
CANADA / JUDGMENT

R. v. Saunders

2022 BCSC 2118

COURT

Supreme Court of British Columbia

DECIDED

26 July 2022

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2022 BCSC 2118 R. v. Saunders

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Saunders,

2022 BCSC 2118

Date: 20220726

Docket: 35673-2

Registry: Williams Lake

Regina

v.

Randi Allison Saunders

Before: The Honourable Madam Justice Church

Oral Reasons for Sentence

Counsel for the Crown appearing by teleconference:

S.K. Mann

Counsel for the Accused:

A.P. Kaiser

Place and Date of Trial/Hearing:

Williams Lake, B.C.

February 24, 2022

Place and Date of Judgment:

Williams Lake, B.C.

July 26, 2022

- [1] THE COURT: On July 9, 2021, Randi Allison Saunders pleaded guilty to Count 6 on Indictment 35673-2, and thereby admitted that on March 2, 2019, she possessed a loaded prohibited or restricted firearm, a sawed-off shotgun, without being the holder of an authorization or licence to possess the firearm, contrary to s. 95(1) of the Criminal Code, R.S.C. 1985, c. C-46 [Code].
- [2] Ms. Saunders' guilty plea was entered not long before jury selection was scheduled to commence for her trial. Her sentencing date was adjourned over to February 24, 2022, so that a pre-sentence report ("PSR") and a Gladue report could be prepared.
- [3] The circumstances that give rise to this offence are set out in an agreed statement of facts that was read into the record, both when Ms. Saunders entered her guilty plea and again at her sentencing hearing before me. The agreed statement of facts, signed by counsel and Ms. Saunders, was entered as Exhibit 1 on sentence.
- [4] By way of brief summary, Ms. Saunders resided at 1177 3rd Avenue in Williams Lake at the time of the offence. She had a history of conflict with the complainant, Laura Taylor, which included a report of Ms. Saunders being attacked with a baton in her residence by Ms. Taylor on February 1, 2019. Although police attended and observed injuries to Ms. Saunders, she declined to provide a statement and thus no further investigation ensued.
- [5] Approximately one month later on March 2, 2019, Ms. Saunders came to possess a sawed-off .410-gauge single-shot shotgun, a prohibited firearm, because she believed that persons were going to "come after her". Ms. Saunders had the prohibited firearm in her possession inside her residence when Laura Taylor and her daughter, Sekani Poole, entered that residence on March 2, 2019, and confronted Ms. Saunders at the door to her bedroom. During the confrontation, Ms. Saunders was sprayed with pepper-spray and she discharged the prohibited firearm, shooting Laura Taylor in the abdomen.
- [6] Ms. Taylor was helped out of the residence by her daughter, during which time one of the other occupants of the residence was pepper-sprayed. Ms. Taylor was admitted to hospital and underwent surgery for her injuries. She continues to require medical care as a result of her injuries.
- [7] Ms. Saunders was arrested and charged with numerous offences as a result of this incident, including discharge of a firearm with intent to wound, maim, or disfigure, aggravated assault, and assault with a weapon.
- [8] As I have already noted, Ms. Saunders pleaded guilty to a single count on the seven-count indictment.

