordingly, in my view, whether or not life imprisonment is available as a maximum sentence in the

particular case, there is no pre-set ceiling on fixed-term sentences under the Code.

[26] In *R. v. D.L.W.*, 2014 BCSC 43, the offender was sentenced to a cumulative term of 16 years' imprisonment for sexually abusing his two stepdaughters over a period of ten years until they turned 16. There were also additional offences related to child pornography, bestiality and sexual exploitation. There was a conviction on 13 counts involving two complainants but five counts were stayed based on Kienapple. In *R. v. Goodliffe*, 2003 BCSC 2025, the offender was sentenced to 30 months' incarceration for sexually assaulting a 17-year-old victim while she was unconscious in her apartment. In *R. v. B.S.B.*, 2010 BCCA 40, the offender received a sentence of two years less a day for a violent sexual assault. In *R. v. Florence*, 2010 BCSC 1010, the offender was sentenced to three years and four months' jail for sexual touching of a person under 16. In *R. v. Rand*, 2012 ONCA 731, the offender received four years' jail for sexually assaulting a 17-year-old victim (anal and vaginal sex). In *R. v. Pouce Coupe*, 2014 BCCA 255, a sentence of three years' jail for one count of sexual assault was upheld by the Court of Appeal.

[27] In regard to the prostitution-related offences, the defence cites *R. v. McPherson*, 2013 ONSC 1635. In that case the offender was found guilty of procuring a complainant into becoming a prostitute and controlling her movements to compel her to work as a prostitute. The offender also pleaded guilty to threatening another complainant. The court imposed a three-year jail term. In the course of the judgment, the trial judge referred to many of the factors that should be taken into account in sentencing an offender for prostitution-related offences. These are summarized at para. 24:

24 In *R. v. Tang*, [1997] A.J. No. 460 (C.A.) and *R. v. Miller*, [1997] O.J. No. 3911 (Gen. Div.) the court listed the factors that may be relevant when considering sentence for procuring and prostitution related offences. They include:

- a) The degree of control imposed;
- b) The amount of money received and the extent to which the prostitute is allowed to retain the earnings;
- c) The age of the prostitute and their numbers;
- d) Any special vulnerability of the prostitutes;
- e) The working conditions of the prostitutes;
- f) The degree of planning and sophistication;
- g) The size of the operation;
- h) The duration of the exploitative conduct;
- i) The degree of violence;
- j) The extent to which inducements such as drugs or alcohol were employed by the pimp;

- k) The effect on the prostitute of the exploitation, and
 - l) The extent to which the pimp demanded sexual favours himself from the prostitutes.
- [28] The defence relies upon *R. v. Newman*, 2008 NLTD 51, where the offender was found guilty of prostitution-related offences involving two young girls over a five-month period. In addition, he was found guilty of assault with a weapon and common assault, and consecutive sentences were imposed for these offences. In total he was sentenced to 36 months' jail.
- [29] Lastly, the defence cites *R. v. Simmons*, 2005 NSCA 39, where the offender was convicted of multiple offences including exercising control over the victims of prostitution, living off the avails of prostitution, uttering threats, assault, mischief, and breach of recognizance. The trial judge sentenced the offender to 40 months' jail. This sentence was upheld by the Court of Appeal. In regard to prostitution-related offences the Court of Appeal says at para. 41:
- [41] I would agree with the trial judge that previous cases indicate that there is a fairly wide range of sentences for prostitution-related cases. The wide variety of factors involved in the offences obviously make comparisons between cases difficult. Circumstances such as the age and number of the victims, the length of the relationship, the degree of coercion and violence, and the previous record of the offender distinguish one case from another. For example, at one extreme is *R. v. Braithwaite* (1981), 49 N.S.R. (2d) 10 (C.A.), where a total sentence of nine years was imposed where there were three teenaged girls forced into working for more than a year for an offender with an extensive previous record. At the other end of the range is *R. v. Harris*, [1996] N.S.J. No.407 (C.A.), where a three year suspended sentence was approved for a woman with no previous record who ran an escort service. She pled guilty to living off the avails of prostitution of adults. There was no exploitation, physical or sexual abuse, threats, or forcible confinement, but more of a mutually beneficial working arrangement.
- [30] In regard to the prostitution-related offences, the Crown relies upon *R. v. Tang* (1997), 51 Alta. L.R. (3d) 23 (C.A.), where the offender was convicted of living off the avails of prostitution of a 13-year-old and a 14-year-old girl. The offender received a five-year sentence that was upheld by the Court of Appeal, which commented that absent mitigating factors, the sentence could have been higher. In *R. v. Bennett* (2004), 184 C.C.C. (3d) 290 (Ont. C.A.), the offender was convicted of multiple prostitution-related offences involving three complainants under the age of 18. He was sentenced to a total of eight years' jail; one of the offences carried a five-year minimum sentence. On appeal, the sentence was reduced to four years and six months because the trial judge did not consider the totality principle and failed to give weight to mitigating factors. In *R. v. M.S.*, [2006] O.J. No. 1347 (S.C.J.), the offender received a total sentence of eight years for prostitution-related offences involving three young teenagers and a single count of unlawful confinement. In *R. v. Almond and Pandher*, 2006 BCSC 1706, the offender received 12 months' jail for living off the avails of prostitution. In *R. v. Mfizi*, [2008] O.J. No. 2430 (S.C.J.), the offender received an eight-year

sentence for prostitution-related offences involving one young victim and concurrent sentences for assault. In *R. v. Wallace*, 2009 ABCA 300, the offender received a global sentence of six years for assault, assault with a weapon, procuring and controlling a single complainant.

- [31] In *R. v. Tynes*, 2010 QCCQ 11298, the two offenders were found guilty of several procuring charges related to two complainants under 18 years old. Each accused received 34 months' jail. In *R. v. Pointejour Salomon*, 2011 QCCA 771, the offender was found guilty of four counts related to living off the avails of prostitution of a person under 18 years and administering drugs with intent to stupefy and have illicit sexual intercourse with her. The offender received a five-year minimum sentence and concurrent sentences on all other offences. In *R. v. A.A.*, [2012] O.J. No. 6256 (S.C.J.), the offender was found guilty of two counts of human trafficking and several breaches of recognizance. He received a sentence of 27 months for the human trafficking. In *R. v. Byron*, 2014 ONSC 990, the offender was found guilty of nine counts of prostitution-related offences involving one complainant under 18 years old. Two of the counts carried a five-year minimum jail term. A global sentence of six years was imposed.

MR. MOAZAMI'S BACKGROUND AND CIRCUMSTANCES

- [32] Mr. Moazami was born in Iran on December 21, 1984. He will be 31 years old at the end of this year. At the time of the offences, he was between the ages of 25 and 27. Mr. Moazami came to Canada with his parents and sister in 1996. He did not speak English and was required to take ESL courses. Mr. Moazami did not do very well in school as a result of his lack of English language skills.
- [33] Mr. Moazami's father was a civil engineer but could not find work in this field in Canada. The frustration he felt at the lack of career success led to physical abuse of Mr. Moazami on a regular basis. Mr. Moazami, however, had a loving and supportive relationship with his mother and was close to his sister. Ultimately, in 2000, Mr. Moazami's parents separated and in 2002 his father returned to Iran. In or about this time Mr. Moazami had a serious motor vehicle accident. He suffered a brain injury that led to a year-long recovery period. Although he fully recovered after a year, the long absence from school led to his failure to graduate.
- [34] After leaving high school Mr. Moazami worked at a variety of unskilled jobs for short periods of time. In 2009, he completed a four-month course to become a personal trainer and started his own business. Mr. Moazami maintained he earned \$2,000 per month as a personal trainer up to the time of his arrest in 2011; however, he has not filed income tax returns since 2004 declaring any of this income. Further, this statement of earnings is contrary to the evidence of the complainants that Mr. Moazami did little personal training work during the period they worked for him as prostitutes. Mr. Moazami's background must also be considered in light of the evidence at trial that he was heavily involved in drug trafficking before and during the offence dates.