- [9] She was released on bail on May 18, 2019, on conditions that she reside at the Association Advocating for Women and Community facility in Prince George. She exited the program two days later due to lack of participation in programming, not following through with directives, and not returning for curfew.
- [10] Ms. Saunders once again found herself in custody until her release on September 12, 2019, on conditions that she reside at the Henry Leland House in Kamloops. Unfortunately, Ms. Saunders was evicted from this housing program two weeks later for the same reasons - not following through with programming and not returning for curfew.
- [11] She was once again arrested for failure to comply with her conditions and eventually released on new conditions. She has remained out of custody since October 2019, and her reporting and compliance is noted to be "satisfactory to date".
- [12] Ms. Saunders is 31 years old. She is Indigenous and a member of the Yunesit'in or Stone First Nation located west of Williams Lake. Her mother and numerous aunts and uncles attended St. Joseph's Indian Residential School in Williams Lake. Her father is a hereditary Chief in Bella Coola.
- [13] A Gladue report prepared by Shiva Ghorban Pour was entered as Exhibit 3 at the sentencing hearing. It details Ms. Saunders' childhood and upbringing in a dysfunctional household where her father was addicted to heroin and inflicted significant violence on her mother during their relationship. Ms. Saunders' parents separated when she was just over one year old and they moved from Bella Coola to Williams Lake, and then later to the Stone Reserve when Ms. Saunders was in grade 2.
- [14] Ms. Saunders described to the report writer that her mother was physically abusive towards her because she was "raised by nuns". Ms. Saunders also observed ongoing domestic violence that eventually resulted in her and her half-brother being placed in foster care.
- [15] Ms. Saunders began using drugs and alcohol at age ten or 12 years. She said that she was in foster care between the ages of eight and 12 years, and that her foster parents had wanted to adopt her. Ms. Saunders said that she wanted them to adopt her, but her mother changed her mind and wanted her back. After this, she began getting into trouble at school and was expelled from grade 7. She also became involved with the youth criminal justice system and "went to juvie and kept having many breaches".
- [16] Ms. Saunders became a teen mother at age 14 years and struggled with addiction, homelessness, and intermittent youth custody until age 18 years when she began a relationship with the father of three of her children. She had a period of sobriety between the ages of 18 and 26 years, during which time she finished high school and obtained her hairdresser's licence, working as a hairdresser for approximately six years. However, the relationship became abusive and physically violent, and Ms. Saunders relapsed into her addiction in 2017.

- [17] Her four children have been in the long-term care of foster parent, Jennifer Nickel, who has known Ms. Saunders since she was ten years old.
- [18] In September 2021, Ms. Saunders gave birth to her fifth child, who is in the care of her brother and his wife in Bella Coola.
- [19] Ms. Saunders has struggled with her addictions since 2017, but reported a desire to address her addictions through treatment and counselling, and take the steps necessary for her to heal.
- [20] Additional details about Ms. Saunders' background is contained in the PSR prepared by Jenna Hodgson and entered as Exhibit 2 on sentence. Ms. Saunders advised the report writer that she had attended three different residential treatment centres, starting at age 14 years, and most recently in 2012 at age 21 years. She is hoping to attend residential treatment to address her addiction to fentanyl and hopes to eventually return to her vocation as a hairdresser.
- [21] Ms. Saunders, at the time of the report writing, had minimal contact with her four older children, as she felt it would be too hard on them if she were sentenced to custody.
- [22] At the time of the sentencing hearing, Ms. Saunders was unemployed and living in a motel in Kamloops where the living conditions were less than ideal and there was criminal activity in and around the area. She described her landlord as drunk and confrontational. She was not currently attending any programming or counselling, but I inferred from the PSR that she is working on her sobriety, as she reported that her anxiety had been more manageable since she had been abstaining from alcohol and drugs.
- [23] Ms. Saunders has a criminal record that includes convictions for assaulting a peace officer, assault, theft, possession of a weapon, personation to gain advantage, possession of a controlled substance, and breach of release orders.
- [24] There is a significant gap in her criminal record between 2010 and 2019, with nine of her 11 convictions occurring in 2019 and later.
- [25] I note that the offence for which Ms. Saunders is being sentenced today seems to have been the first in time in the string of offences that have occurred after an almost nine-year gap.
- [26] It is also notable that the last offence on her criminal record to this point is a breach conviction with an offence date of September 29, 2019, and, as far as I am aware, there have been no further substantive or compliance offence convictions since that time.
- [27] Laura Taylor provided the Crown with a handwritten statement describing the physical and emotional impacts of the injuries she suffered as a result of the firearm being discharged (Exhibit 5). It is apparent from that statement that she continues to suffer from the after-effects of her injuries and has required ongoing medical treatment and follow-up surgery as part of her rehabilitation.