- [35] Mr. Moazami took steroids during this period of his life to enhance his body and in order to attract clients for his personal training business. He says the steroids made him more aggressive and short-tempered.
- [36] While incarcerated, Mr. Moazami has tried to better himself by taking all 30 of the two-hour courses offered by the pretrial centre. He has also completed a business course online that takes on average 300 hours to complete. He did very well in this course. Mr. Moazami's mother also sent him books on business to read, and Mr. Moazami says he has completed whatever reading he could. Mr. Moazami spent many days in either protected custody or segregated custody while in the pretrial centre due to the notoriety of his charges. As a consequence, his liberty was severely restricted during the over three years that he has been detained in custody.
- [37] In support of Mr. Moazami, his mother and sister have filed letters that attest to how he has changed his attitude for the better since being charged and held in custody. They both say that he is genuinely interested in going back to school and becoming a law-abiding person. There are no other letters of reference filed by the defence.
- [38] Mr. Moazami has a prior criminal record that includes two convictions for obstructing a police officer in June 2007 and August 2007. He has two convictions for failing to appear from March 2009 and March 2010. He has one conviction for assault with a weapon from August 2010. This is the conviction involving S.W. There is no other related criminal record.
- [39] Mr. Moazami expressed no remorse for his actions. He did not take responsibility for his actions and showed no appreciation for the harm he caused to the complainants. When given the opportunity at the sentencing to make a statement, Mr. Moazami chose to say nothing. A trial of the 36-count Indictment required 11 complainants to testify and relive the tragic and sometimes horrific life they had while working for Mr. Moazami as prostitutes. Mr. Moazami did not submit to a psychological assessment, nor did he permit himself to be interviewed by a probation officer for the purpose of a pre-sentence report.
- [40] Although Mr. Moazami demonstrated that he has the ability to better himself by taking business courses during his pretrial incarceration, there has been no assessment prepared in regard to his risk for re-offending. Nevertheless, his potential for rehabilitation is a factor to be taken into account on sentencing. There is some potential for rehabilitation. The weight applied to this evidence of rehabilitation, however, must be balanced against the fact that Mr. Moazami had a legitimate career option available to him during the offence dates and, instead, chose to make money through an unlawful prostitution business.
- [41] In addition, the defence argues that the support Mr. Moazami has from his mother and sister increases his potential for rehabilitation. However, I note that Mr. Moazami openly used his mother's apartment to carry on his prostitution business. While there is insufficient evidence to find that she was complicit in his misconduct, clearly her influence over his behaviour was nominal during this period of time.

FIT SENTENCE FOR EACH OFFENCE BY COMPLAINANT

- [42] In my view, the most appropriate way to determine a fit sentence in this difficult case is to address each complainant separately, taking into account the mitigating and aggravating circumstances applicable to each complainant and in respect to Mr. Moazami's circumstances. While many of these factors are the same for all or most of the complainants vis-à-vis the offender, there are significant differences in terms of the nature of the offences, the vulnerability and ages of the victims, the duration of the offences, and the moral culpability of Mr. Moazami. None of the complainants filed victim impact statements; however, I heard the testimony of each complainant during the trial and was able to appreciate the harm caused by Mr. Moazami's actions based on their oral evidence. In addition, the mothers of S.W. and E.B. filed victim impact statements.
- [43] I have given lengthy reasons for conviction that describe the factual circumstances surrounding the offences committed by Mr. Moazami, and thus will not repeat these in detail. However, I will refer to particular aspects of the evidence in order to apply the relevant mitigating and aggravating circumstances.
1. M.N.
- [44] Mr. Moazami was convicted of the included offence in Count 1 of living off the avails of prostitution of a person under the age of 18 years contrary to s. 212(2) of the Code, Count 2 sexual interference contrary to s. 151(a) of the Code, and Count 3 sexual exploitation contrary to s. 153(1)(a) of the Code in relation to M.N.
- [45] M.N. was born on September 19, 1994 and was 14 to 17 years old during the offence dates (February 1, 2009 to October 7, 2011). M.N. worked as a prostitute out of the apartment at 888 Hamilton Street and at 9180 Hemlock Street, Richmond, and she intended to work as a prostitute out of 66 West 62nd Avenue, Vancouver, at the request of Mr. Moazami. Although there were times when M.N. left Mr. Moazami to work independently as a prostitute, she stayed with him on and off for lengthy periods between the offence dates.
- [46] M.N. was born in Afghanistan and immigrated to Canada with her parents when she was in Grade 5. M.N. met Mr. Moazami when she was 14 years old. At that time she was working for Jesse, who was a friend of Mr. Moazami's. M.N. was still 14 years old when she moved into the apartment at 888 Hamilton in early 2009. Mr. Moazami provided her with a location for prostitution, work clothes, hairstyling, tanning, manicures, condoms, and food in return for 50% of her earnings as a prostitute. In reality, however, M.N. never received her share of the earnings. Mr. Moazami also gave M.N. a cellular telephone, took photographs of her in revealing lingerie, and posted ads on prostitution websites to market M.N. as a prostitute. Mr. Moazami provided services to M.N. that aided and abetted her work as a prostitute for the purpose of making money. It is clear that Mr. Moazami was in the business of prostitution for his own profit.

- [47] Mr. Moazami used violence and the threat of violence, intimidation and coercion in relation to M.N. during their association between 2009 and 2011. When M.N. first began working as a prostitute for Mr. Moazami, he used a threat of slapping her as a means of coercing her into accepting a client that she had initially refused to service. He also threatened to throw M.N. out of the apartment, forcing her to work on the street if she refused clients. His generally angry demeanour acted as a means of controlling M.N., particularly because she was so young and inexperienced at that time. She had not previously been introduced to drugs, alcohol, and parties. Mr. Moazami introduced her to GHB, marihuana, opiates, ecstasy, and oxycodone as a means of manipulating her into continuing to work for him as a prostitute.
- [48] M.N. testified that she always did what Mr. Moazami wanted because she was afraid that he would strike her. Mr. Moazami dictated everything about M.N.'s life from what she wore to how she behaved with clients. M.N. could not recall precisely how many clients she had each day; however, she testified that the girls worked every day and did as many clients as there were calls. Even if they were asleep or in the midst of their menstrual cycle, they would have to work.
- [49] There are no mitigating circumstances apart from Mr. Moazami's lack of related criminal record and, to a lesser extent, his relatively young age at the time of the events. There was no demonstrated remorse. Although Mr. Moazami was relatively young at the time of the offence, he was not a child and was intelligent and mature enough to obtain his personal trainer certificate with a view to establishing a business. Instead, he chose the drug and prostitution business because it offered easy and fast money. From the brief synopsis of his childhood upbringing placed before the Court, one can infer that his early years were difficult. However, his abusive father left the home in 2000 and Mr. Moazami at all times enjoyed a loving and close relationship with his mother. There appears to be nothing in his childhood that would have predisposed him to acts of violence against young, vulnerable girls. Mr. Moazami had recovered fully from the brain injury and there is no evidence that he suffered from a physical or mental disability that would have predisposed him to the offences for which he was found guilty.
- [50] On the other hand, Mr. Moazami's pimp relationship with M.N. was lengthy, coercive, violent, manipulative, degrading and emotionally abusive. The harm caused was more than significant; M.N. was a very young and immature teen with little life experience and Mr. Moazami forever changed her life by introducing her to drugs and alcohol. He perpetuated her life of prostitution in a callous and inexcusable manner to satisfy his desire to make profits at the expense of young inexperienced girls. He ran a relatively sophisticated operation that was very lucrative for him. Mr. Moazami's moral culpability is extremely high and the offence is very serious, particularly due to M.N.'s youth and vulnerability. Turning to Count 1, there is a two-year minimum sentence attached to this offence: s. 212(2) of the Code. Balancing the mitigating and aggravating factors, I find a fit sentence is three years' jail.

- [51] Turning to Count 2, sexual interference, M.N. was 14 years old when Mr. Moazami provided sufficient GHB to her that she was almost completely unconscious while he engaged in sexual intercourse with her. Not only did Mr. Moazami use his status as M.N.'s pimp to extract sexual favours from an underage girl, but he introduced her to GHB in order to facilitate his sexual desires. Mr. Moazami routinely treated free sex with M.N. and other girls as a perk of being their pimp. M.N. believed this was expected of her and the drugs rendered her incapable of making a choice. As set out earlier, there are no mitigating factors apart from Mr. Moazami's lack of a related record and his relatively young age at the time of the offences. On the other hand, the young age of the complainant at the time, the use of intoxicating drugs, the multiple occasions on which Mr. Moazami extracted sex from her, and his callous attitude towards his role as her pimp are highly aggravating circumstances. There is a 45-day minimum jail term applicable to this offence. I find a jail term of two years is a fit sentence in all of the circumstances.
- [52] Addressing Count 3, sexual exploitation, Mr. Moazami continued to have sexual intercourse with M.N. while she was 16 and 17 years old in what I found to be a highly exploitative relationship. There was a significant age difference between M.N. and Mr. Moazami (ten years) and he created an atmosphere of fear in which she felt compelled to continue working for him as a prostitute. She was dependent upon him for financial support and drugs, all because of a relationship Mr. Moazami created and manipulated to his advantage. Even when M.N. left Mr. Moazami, he attempted to manipulate her into returning to his stable of prostitutes. There is also a 45-day minimum sentence attached to this offence. I find the aggravating circumstances demand a sentence of three years' jail.
- [53] I agree with the Crown's submission that the sentences imposed for each of the sex offences (sexual interference and sexual exploitation) should be served concurrently and further, that the sentence for living off the avails of prostitution of a person under the age of 18 years must be served consecutively to the sex offences. While these offences occurred at the same time and involved the same complainant, the offences are qualitatively different. To impose concurrent sentences would effectively mean there would be no sentence imposed for serious sexual misconduct in very aggravating circumstances. Further, the offences are not interrelated to a high degree; a relationship of pimp and prostitute does not necessarily include an element of sexual abuse by the pimp or circumstances where the victim is drugged to facilitate the sexual contact.
2. E.B.
- [54] Mr. Moazami was convicted of Count 6, living off the avails of prostitution of a person under the age of 18 with coercion contrary to s. 212(2.1) of the Code, Count 7, sexual interference contrary to s. 151(a), and Count 8, sexual exploitation contrary to s. 153(1)(a) in relation to E.B. She was born on March 1, 1994 and was 14 to 17 years old during the offence dates (February 1, 2009 to October 7, 2011). E.B. met Mr. Moazami at the age of 14 through her friend M.N. E.B. had been a prostitute working on the streets off and on since she was 12 years old.

- [55] E.B. worked as a prostitute out of 888 Hamilton Street, 928 Beatty Street, and 9180 Hemlock Street, Richmond, and she intended to work as a prostitute at 66 West 62nd Avenue, Vancouver, at Mr. Moazami's request. Mr. Moazami lived off the avails of prostitution in relation to E.B. and aided and abetted her work as a prostitute by providing her with prostitution locations, posting her photographs on prostitution websites, purchasing her "work" clothing, taking provocative photographs of her, and providing her with condoms and security services in return for a share of her earnings. Mr. Moazami did these things for his own profit.
- [56] The relationship between E.B. and Mr. Moazami was entirely based on coercion and intimidation. She was forced to work for Mr. Moazami because she had attempted to rescue M.N. from another pimp who worked with Mr. Moazami. Mr. Moazami told E.B. that she owed him money for attempting to take M.N. away and must work it off through prostitution services. Mr. Moazami took all of the money she earned. He would not permit E.B. to leave the hotel unless it was to do an "out call" and he kept her high on drugs to control her behaviour and ensure she was dependent upon him as a source of drugs. Mr. Moazami became angry if E.B. did not immediately respond to his text messages when she was with a client, and he told E.B. that there was a tracking device in the cellular telephone that he gave her to ensure he knew where she was at all times. He also told E.B. that if she ever "ratted him out" to the police, he would find her and "grind her". He used angry, aggressive, and vile language towards E.B. when she was not behaving in a manner that he approved of or would not return to work for him. He admitted having sexual intercourse with E.B. on multiple occasions without paying for this service.
- [57] On one occasion in Victoria, Mr. Moazami used bear mace on E.B. and she witnessed him step on a beloved dog to intimidate her and the other girls. Mr. Moazami also used threats and coercion to force E.B. to continue working in Calgary as a prostitute during their August 2011 trip there. When E.B. wanted to go home, he refused to let her go. When E.B. escaped him, Mr. Moazami tracked her to the bus station and the police and two security guards had to intervene to prevent Mr. Moazami from following her. He took her clothes and refused to give them back unless she stayed working. He knew that these belongings were very important to E.B. and he often threatened to destroy her clothes as a means of ensuring her cooperation.
- [58] There are no mitigating circumstances apart from the fact that Mr. Moazami has no related record and his relatively young age at the time of the offences. On the other hand, there are numerous aggravating factors. Mr. Moazami exercised a high degree of control over E.B. through violence and emotional manipulation. She was very young and immature and drug addicted. He gave her drugs and alcohol in order to make her dependent upon him. He lied to E.B. about his love and affection for her and manipulated her into thinking that he truly cared about her welfare. Mr. Moazami took advantage of a young, vulnerable girl solely to make money. Most of what E.B. earned Mr. Moazami kept. Mr. Moazami bears a high degree of moral culpability for these actions with few corresponding mitigating circumstances. His

behaviour was egregious and worthy of the strongest rebuke by the justice system.

- [59] E.B.'s mother filed a victim impact statement that indicates E.B. was a vulnerable drug-addicted young girl when she met Mr. Moazami. He pretended to be her boyfriend and her saviour. E.B. continues to take drugs as a means of blocking out her experiences with Mr. Moazami. Her mother is unable to help E.B. and fears that she will take years to recover, even if counselling is made available to her. In my view, the harm caused by Mr. Moazami's actions was devastating.
- [60] An offence under s. 212(2.1) carries a five-year minimum jail term. In light of all of the circumstances, I find a jail term of six years is warranted.
- [61] Turning to Count 7, sexual interference, Mr. Moazami admitted that he had sexual intercourse with E.B. in 2009 at 888 Hamilton Street. E.B. was 14 years old at that time when she worked as a prostitute from this location. On the two occasions that E.B. could recall having sexual intercourse with Mr. Moazami at this residence, she was high on GHB, given to her by Mr. Moazami. The sexual intercourse on these occasions was not consensual. On one of these occasions Mr. Moazami had anal sex with E.B. without her consent.
- [62] Again, there is only Mr. Moazami's lack of a related record and his relatively young age at the time that constitute mitigating circumstances. In contrast, there are numerous aggravating circumstances including the ten-year age difference between Mr. Moazami and E.B., the youth and vulnerabilities of the complainant, the use of intoxicating drugs to facilitate sexual contact, the nature of the sexual intercourse, and the high-handed manner in which Mr. Moazami acted towards sexual favours from E.B. In this regard, he treated sex with her as a perk of his job as her pimp. The minimum sentence for sexual interference is 45 days' jail. I find the aggravating circumstances warrant a jail term of two years.
- [63] Addressing Count 8, sexual exploitation, Mr. Moazami continued to have sexual intercourse with E.B. in 2011 while she was 17 years old and working for him as a prostitute at 9180 Hemlock Street. The exploitative relationship between Mr. Moazami and E.B. was egregious in nature. Their relationship began as exploitative when Mr. Moazami forced E.B. to work for him as a prostitute as a penalty for attempting to take M.N. away. Further, Mr. Moazami created an atmosphere of fear and control and used physical and emotional coercion to force E.B. to remain working for him as a prostitute. Mr. Moazami was ten years older than E.B. and she was highly dependent upon him because of her drug addiction.
- [64] E.B. was an extremely emotionally naïve teen who was obviously intellectually challenged. Her immaturity and child-like demeanour were clearly evident when she testified at the trial. At that time she was almost 20 years old and I made the following observations at para. 533 (2014 BCSC 1727):
- [533] Mr. Moazami must have been cognizant of E.B.'s childish demeanour and appearance. E.B. testified when she was almost 20; however, even then her verbal communication skills were child-like and simplistic. I was struck by her naivety and her lack of composure.

While testifying, she curled her legs up and hugged them to her chest. While watching and listening to the videotaped statement she gave to the police, E.B. put makeup on her face. She was intellectually challenged and this was demonstrated by her words and her demeanour. In short, I felt she projected a person who was no more than 14 years old. B.B. confirmed that E.B. had learning disabilities and was a very young-looking teen despite her desire to appear older.