- [28] Crown seeks a sentence of three years imprisonment, less time spent in pre-sentence custody credited at 1.5 to one. Crown counsel acknowledges that Ms. Saunders has a number of significant Gladue factors which impact her moral blameworthiness, but urges this court to consider the admonitions of the B.C. Court of Appeal in *R. v. Holt*, 2015 BCCA 302, regarding the serious and inherently dangerous circumstances and threats to public safety posed by Ms. Saunders' possession of a loaded prohibited firearm, and the need for sentences to reflect society's rejection of this kind of conduct.
- [29] The Crown also seeks a number of ancillary orders including a DNA order, as Count 6 is a secondary designated offence, a lifetime s. 109 mandatory firearms prohibition, and forfeiture of the prohibited firearm. The Crown also seeks a no-contact order while in custody pursuant to s. 743.21, with respect to Laura Taylor, Sekani Poole, Leroy Sellars, Darwyn Sellars, Anita Fiestas, Cory Myhr, Shelly Webstad, and Sarah Nurmi.
- [30] The Crown submits that the principal sentencing objectives in this case are denunciation and deterrence. He acknowledges that specific deterrence may not be as much of an objective as general deterrence. Crown counsel also submitted that rehabilitation and promoting a sense of responsibility in the offender are also relevant considerations with respect to the imposition of sentence in this case.
- [31] The Crown referred to Ms. Saunders' self-reports to the Gladue and PSR writers that she wants to address her addictions and trauma, but points to her apparent inability to take any concrete steps on her own in the community since her release on bail.
- [32] Crown counsel relied on the following cases to establish the sentencing range of two and a half years to eight years: *R. v. Holt*, 2015 BCCA 302; *R. v. Lorntsen*, 2018 BCSC 2382; *R. v. Holt*, 2019 BCSC 774; *R. v. Maskell*, 2019 BCCA 352; and *R. v. Sellars*, 2018 BCCA 195.
- [33] The Crown relied on the decision of our Court of Appeal in *R. v. Holt*, which establishes that the bottom end of the range for these types of offences should be close to three years' imprisonment. Counsel submitted that where the circumstances of the offence include use of the firearm that was possessed, the sentencing range goes up to between four and five years.
- [34] Ms. Saunders spent some time in pre-sentence custody following the offence, and the Crown calculated that Ms. Saunders spent two distinct periods of time in pre-sentence custody, the first being 66 days and the second being 19 days, for a total of 85 days.
- [35] With credit at 1.5 to one, Ms. Saunders has served the equivalent of 128 days in pre-sentence custody.
- [36] Defence counsel submitted that the circumstances of the offence and the significant Gladue factors that impact Ms. Saunders bring this case outside the normal range of sentence for offences contrary to s. 95(1) of the Code. He submitted that a fit and proper sentence in all of the circumstances is a two-year conditional sentence order ("CSO") with a period of probation to follow. Defence counsel acknowledged that Ms. Saunders has not had much

success in her rehabilitative efforts with respect to her addictions, but submitted that she has made exceptional efforts to remove herself from the criminal justice system which, together with the applicable Gladue factors, constitute exceptional circumstances that warrant departure from the normal sentencing range.