- [65] It was easy for Mr. Moazami to exploit such a vulnerable person in a physical and emotional manner, as well as financially for his own callous motives of personal gain. Again, his conduct warrants the highest condemnation by the justice system. The community demands that the Court denounce Mr. Moazami's conduct and impose a sentence that will deter him and like-minded persons from engaging in such cruel and destructive behaviour.
- [66] Accordingly, with regard to Count 8, sexual exploitation, I find a sentence of three years is warranted in all of the circumstances.
- [67] For the reasons articulated above regarding M.N., I find that the sentences imposed for sexual interference and sexual exploitation shall be served concurrently to each other but consecutively to the sentence imposed for living off the avails of prostitution of a person under the age of 18 years with coercion.

3. S.W.

- [68] Mr. Moazami was convicted of living off the avails of prostitution of a person under 18 years with coercion (Count 10) and sexual exploitation (Count 11) in relation to S.W. S.W. was 16 and 17 years old during the offence dates of April 1, 2009 to September 29, 2010. During the time that S.W. worked for Mr. Moazami as a prostitute, they resided together as common-law spouses. This constitutes a further aggravating circumstance. Mr. Moazami clearly violated the trust implicit in the spousal relationship by his misconduct.
- [69] Addressing Count 10, living off the avails of prostitution, with coercion, I found that during the period in which S.W. worked as a prostitute for Mr. Moazami, he regularly used verbal abuse as a means of intimidating S.W. to behave as he desired. I also found that Mr. Moazami assaulted S.W. on several occasions as a means of securing her compliance. The impact of his behaviour on S.W. led to her attempted suicide by jumping off an apartment balcony. It is apparent from this incident that S.W. was prepared to take desperate measures to escape from her volatile relationship with Mr. Moazami. As with other prostitutes in his employ, Mr. Moazami physically abused or threatened to abuse a beloved dog to secure compliance with his demands. Lastly, when S.W. finally left Mr. Moazami, he used physical and emotional pressure and intimidation to lure her back.
- [70] Again, there are few mitigating circumstances and many aggravating factors. Mr. Moazami took advantage of the purportedly romantic relationship with S.W. to coerce her into continuing to be a prostitute; he plied her with drugs and alcohol to ensure that she was physically and emotionally dependent upon him. He deprived S.W. of the monies earned as a

prostitute and used her for his own selfish motives of financial gain. S.W. was young and impressionable and had already suffered sexual abuse at the hands of her stepfather when she met Mr. Moazami. She was estranged from her family and had no close friends apart from other prostitutes. She had been in and out of foster homes. The harm caused by Mr. Moazami was so devastating that S.W. secretly planned to poison him when she returned to work for him briefly in the fall of 2010. This coercive relationship endured for a lengthy period, and Mr. Moazami used emotional intimidation to force S.W. to return to work for him long after she left the relationship. S.W.'s mother prepared a victim impact statement that described the stress and fear that she and S.W. lived under during the trial and while she was under Mr. Moazami's control. S.W. attempted to go back to school but was unsuccessful. She returned to a life of drugs. Thankfully she has moved on now, and appears to be trying to reclaim her life. Both S.W. and her mother continue to fear retribution from Mr. Moazami.

- [71] In light of these egregious circumstances, I find that Mr. Moazami's moral culpability for this offence is extremely high. There is a five-year minimum sentence for this offence and, in my view, the minimum sentence does not sufficiently denounce his misconduct or act as a deterrent to him and others in light of the circumstances. Well informed members of our community would be shocked and disgusted by Mr. Moazami's conduct. I find a sentence of seven years' jail is warranted.
- [72] Turning to Count 11, sexual exploitation, there are many aggravating factors and a corresponding lack of mitigating circumstances. Mr. Moazami admitted that he had sexual intercourse with S.W. hundreds of times between the offence dates of April 1, 2009 and September 29, 2010 and he forced her to have anal sex against her will so that she could provide this service to clients. Again I find his conduct was egregious.
- [73] Mr. Moazami was eight years older than S.W. She was a young girl from a disadvantaged background and had a troubled childhood. Mr. Moazami knew her history and was aware of S.W.'s vulnerability. His relationship as S.W.'s pimp is exploitative on its face; however, Mr. Moazami's manipulation and control over S.W. through verbal and physical abuse, coercion and intimidation rendered their association highly exploitative. He oscillated between showing her affection and abusing her. He lied to her and made promises that he did not mean. Mr. Moazami used his romantic relationship with S.W. to manipulate her and ensure a steady stream of money came to him from her work as a prostitute. Mr. Moazami took all of the money she made and provided her with drugs and alcohol to keep her dependent upon him. Mr. Moazami controlled when S.W. worked and where she worked. She had little control over her body or her time. He refused to give her a key to their apartments. Mr. Moazami was never a genuine boyfriend to S.W. His only interest in her was the money she could earn for him as a prostitute. This attitude is clearly apparent in Mr. Moazami's promise to let S.W. work at a normal job if she came back to him and his almost immediate about-face on this matter when she did return. Having sexual intercourse with S.W. was only one means by which Mr. Moazami manipulated S.W.'s feelings for him and kept her tethered to him and his lifestyle.

[74] I find a fit sentence is three years' jail.

[75] For the reasons articulated above regarding M.N., I find that the sentence imposed for sexual exploitation shall be served consecutively to the sentence imposed for living off the avails of prostitution of a person under the age of 18 years with coercion.

4. S.H.

[76] Mr. Moazami was convicted of Count 13, living off the avails of prostitution contrary to s. 212(1)(j), and the Count 14 included offence of living off the avails of prostitution of a person under the age of 18 in relation to S.H.

[77] S.H. was born on December 4, 1992, and she was 16 to 18 years old during the offence dates of April 1, 2009 to June 30, 2011. S.H. worked as a prostitute out of the apartments at 888 and 788 Hamilton Street, 480 Robson Street, and 919 Station Street. S.H. first met Mr. Moazami in 2007 when she was 15 years old. S.H. bought marihuana from Mr. Moazami and someone offered her to him as a date. In response, Mr. Moazami asked S.H. how old she was and she told him that she was 15.

[78] During the currency of their relationship there was no coercion or assault. This only came after S.H. left Mr. Moazami and while she was attempting to establish a new life for herself.

[79] S.H. characterized her relationship with Mr. Moazami as a business relationship. She was able to retain most of her earnings and resisted attempts by Mr. Moazami to increase his share of her labours. S.H. was also able to work independently of Mr. Moazami and perform other services for him such as answering calls from prospective clients and posting internet advertisements. Despite her young age, S.H. was mature beyond her years and stood up for herself, unlike the other complainants who worked for Mr. Moazami as prostitutes.

[80] In these circumstances, I find that a sentence of 45 days is appropriate for the offence of living off the avails of prostitution. There is a two-year minimum sentence for living off the avails of prostitution of a person under the age of 18 years. I find that the minimum sentence is appropriate in light of the lack of aggravating factors beyond the age of the complainant. S.H. was young but very mature. She was not abused in the same manner as the other complainants. These sentences shall be served concurrently.

5. C.B.

[81] Mr. Moazami was convicted of Count 15, procuring a person to become a prostitute and Count 16, living off the avails of prostitution, in relation to C.B. During the offence dates C.B. was 18 years old.

[82] C.B. met Mr. Moazami when she was 15 years old. He sold drugs to her and her mother. They became friends. When she was 16 years old, Mr. Moazami introduced C.B. to oxycodone and she became seriously addicted to this illicit drug. C.B. suggested to Mr. Moazami that she work for him as a prostitute to earn money. With knowledge of her serious drug addiction, Mr. Moazami encouraged C.B. to become a prostitute so that she could make lots of money

to support her habit. When they discussed prostitution, Mr. Moazami glamorized the work; he said it was a wonderful lifestyle. C.B. could have all the drugs she wanted and could buy nice things and travel around the world. Mr. Moazami told C.B. that she could go to Calgary during the Stampede and make a great deal of money working as a prostitute. As a consequence of this encouragement, C.B. decided to work for Mr. Moazami as a prostitute.

[83] Mr. Moazami took advantage of his friendship with C.B. and her need for money due to a serious drug addiction. He led C.B. into a lifestyle that was replete with risks to her physical and emotional health and safety. She was only 18 years old at the time. While C.B. did not stay with Mr. Moazami for a lengthy period of time, she continued to work as a prostitute after she left him, no doubt due to her introduction to this profession by Mr. Moazami. There are no mitigating circumstances apart from the fact that Mr. Moazami has no related criminal record and his relatively young age at the time of the offence.

[84] This offence carries no minimum sentence and the maximum sentence is ten years. I find that a sentence of one year's jail is warranted in the circumstances.

[85] Turning to Count 16, living off the avails of prostitution, C.B. had a better financial arrangement with Mr. Moazami than the other complainants, but she was subject to the same controls through the use of threats and emotional manipulation. Moreover, when C.B. left Mr. Moazami in August 2010, he blamed her for taking two of his "girls" away with her. Mr. Moazami expressed his views about C.B. in his Facebook communications with her, which are violent and extremely disturbing. On the other hand, C.B. worked for Mr. Moazami for a total of two-and-a-half months. In these circumstances, I find a fit sentence for Count 16 is a jail term of 90 days.

[86] The sentences imposed for Counts 15 and 16 shall be served concurrently.

6. I.T.

[87] Mr. Moazami was convicted of procuring a person into becoming a prostitute (Count 17) and living off the avails of prostitution (Count 18) in relation to I.T.

[88] I.T. met Mr. Moazami when she was 14 years old, and for the next three years he continuously supplied her with a variety of illicit drugs. They also became friends and socialized together. I.T. quickly became heavily addicted to cocaine and other opiates. In 2009, I.T. crashed Mr. Moazami's vehicle. This accident ultimately led to her spending several months in a residential drug treatment centre. When she completed the program in January 2010, I.T. contacted Mr. Moazami and proposed that she sell drugs for him to make money. During their meeting, Mr. Moazami proposed that she earn money as a prostitute rather than by selling drugs. He described the glamorous lifestyle she could have as a prostitute to entice I.T. into this profession. I.T. agreed and started working for Mr. Moazami in the early spring of 2010.

- [89] I.T. was born in the Ukraine on May 5, 1992 and immigrated to Canada when she was five years old. She and her mother came to B.C. and left behind I.T.'s alcoholic and abusive father. In B.C., I.T. lived with her mother and stepfather in West Vancouver. She had a troubled childhood and lacked a father figure in her life due to the many absences of her stepfather. Her mother was harsh and strict. She dropped out of school in Grade 11. Mr. Moazami was acutely aware of I.T.'s troubled childhood when he lured her into a life of prostitution. Although I.T. worked for Mr. Moazami for a relatively short time, she continued to work as a prostitute on a part-time basis after she left him. I.T. testified that once she got a taste of the lifestyle that could be purchased with the money she made as a prostitute, it was difficult to go back to a minimum wage job. However, her drug use became worse over time due to the amount of money available from prostitution.
- [90] I.T. was procured into prostitution by Mr. Moazami in the same way he procured C.B. However, I.T. looked up to Mr. Moazami as the father figure that was denied to her as a child. Mr. Moazami told I.T. that he loved her and that she was his favourite girl. He used this aspect of their relationship to manipulate I.T.
- [91] There are no mitigating circumstances apart from the fact that Mr. Moazami has no related criminal record and his relatively young age at the time of the offence.
- [92] I find a fit sentence is a one-year jail term. I.T.'s circumstances are similar to C.B.'s and thus Mr. Moazami's misconduct should attract a similar sentence.
- [93] Turning to Count 18, living off the avails of prostitution, Mr. Moazami's treatment of I.T. during their relationship was very similar to C.B.'s circumstances apart from the method of payment. I.T. permitted Mr. Moazami to retain all of her earnings in return for a lifestyle that included drugs, provocative work clothing, food, and lodging. She was required to work as and when directed by Mr. Moazami; he controlled every aspect of her life for this brief period of time. She finally left Mr. Moazami when he became too angry and controlling with her.
- [94] I find a fit sentence in the circumstances is 90 days' jail. Mr. Moazami shall serve this sentence concurrently with the sentence of one year's incarceration imposed for procuring I.T. into prostitution.
7. J.C.
- [95] Mr. Moazami was convicted of Count 20, procuring a person into prostitution, Count 21, living off the avails of prostitution, Count 22, human trafficking contrary to s. 279.01(1)(b) of the Code, and Count 23, sexual assault in relation to J.C.
- [96] J.C. was adopted at the age of three and lived in a very unstable home until she was placed in foster care at the age of 16. She was diagnosed with anxiety disorder and depression at a young age and began drinking alcohol at 12 or 13 years old.

- [97] J.C. was introduced to Mr. Moazami in May 2010 when she was 19 years old through her friend I.T. At this time J.C. had been forced to leave a residential treatment centre and had no place to live. Mr. Moazami knew that J.C.'s mother would not permit her to return to the family home and that her life at home was unstable. It was during a party at Mr. Moazami's apartment that he lured J.C. into prostitution by glamorizing the work and promising that she would have everything she wanted and always have him to protect her. This enticing description of prostitution and promises of money and glamour were made after Mr. Moazami had supplied J.C. with alcohol, cocaine, and several doses of GHB.
- [98] The circumstances surrounding J.C.'s procurement into prostitution are similar to C.B. and I.T.'s. In addition, it was apparent to Mr. Moazami that J.C. was drug addicted and vulnerable to his enticements because she was homeless and had no money to support herself. I find a sentence of one year on Count 20, procuring, is appropriate in the circumstances.
- [99] It was on the night that J.C. agreed to become a prostitute for Mr. Moazami that he sexually assaulted her. Mr. Moazami provided J.C. with alcohol, cocaine, and GHB to the point where she blacked out. When she woke up Mr. Moazami was engaged in sexual intercourse with J.C. without her consent.
- [100] As outlined above, Mr. Moazami regarded free sex with his prostitutes as a "perk" of his position as their pimp. Regardless of their wishes, he regularly exercised this type of control over their bodies and their emotions. J.C. was treated in this callous manner on the first night she agreed to become a prostitute. The offence is rendered more serious because Mr. Moazami supplied the drugs and alcohol that rendered J.C. incapable of consenting to sexual intercourse with him and unable to prevent the sexual touching. Further, Mr. Moazami provided drugs to J.C. knowing that she had very recently been discharged from a residential treatment facility for drug addiction.
- [101] I find a fit sentence for Count 23, sexual assault, in these circumstances is two years' jail.
- [102] Turning to Count 21, living off the avails of prostitution, J.C. began working for Mr. Moazami as a prostitute in May 2010. He retained all of her earnings in return for the lifestyle he could provide, which included drugs, work clothing, food, and shelter. She worked for Mr. Moazami for about two-and-a-half months. She worked as many hours a day as there were clients waiting. Mr. Moazami controlled what J.C. ate, where she went, how she dressed, and the persons with whom she could associate. Mr. Moazami essentially "owned" J.C. during this period of time. When J.C. left Mr. Moazami, he violently assaulted the dog he had purchased for his "girls" and threatened to kill the dog if she and E.B. did not return to his employ as prostitutes. J.C. was traumatized by this incident.
- [103] I find a fit sentence for this offence, having regard to the short duration of the offence, the coercive and physically intimidating behaviour of Mr. Moazami, and the adverse impact on J.C. is a jail term of six months.