- [37] Counsel submitted that Ms. Saunders falls somewhere in the middle of the spectrum of conduct captured by s. 95(1) and towards the lower end. He relied on the fact that the prohibited firearm never left her home and that Ms. Saunders was entitled to be safe in her own home. The escalating conflict between Ms. Saunders and Ms. Taylor had left Ms. Saunders beaten with a baton a month earlier and scared in her belief that if Ms. Taylor entered her home again, Ms. Saunders' life would be at risk.
- [38] Counsel pointed to the agreed statement of facts which sets out on page 3 that, "Randi Saunders may have been acting in self-defence when she took up and used the shotgun."
- [39] Defence counsel relied on the cases of *R. v. Sellars*, 2018 BCCA 195 and *R. v. Vaillant*, 2020 BCSC 1137, both of which involved convictions for offences contrary to s. 95(1). In *Sellars*, the Court of Appeal overturned the suspended sentence imposed by the trial judge and sentenced the offender to a CSO of two years less a day. In *Vaillant*, the trial judge found that the offender had truly turned his life around and sentenced him to a CSO of two years less a day.
- [40] Counsel distinguished the facts and circumstances in this case from those cases relied on by the Crown and noted that in *R. v. Holt*, the offender had a handgun in his backpack out in the community, creating a much greater and more immediate risk to public safety. He also sought to distinguish the case of *Maskell*, whose facts bear some similarity to the case at bar. Counsel submitted that the offender in that case conceded that his actions exceeded self-defence and were unreasonable in the circumstances, whereas Ms. Saunders feared for her safety and felt that she did not have any other recourse, other than to find a way to protect herself. Defence counsel suggested that Ms. Saunders did not possess the prohibited firearm for a criminal purpose.
- [41] He described her efforts to remain out in the community and in compliance with her bail conditions as exceptional in the context of the list of Gladue factors that impact her.
- [42] Finally, counsel submitted that in applying s. 718.2(e) to the circumstances of this case, there is an alternative to imprisonment that can address the principal sentencing objectives of denunciation and deterrence, and which would also address the principle of assisting in the rehabilitation of Ms. Saunders.
- [43] Section 718 of the Code provides that the purpose of sentencing is to contribute to respect for the law and the maintenance of a just, peaceful, and safe society by imposing just sanctions that have one or more of the following objectives: denunciation of unlawful conduct; deterring the offender and other persons from committing offences; separating offenders from society where necessary; assisting in rehabilitation of offenders; providing

reparation for harm done to the victims or the community; and promoting a sense of responsibility in offenders and acknowledging the harm done to the victims and to the community.

- [44] In my view, denunciation and deterrence are the principal sentencing objectives in the circumstances of this case. Although having consideration to the circumstances of Ms. Saunders, assisting in the rehabilitation of the offender is also an objective of sentence. As I have noted, Ms. Saunders' criminal record has a significant gap of nine years, which indicates rehabilitative potential, and she recognizes that her drug addiction plays a part in her criminal history.
- [45] A sentence should be increased or reduced to account for aggravating or mitigating circumstances relating to the offence or the offender. The aggravating factors in this case are that:
1. Ms. Saunders has a criminal record which includes a prior conviction for possession of a weapon dangerous to the public peace, assault, and several convictions for breach of court orders;
 2. the possession of the prohibited firearm took place in a populated residential area of Williams Lake and created a significant risk to public safety; and
 3. the circumstances of Ms. Saunders' possession of the prohibited firearm resulted in the firearm being discharged and Ms. Taylor being injured.
- [46] The mitigating factors in this case are:
1. Ms. Saunders has pleaded guilty to the offence, making a trial unnecessary;
 2. Ms. Saunders does not have any prior criminal convictions involving firearms; and
 3. Ms. Saunders has expressed remorse and a willingness to engage in programming and treatment to address her drug addiction.
- [47] Ms. Saunders is an Indigenous offender and thus I must also consider the application of s. 718.2(e) of the Code which provides that:
- (e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.
- [48] A sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.
- [49] That is a difficult task in cases such as this, because the facts are generally unique to each case. I have reviewed all of the case law provided by the Crown and defence counsel, and the two that are most similar in terms of the circumstances of the offence and the offender are, in my view, Maskell and Sellars.