- [104] Turning to Count 22, human trafficking, Mr. Moazami recruited J.C. into prostitution and transported J.C. to Calgary and Edmonton to work for him as a prostitute. Further, he exercised control over her movements by restricting when she could leave the prostitution locations, and by closely monitoring her whereabouts for the purpose of living off the avails of her prostitution services. While in Calgary, Mr. Moazami forced J.C. to remain in a hotel room for four hours, servicing clients every half hour, to make up for the money she lost while out the night before having fun.
- [105] Mr. Moazami created an atmosphere of fear among the girls who worked for him as prostitutes. Once J.C. was a part of his prostitution business, he maintained strict control over her movements and her behaviour. He isolated her from friends outside of the prostitution business. He made her fear the police. Mr. Moazami provided J.C. with drugs to keep her addicted and dependent upon him so that she would continue earning money for him as a prostitute. He oscillated between the mean, angry pimp and the nice guy. His behaviour led J.C. to believe that if she refused to work for him as a prostitute, her safety would be jeopardized.
- [106] The offence took place over a period of less than three months; however, Mr. Moazami's moral culpability is high due to his egregious treatment of J.C. As described above, there are few mitigating circumstances. I find a sentence of two years' jail is warranted in all of the circumstances.
- [107] Mr. Moazami shall serve the sentences imposed for procuring, living off the avails of prostitution, and human trafficking concurrently. The sentence imposed for sexual assault is to be served consecutively.
8. H.W.
- [108] Mr. Moazami was convicted of the included offence of living off the avails of prostitution of a person under the age of 18 years in Count 25, and sexual exploitation in Count 27, in relation to H.W.
- [109] H.W. was born on September 9, 1994 and during the offence dates (January 15, 2011 to June 7, 2011) she was 16 years old. H.W. worked for Mr. Moazami as a prostitute out of the 788 Hamilton Street location and she also worked for him as a prostitute at 480 Robson Street. It was shortly after H.W. came to the 788 Hamilton Street residence that Mr. Moazami began having sexual intercourse with her on a regular basis. He continued to have sexual intercourse with H.W. while she worked from the 480 Robson Street apartment.
- [110] When H.W. worked for Mr. Moazami, he kept a close watch on her; she was not permitted to leave the apartment without Mr. Moazami. If Mr. Moazami had to leave the apartment without H.W., he took the keys and told her not to go anywhere. When H.W. expressed a desire not to work, Mr. Moazami told her that there would be no oxycodone if she did not take a client. Mr. Moazami told H.W. that he needed her working so he could pay for the apartment. Whenever Mr. Moazami purchased something for H.W., he told her it was a debt

she had to pay off by providing prostitution services to clients. Mr. Moazami's relationship with H.W. was clearly one of control. When she disappeared on him, Mr. Moazami paid his friends to find her and bring her back, and he lied to his other prostitutes to enlist their help to find H.W. When he was disenchanted with H.W., he tried to sell her to another pimp over the Internet. Later, while H.W. was in Alberta in a youth detention centre, he lied to her about selling her the dog Gucci to lure her back to Vancouver to work for him again and when his efforts in this regard failed, Mr. Moazami told her he had thrown all of her belongings away. He knew that this would be devastating for H.W.

[111] Mr. Moazami's relationship with H.W. was clearly exploitative. He had sexual intercourse with H.W. on several occasions and did not pay for these services, even though she was a prostitute. She was only 16 years old and he was ten years older. Once H.W. began working for Mr. Moazami, he regarded her as a piece of property that could be sold to another pimp. He cared nothing for her wellbeing. His sole interest in H.W. was making money from her work as a prostitute. When H.W. left Mr. Moazami in February 2011, he fumed over her disappearance because he was losing money every day without her.

[112] Turning to Count 25, there is a minimum jail term of two years for living off the avails of prostitution of a person under the age of 18 years. H.W. was only 16 years old when she worked for Mr. Moazami. Mr. Moazami's treatment of H.W. was abusive, callous, and borders on psychopathic. She was his property to sell and to misuse. There are few mitigating circumstances. The misconduct continued for a relatively lengthy period in 2011. I find a sentence of three years is warranted in all of the circumstances.

[113] Addressing Count 27, sexual exploitation, the circumstances are equally egregious in light of Mr. Moazami's misconduct towards this young girl. He exercised great power over H.W. and abused even more an intrinsically abusive position as her pimp. There is a 45-day minimum sentence for this offence. I find a jail term of two years is justified because of the aggravating circumstances surrounding Mr. Moazami's treatment of H.W. and their age difference.

[114] Mr. Moazami shall serve the sentence for sexual exploitation consecutively to the sentence imposed for living off the avails of prostitution of a person under the age of 18.

9. T.H.

[115] Mr. Moazami was convicted of procuring T.H. into prostitution in Count 29, living off the avails of prostitution in Count 30, and living off the avails of prostitution of a person under the age of 18, the lesser included offence in Count 31.

- [116] T.H. was born on February 23, 1993 and was 17 and 18 years old during the offence dates (February 1, 2011 to June 10, 2011). T.H. grew up in Maple Ridge and completed Grade 11. She had been introduced to drugs and alcohol in her early teens but continued to reside with her parents in Maple Ridge and managed to secure part-time employment at various businesses such as Save-On-Foods, Wendy's, and Quiznos. T.H. was 17 years old when she met Mr. Moazami in January 2011.
- [117] She was introduced to Mr. Moazami by H.W., who was an acquaintance of T.H. H.W. invited T.H. to "party" with her and Mr. Moazami at a condominium in Vancouver. The two girls took the Skytrain into Vancouver and ended up at the apartment located at 788 Hamilton Street. During the evening, Mr. Moazami gave T.H. alcohol and the girls dressed in provocative clothing and posed for photographs. Mr. Moazami advised T.H. that she could earn lots of money dancing around for men. H.W. also told T.H. that this was all she had to do. Mr. Moazami did not mention that she would be required to have sexual intercourse with the men. It was only after the first date with a client that T.H. was told that she must have sexual intercourse with the clients. It was also after the first date that T.H. learned she would have to share her earnings with Mr. Moazami.
- [118] Although T.H. worked as a prostitute out of the 480 Robson Street and 788 Hamilton Street residences, she did not live there like the other girls. T.H. returned to her home in Maple Ridge after she finished with her clients and continued to work part time elsewhere. When she worked at these residences, Mr. Moazami exercised the same level of control over her as he did with H.W.
- [119] While T.H. worked as a prostitute for Mr. Moazami, he offered her drugs at no cost, including, alcohol, marihuana, cocaine, oxycodone, and Percocet. T.H. was only permitted to have these drugs free of charge when she was working. Mr. Moazami never had sexual intercourse with T.H. and did not assault her.
- [120] Addressing Count 29, procuring, I find there are clearly aggravating circumstances due to T.H.'s young age and naivety. Mr. Moazami lied to her about what she would be required to do for clients and misled her about the money she could make as a prostitute working for him as an inducement. On the other hand, T.H. did not work for Mr. Moazami for a lengthy period of time and he did not abuse her in the same manner as he did other complainants. I find a fit sentence in these circumstances is six months' jail.
- [121] Addressing Count 30 and Count 31, living off the avails of prostitution, there is a minimum sentence for Count 31 of two years, and I find that this is the fit disposition. T.H. was able to return home while she worked for Mr. Moazami and he did not abuse her trust by having sexual intercourse with her. Although she was under his control when working, she was free to leave and did so without any apparent restriction. With regard to Count 30, I find a sentence of 45 days' jail is appropriate.
- [122] Mr. Moazami shall serve the sentences imposed for Counts 29, 30 and 31 concurrently.

10. S.K.

- [123] Mr. Moazami was convicted of the included offence of living off the avails of prostitution of a person under the age of 18 years in Count 33. S.K. was born on February 15, 1994; she was 17 years old when she met Mr. Moazami in the spring of 2011. She contacted Mr. Moazami because she wanted to work as a prostitute. She worked for him out of the Richmond apartment on Hemlock Street for a period of four months from May 2011 to August 2011.
- [124] S.K. appeared to be given more freedom of choice regarding the sexual services she offered to clients and for the most part Mr. Moazami honoured their agreement to share her earnings equally. On three or four occasions, however, Mr. Moazami became angry with S.K. and refused to give her a share in the profits from a client. Instead, he took all of her earnings. S.K. was permitted to return to her foster home to ensure she did not get into trouble. Sometimes Mr. Moazami would refuse to give S.K. a day off because she had not made enough money. He also purchased sponges and red condoms for S.K. so that she could continue to provide prostitution services during her menstrual cycle. When she decided not to work for him anymore, Mr. Moazami refused to return her clothes and other personal belongings. He also threatened to take the dog Gucci away from her.
- [125] Although he did not use physical force, S.K. testified that Mr. Moazami became very angry if she refused to meet a client, and S.K. was afraid of him and what he might do to her. S.K. described Mr. Moazami as having a bad temper; he was bigger than she was and he was all she really had if "she messed up". S.K. never saw Mr. Moazami happy; he was always serious and angry. She and the other prostitutes were younger than Mr. Moazami and were intimidated by his behaviour. S.K. never thought of calling the police because she had bad experiences with the police in the past and would never want Mr. Moazami to know she was thinking of calling the police out of fear that he may retaliate.
- [126] Mr. Moazami supplied GHB to her free of charge when she worked out of the Hemlock residence. While she often smoked marijuana at this time, Mr. Moazami required her to pay for this drug.
- [127] There is a two-year minimum sentence for living off the avails of prostitution of a person under the age of 18 years. Mr. Moazami's treatment of S.K. was not as egregious as his misconduct with some of the other complainants and she worked for him for a relatively short time. In addition, it was S.K. who sought out Mr. Moazami; he did not procure her into a life of prostitution. Accordingly, on Count 33, I find the minimum jail term of two years is a fit sentence.

11. J.C.H.

- [128] Mr. Moazami was convicted of Count 34, living off the avails of prostitution of a person under the age of 18 years with coercion, and Count 35, sexual interference in relation to J.C.H. The offence dates are June 15, 2011 to July 11, 2011. J.C.H. was 15 years old when she met Mr. Moazami in June 2011. She had experienced a troubled childhood and an absent

father. She had a turbulent and dysfunctional relationship with her mother. She was introduced to cocaine when she was 12 years old and by the time she was 13, J.C.H. had already worked as a prostitute.

- [129] J.C.H. worked out of the Richmond apartment on Hemlock Street. She agreed to work as a prostitute for Mr. Moazami because she needed a place to live and he promised to cover all of her expenses while she continued to work for him. Mr. Moazami took all of her earnings and returned only a small portion of them to her. From her share he would deduct her "debts". She was given GHB for free, and marihuana, which she had to pay for.
- [130] Mr. Moazami used violence and threats of physical harm towards J.C.H. and to the dog Gucci in order to secure her cooperation and compliance with his demands. Mr. Moazami threatened to strike Gucci and did so on a few occasions to secure J.C.H.'s cooperation. Mr. Moazami created an oppressive atmosphere of control and regulation to subdue J.C.H. when she failed to comply with his demands and he did so by means of direct threats of violence and actual violence, and by coercive tactics based on threats to harm or destroy things that were important to this very young and vulnerable girl.
- [131] J.C.H. had consensual sexual intercourse with Mr. Moazami on two occasions while she worked out of the Richmond Apartment. J.C.H. testified that on one occasion Mr. Moazami had anal sex with her without her consent. Mr. Moazami provided her with alcohol and GHB to the point where she was going in and out of consciousness. When she woke up, Mr. Moazami was on top of her and she realized that he had raped her anally.
- [132] In regard to Count 34, there is a five-year minimum sentence for this offence. The circumstances surrounding Mr. Moazami's treatment of J.C.H. are egregious but not as serious as his maltreatment of S.W., and this abusive relationship with J.C.H. continued for a far shorter period of time. I find that a fit sentence in light of the circumstances is the minimum jail term of five years.
- [133] Turning to Count 35, sexual interference, there are aggravating circumstances including J.C.H.'s young age, disadvantaged background and home life; the age difference between the complainant and Mr. Moazami; and the fact that he forced her to have anal sex against her wishes. This abusive relationship did not subsist for a lengthy period, rendering the circumstances relatively less serious than with E.B. and M.N. Accordingly, I find a fit sentence is a period of 18 months' jail.
- [134] Mr. Moazami shall serve the sentence imposed for sexual interference consecutively to the sentence imposed for Count 34, living off the avails of prostitution of a person under the age of 18 years with coercion.

APPLICATION OF THE TOTALITY PRINCIPLE

- [135] In summary, the following concurrent and consecutive sentences are imposed for each complainant:

1. M.N.: two years' and three years' jail to be served concurrently but consecutive to a three-year sentence and in total six years' jail;
2. E.B.: two years' and three years' jail to be served concurrently but consecutive to a six-year jail sentence and in total nine years' jail;
3. S.W.: seven years' jail to be served consecutive to a three-year jail term and in total ten years' jail;
4. S.H.: two years' jail to be served concurrently with 45 days' jail and in total two years' jail;
5. C.B.: one year's jail to be served concurrently to 90 days' jail and in total one year's jail;
6. I.T.: one year's jail to be served concurrently to 90 days' jail and in total one year's jail;
7. J.C.: one year's jail, two years' jail and six months' jail to be served concurrently but consecutive to two years' jail and in total four years' jail;
8. H.W.: three years' jail to be served consecutive to two years' jail and in total five years' jail;
9. T.H.: two years' jail, six months' jail and 45 days' jail to be served concurrently and in total two years' jail;
10. S.K.: two years' jail;
11. J.C.H.: five years' jail to be served consecutive to 18 months' jail and in total six years and six months' jail.

[136] Prior to applying the totality principle, the entire length of the sentences imposed for the offences involving all 11 complainants is 48 years and six months' jail.

[137] Although it is a way to allocate a sentence reduced by the totality principle, Mr. Moazami's total sentence should not be calculated by imposing the sentences with respect to offences against some or all of the complainants concurrently. To do so would be the equivalent of giving Mr. Moazami a reduced sentence because he inflicted harm on many young girls rather than only one or two. As the Court of Appeal has noted, crime should not be "cheaper by the dozen". However, the totality principle demands that some reduction of the entire sentence imposed occur because otherwise it amounts to a harsh and oppressive jail term that is not befitting Mr. Moazami's past criminal record, and would crush his prospects for any rehabilitation.

[138] The Crown maintains the totality principle can be applied by imposing concurrent jail terms for sexual interference and sexual exploitation in relation to each complainant. In addition, the Crown proposes a reduced sentence for some of the sentences imposed in relation to M.N., E.B., C.B., I.T. and J.C., for a total of 17 years after giving credit for three years and eight months' time served. Before time served is deducted, the Crown argues for a total sentence of 20 years and eight months' jail.

- [139] The defence argues that the sentence sought by the Crown is far too long and harsh and is not reflective of similar offenders or befitting Mr. Moazami's blameworthiness for the offences he committed. The defence argues for a sentence of 10 to 12 years minus time served.
- [140] The statutory minimum sentences for each of the offences for which Mr. Moazami has been convicted in total amount to 25 years plus 315 days, if these sentences were to be served consecutively. In my view, the aggregate of the minimum sentences informs the Court with regard to the length of sentence necessary to adequately reflect the serious nature of the offences, the multiple complainants, the many aggravating factors, and Mr. Moazami's moral blameworthiness in light of the few mitigating circumstances. The question is whether this length of sentence or a shorter sentence properly balances the need for deterrence and denunciation with Mr. Moazami's level of moral blameworthiness. Is it harsh or crushing in light of all the relevant factors?
- [141] It is clearly a sentence that reflects Parliament's intention that certain designated offences be subject to a minimum sentence due to their serious nature. Further, I find that the sentencing provisions of the Criminal Code reflect the community's belief that offenders should be required to serve at least the minimum sentence for each offence they commit against young persons. In my view, a sentence in this range does not exceed Mr. Moazami's overall culpability given the aggravating factors and the dearth of mitigating circumstances applicable to this case. His misconduct and moral blameworthiness in relation to most of the complainants falls squarely within the upper range of gravity and seriousness.
- [142] As described above, applying the principles of sentencing, excluding the totality principle, results in a potential sentence of over 48 years. While such a lengthy sentence may be far greater than sentences imposed in the individual cases cited by both Crown and defence, none of the authorities I have reviewed are identical to Mr. Moazami's circumstances, or even comparable. There are 11 complainants in this case, which is far more than in the authorities cited by Crown and defence. The offences were committed over a relatively lengthy period, and despite Mr. Moazami's earlier arrest by the police, he went back to his illegal prostitution business. There are serious, aggravating factors involved with most of the complainants, including lasting harm to the complainants and the commission of acts of violence. There are minimum sentences of five and two years for many offences, and there are very few mitigating circumstances that serve to reduce Mr. Moazami's moral blameworthiness.
- [143] A sentence in the range argued by the Crown is not unduly long or harsh if it is commensurate to Mr. Moazami's moral blameworthiness and the harm inflicted on the complainants. In my view, using the applicable statutory minimum and maximum sentences as a benchmark, and applying the factors relevant to the application of the totality principle, I find that a sentence of 23 years' incarceration is the minimum necessary to achieve the fundamental objectives of sentencing on the facts of this case. Denunciation and deterrence are the most important principles of sentencing in light of the nature of the

offences against children. While it is also important to consider Mr. Moazami's potential for rehabilitation, the serious nature of his offences and the harm he has caused to these young complainants requires this sentencing objective to be accorded a secondary role in crafting the appropriate sentence. Moreover, as described earlier, there has been no formal assessment of Mr. Moazami's potential for rehabilitation and risk for re-offending, and the value of the evidence of rehabilitation he has produced is lessened substantially by the known facts proven at the trial.