- [50] The facts in Maskell were that the 61-year-old offender rented rooms in his house to tenants who were involved in drug trafficking. The offender was himself a drug user and became involved in an altercation with one of the tenants who threatened and shoved the offender down onto the ground. The offender retreated into his bedroom where he kept a small handgun. He erroneously believed that the tenant had armed himself with a hammer and was outside his bedroom door. He fired a warning shot into the doorframe and, when the tenant did not leave, he fired a second shot which struck the tenant in the abdomen. The offender pleaded guilty to possession of a loaded prohibited firearm contrary to s. 95(1). He was sentenced to 42 months' imprisonment less time served, which was upheld on appeal.
- [51] The Court of Appeal noted that:
- [17] It is also clear from the controlling authorities that s. 95(1) offences typically attract exemplary jail sentences beginning at 30 months to three years where the facts fall at the "true crime" end of the spectrum. These sentences reflect the risk to public safety posed by illicit handguns and firearm-related crime. Illegally possessing a handgun for "defensive" purposes does not take the offence outside the "true crime" part of the spectrum.
- [52] The Court of Appeal went on to note that there may well be cases involving exceptional circumstances in which a fit sentence falls outside the range. One such case was that of Sellars, where the 26-year-old Indigenous offender was in a vehicle stopped by police and found in possession of a quantity of ammunition, and a .32-calibre handgun was found under his seat. He testified at trial that he had previously been involved in gangs, but had left after getting treatment for substance abuse. He had obtained the gun from the street for protection of himself and his family due to the ongoing threat of gang violence as there had been a number of targeted gang killings and an attempted home invasion.
- [53] After convicting the offender at trial, the Crown sought a four-year jail sentence, while counsel for the offender sought a non-custodial restorative sentence. The trial judge imposed a suspended sentence with three years probation. The Court of Appeal overturned the sentencing decision and noted at para. 27:
- [27] In this case, Mr. Sellars' unlawful possession of a loaded handgun could only have been for an illicit purpose: to threaten, seriously harm, or kill a person or persons in circumstances that he considered as justified. Such actions would clearly pose an immediate risk to anyone in his orbit. Canadian society does not permit the possession and use of firearms as a method of resolving disputes. That "tragedy in gestation" . . . which has led to the increase of gun violence in so many Canadian communities, including in the Williams Lake area and its surrounding Aboriginal communities, has also left its mark on Mr. Sellars with the senseless deaths of two young persons to whom he was close. In my respectful view, the principles of denunciation and general deterrence were not adequately reflected in the imposition of a suspended sentence in this case.

- [54] However, the Court of Appeal went on to note the fundamental principle of proportionality which applies to every offender and the unique circumstances posed by Aboriginal offenders. At paras. 32-33, the court said:
- [32] Section 718.2(e) requires a different "methodology" for assessing a fit sentence for an Aboriginal offender, but does not require that goals of denunciation and deterrence be given less weight than the principles of restorative justice, particularly for serious crimes. Seriousness of a crime is determined by considering the gravity of the offence and the degree of responsibility of the offender
- [33] As I have concluded, the nature of these types of firearms offences mandates that paramount consideration be giv[en] to the principles of denunciation and deterrence for the reasons stated. However, the unique circumstances of Aboriginal offenders can diminish their degree of moral blameworthiness for an offence and therefore the weight to be given to those principles of sentencing.
- [55] The Court of Appeal gave deference to the findings of the trial judge that the offender's moral blameworthiness was mitigated by his background circumstances and also by the exceptional rehabilitative initiatives taken by him, including disassociating himself with gang activities, moving away from his home community, taking concrete steps to address his chronic substance abuse, and maintaining full-time employment. The Court concluded that while the range of sanctions for s. 95(1) offences begins at approximately three years imprisonment, a sanction below that range was justified in that case, given the offender's significant Gladue factors and diminished moral culpability, as well as his exceptional rehabilitative steps.
- [56] The Court of Appeal imposed a CSO of two years less a day to address both punitive and rehabilitative objectives of sentence.
- [57] The circumstances of the offence in this case falls closer to Maskell, while the circumstances of the offender falls closer to Sellars.
- [58] Despite the acknowledgment in the agreed statement of facts that Ms. Saunders may have been acting in self-defence when she took up and used the prohibited firearm, it remains the case that Ms. Saunders' illegal possession of the firearm for defensive purposes does not move the offence out of the true crime end of the spectrum. Like Mr. Sellars, Ms. Saunders' unlawful possession of a loaded prohibited firearm could only have been to threaten, seriously harm, or even kill a person in circumstances she considered justified. Her actions created significant and unacceptable risk to everyone around her and to the larger community. I do not accept the submission of defence counsel that obtaining and then keeping the loaded prohibited firearm in her home in a populated residential neighbourhood, rather than in a vehicle as was the case in Sellars, in any way lessened the risk to public safety.

- [59] An offence contrary to s. 95(1) requires that paramount consideration be given to principles of denunciation and deterrence. However, as the Court noted in *Sellars*, the unique circumstances of Indigenous offenders can diminish the degree of moral blameworthiness for an offence and, therefore, the weight to be given to those principles of sentencing.
- [60] In addition to those unique circumstances, there may also be exceptional circumstances such as those identified by the B.C. Court of Appeal in *R. v. Voong*, 2015 BCCA 285, that can justify a sentence outside of the normal range.
- [61] Ms. Saunders' circumstances, as set out in the Gladue report, do, in my view, diminish her degree of moral blameworthiness for this offence. The adverse factors summarized on page 15 of the Gladue report, including her mother and other family members being residential school survivors, exposure to domestic violence, drugs, and alcohol at a very early age, unstable family relationships, loss of friends due to suicide and drug overdose, time spent in foster care, homelessness, and her longstanding addiction to substances have all played a significant part in bringing Ms. Saunders before this court.
- [62] With respect to the presence of exceptional circumstances, while her efforts at addressing her addiction and sobriety have not always gone smoothly or followed usual approaches of treatment and counselling, I do not agree with the submission of the Crown that Ms. Saunders' rehabilitative steps have not been exceptional to the same degree as the offender in *Sellars*.
- [63] In spite of her admitted addiction to fentanyl, a serious and highly-addictive opioid, she has managed to remove herself from this community in order to distance herself from negative peer influences, comply with her release conditions, and not commit any further offences since the breach conviction of September 29, 2019. She has also taken steps to withdraw from methadone since having her fifth child in September 2021, something she acknowledged was very hard while she was postpartum. It would appear that she has done so simply by sheer will and without the assistance and support of treatment and counselling.
- [64] When considered in the context of the Gladue factors impacting Ms. Saunders, that is exceptional. I acknowledge that the comments of the PSR writer with respect to Ms. Saunders' constant justification for her behaviours and lack of insight into her offending is somewhat troubling.
- [65] She has expressed willingness to receive treatment to address her addiction and trauma and will no doubt have to confront her own behaviours as part of any treatment. Her nine-year gap in her criminal record that coincides with a period of sobriety strongly suggests to me that Ms. Saunders can gain insight into the underlying causes of her offending.
- [66] A fit and proportional sentence for Ms. Saunders must give paramount consideration to denunciation and deterrence but, in all of the circumstances that I have outlined, must also address rehabilitative and restorative objectives.

- [67] As the Supreme Court of Canada instructed in *R. v. Proulx*, 2000 SCC 5, a CSO can address both punitive and rehabilitative objectives.
- [68] The sentence sought by Crown is at the bottom range of sentences for such an offence, which counsel submitted took into consideration the circumstances of the offence and the Gladue factors impacting Ms. Saunders. I have concluded that even such a sentence at the low end of the range is not proportional to the moral blameworthiness of Ms. Saunders and does not give sufficient weight to the principles of restorative justice in considering all available sanctions other than imprisonment that are reasonable in the circumstances and consistent with the harm done to victims or to the community.
- [69] Ms. Saunders' personal circumstances are closer to the offender in *Sellers* than to the offenders in either *Holt* or *Maskell*. The Crown acknowledged that Ms. Saunders does not pose a risk to the community and that specific deterrence is not required for Ms. Saunders. I have reached the same conclusion as the Court of Appeal in *Sellers* that a sanction below the general range is justified in this case.
- [70] A CSO of two years less a day with strict conditions would address the paramount principles of denunciation and deterrence, and recognize Ms. Saunders' reduced moral blameworthiness in her unique circumstances as an Indigenous offender and her exceptional efforts at rehabilitation despite her very difficult background circumstances. It will be followed by a period of probation for two years which will address the principle of assisting in the rehabilitation of the offender.
- [71] Ms. Saunders, would you please stand. On Count 6 of the indictment, I am sentencing you to a CSO of two years less a day which, by my count, is 730 days as it includes a leap day. You have served 85 days in pre-sentence custody on this file. You will be credited with 128 days, leaving a conditional sentence of 603 days left to serve.
- [72] The conditions of your CSO are as follows:
- You must keep the peace and be of good behaviour;
 - You must appear before the court when required to do so by the court;
 - You must notify the court or your conditional sentence supervisor in advance of any change of name or address, and promptly notify the court or supervisor of any change in employment or occupation;
 - You must remain in British Columbia, unless you have prior written permission from the court or your conditional sentence supervisor to leave the province;

· You must report by telephone to the conditional sentence supervisor at Kamloops within two working days after the making of this conditional sentence order. If the office is closed, you must try again the next business day and continue calling until you have spoken to a conditional sentence supervisor and received further directions to report. After that, you must report as directed by your conditional sentence supervisor.