- [144] Although the Crown has proposed a somewhat shorter total sentence, I find that a reduction of the total sentence to 23 years properly reflects Mr. Moazami's overall blameworthiness for his egregious misconduct and the serious harm caused to the complainants. In addition to Mr. Moazami's misconduct during the periods of the offences charged, as outlined in this judgment and in the reasons for conviction, he subjected these young, marginalized young women to the fear, stress, and aggravation of a long trial; he re-victimized the complainants and he lied to the Court under oath. He exhibited no remorse and failed to take even the slightest amount of responsibility for his misconduct. He has no insight into the harm caused to his victims.
- [145] Accordingly, applying the totality principle to the sentences imposed on each count, I find a global sentence of 23 years' jail is the appropriate sentence in all of the circumstances.
- [146] To achieve this length of sentence, the sentences imposed with respect to the offences against individual complainants shall be served concurrently with each other, but consecutively in regard to each of the other complainants with three exceptions that I will outline later. In particular:
- (a) the sentences imposed on Counts 1, 2 and 3 (M.N.) shall be served concurrently with each other;
 - (b) the sentences imposed on Counts 6, 7 and 8 (E.B.) shall be served concurrently with each other;
 - (c) the sentences imposed on Counts 10 and 11 (S.W.) shall be served concurrently with each other;
 - (d) the sentences imposed on Counts 13 and 14 (S.H.) shall be served concurrently with each other;
 - (e) the sentences imposed on Counts 15 and 16 (C.B.) shall be served concurrently with each other;
 - (f) the sentences imposed on Counts 17 and 18 (I.T.) shall be served concurrently with each other;
 - (g) the sentences imposed on Counts 20, 21, 22 and 23 (J.C.) shall be served concurrently with each other;

- (h) the sentences imposed on Counts 25 and 27 (H.W.) shall be served concurrently with each other;
- (i) the sentences imposed on Counts 29, 30 and 31 (T.H.) shall be served concurrently with each other; and
- (j) the sentences imposed on Counts 34 and 35 (J.C.H.) shall be served concurrently with each other.

[147] In addition, the sentences imposed for offences against J.C.H., J.C., T.H. and S.K. shall be served concurrently to each other; that is, the sentences imposed on Counts 33, 20, 21, 22, 23, 29, 30, 31, 34 and 35 shall be served concurrently with all other counts. The remaining counts, grouped by complainant, shall be served consecutively to all counts; that is, Count 1, Count 6, Count 10, Count 14, Count 15, Count 17 and Count 25 are all served consecutively. This amounts to a total length of sentence of 23 years.

[148] The time served to be credited to Mr. Moazami shall be deducted from the sentences imposed in relation to Counts 1 and 25.

CALCULATION OF TIME SERVED

[149] The provisions of s. 719 of the Code apply to the calculation of time served credits. The general rule, as provided in s. 719(3), is that time served prior to the imposition of a sentence is calculated based on one day for each day in pretrial custody. However, s. 719(3.1) provides that in certain circumstances the court may give credit for time served at 1.5 days for each day in pretrial custody. The court cannot give 1.5 days' credit where the offender is in custody due to s. 515(9.1) or s. 524(4) or (8). These new provisions apply to Mr. Moazami's pretrial custody because the charges were first laid after February 22, 2010, the date of enactment of the relevant sections. The triggering date is the date the person is charged rather than the date of the offence: *R. v. Clarke*, 2014 SCC 28 at paras. 17 and 18.

[150] Mr. Moazami was in custody on the first Information charging three counts from October 7, 2011 to December 22, 2011. He was released on a recognizance with a \$100,000 surety. A second Information containing 18 counts superseded the first Information and Mr. Moazami's bail was continued on this Information. On April 3, 2012, Mr. Moazami obtained a variation of his bail on the 18-count Information. I will call this the 3C Information. On August 1, 2012, Mr. Moazami was directly indicted on the 36-count Indictment before the court. Process was issued in the Supreme Court for Mr. Moazami's arrest on the Indictment but the warrant was to be held until August 13, 2012, when Mr. Moazami was to turn himself in. However, Mr. Moazami was arrested on August 9, 2012 for a breach of the bail terms on the 18-count 3C Information; the allegation was that he had contact with one of the complainants over the Internet.

- [151] Mr. Moazami remained in custody by consent until October 11, 2012. On that date bail was revoked by Bagnall P.C.J. in Provincial Court based on Mr. Moazami's admission of a breach of his bail terms. Mr. Moazami's bail on the 3C Information was revoked and he was detained based on a finding under s. 524(8) by Bagnall P.C.J. It was not until January 17, 2013, that Mr. Moazami consented to a detention order on the Indictment in the Supreme Court.
- [152] In my view, Mr. Moazami was detained on the basis of a breach of s. 524(8) of the Code in relation to bail ordered on the 3C Information, but he was not detained on the Indictment based on a breach of bail. The 3C Information contained 18 counts and the Indictment contained 36 counts. Bail was never granted on the 36-count Indictment. It was a preferred Indictment that superseded the 3C Information.
- [153] Further, while Mr. Moazami is currently in the midst of a trial concerning the breach of bail and is defending on the basis that he did not knowingly admit the breach, my determination of time served can only be based on the detention order and the reasons for that order. Should he be acquitted on the breach charge, Mr. Moazami may have grounds to appeal the sentence imposed today. However, this is something for the Court of Appeal to consider. I must determine a fit sentence based on the facts before me.
- [154] Accordingly, I find that Mr. Moazami was detained based on a breach of his bail under s. 524(8) from October 11, 2012 to January 17, 2013. During this period of pretrial custody he is only entitled to credit for time served based on one day's credit for each one day served. For the balance of the pretrial custody he is entitled to 1.5 days' credit for each one day served.
- [155] The loss of statutory remission is a recognized reason for granting the additional 1.5 days' credit for time served. Accordingly, Mr. Moazami shall receive 1.5 days for each day served in pretrial custody prior to October 11, 2012, and for each day spent in pretrial custody from January 17, 2013 to November 10, 2015. Mr. Moazami spent 140 days in custody before October 11, 2012 and after January 17, 2013 he has spent 1028 days in custody. Allowing a credit of 1.5 days amounts to a total of 1752 days in custody. In addition, he spent 99 days in custody between October 11, 2012 and January 17, 2013. Thus the total time served credit is 1851 days or five years and 26 days.

SENTENCE IMPOSED

- [156] The sentence imposed is 23 years. From this sentence I deduct five years and 26 days. Accordingly, the remaining sentence to be served is 17 years and 339 days.

ANCILLARY ORDERS

- [157] The Crown has sought certain ancillary orders that are not opposed by the defence. I find the Crown is entitled to the following orders:

1. A mandatory DNA order pursuant to s. 487.051 and s. 487.04 in regard to the primary designated offences under ss. 212(2), 151(a), 212(2.1), 153(1)(a), 212(1)(j) and (d) and 279.01(1)(b).
 2. A mandatory SOIRA order for life pursuant to s. 490.012(1) and 490.013(2.1).
 3. A mandatory weapons prohibition under s. 109(1) for life.
 4. A non-communication order during the custodial portion of the sentence under s. 743.21 for the following persons: All 11 of the complainants and E.S., E.V., C.K., L.D., K.D., and M.R.
 5. An order for forfeiture of all items seized by the police pursuant to s. 490.1.
- [158] The Crown does not seek an order under s. 161(1) of the Code and thus I will not make an order under this provision. The offence dates predate the mandatory victim surcharge; however, Mr. Moazami does not plead financial hardship. As a consequence, I order fines of \$100 for each count he was convicted on for a total of \$2,600 pursuant to s. 737(2)(b)(ii).

"Bruce J."

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