When first reporting to the conditional sentence supervisor, you must inform him or her of your residential address and phone number, and you must not change your residence or phone number without written permission from your conditional sentence supervisor.

· You must have no contact or communication, directly or indirectly, with Laura Taylor, Sekani Poole, Leroy Sellars, Darwyn Sellars, Anita Fiestas, Cory Myhr, Shelly Webstad, or Sarah Nurmi;

· You must not possess or consume alcohol, drugs, or other intoxicating substance, except in accordance with a medical prescription;

· You must not possess, directly or indirectly, any weapon as defined in the Code, including: (a) firearms and ammunition; (b) cross-bows, prohibited or restricted weapons or devices, or explosive substances; (c) anything used, designed to be used, or intended for use in causing death or injury to any person, or to threaten or intimidate any person; (d) any imitation of all of the above, including any compressed air guns or BB/pellet guns; or (e) any related authorizations, licences, and registration certificates, and you must not apply for these;

· You must not reside in any residence in which any other person keeps or stores any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, or explosive substance;

· You must complete 80 hours of community work under the direction of your conditional sentence supervisor. Any hours spent receiving counselling under this order will be credited towards your community work service hours;

· You must attend, participate in, and successfully complete any intake, assessment, counselling, or program as directed by the conditional sentence supervisor. Without limiting the general nature of this condition, the intakes, assessment, counselling, or programs may relate to anger management and alcohol or drug abuse;

· You shall not be within the limits of the City of Williams Lake, except: (a) with the written permission of your conditional sentence supervisor. You must carry a copy of such written permission, which may be in electronic form, with you at all times when you are within the limits of the City of Williams Lake; and (b) while in a moving motor vehicle on your way to some other place;

· For the first six months of this order, you must obey house arrest by being inside your residence, or within 10 metres from the front door of your residence, 24 hours a day, every day. You must present yourself immediately at the door to your residence or answer the phone when any peace officer or conditional sentence supervisor attends or calls to check on you during house arrest.

You may be away from your residence during the house arrest with the written permission of your conditional sentence supervisor. Such permission is to be given only for employment or other compelling reasons. You must carry the permission with you when you are outside of your residence;

- You may also be away from your residence during the house arrest hours: (a) while at or going directly to or returning directly from a healthcare facility because of a medical emergency. If asked, you must provide your conditional sentence supervisor with proof of your attendance at the facility; (b) when travelling to or from or attending any counselling, treatment, or community work; or (c) between the hours of 12:00 p.m. and 2:00 p.m. each weekday to attend to shopping or other personal business;
- For the following nine months of your sentence, you must obey a curfew by being inside your residence or within 10 metres of the front door to your residence, between 10:00 p.m. and 6:00 a.m. each day. You must present yourself immediately at the door to your residence or answer the phone when any peace officer or conditional sentence supervisor attends or calls to check on you during the curfew. You may be away from your residence during the curfew with the prior written permission of your conditional sentence supervisor. Such permission is to be given only for employment or other compelling reasons. You must carry the permission, which can be in electronic format, with you when you are outside your residence. You may also be away from your residence during the curfew hours while at or going directly to or returning directly from a healthcare facility because of a medical emergency. If asked, you must provide your conditional sentence supervisor with proof of your attendance at the facility.

[73] Do you understand those conditions, Ms. Saunders?

[74] THE ACCUSED: Yes.

[75] THE COURT: Let me be very clear, Ms. Saunders, that a CSO is a jail sentence that is served in the community. If you breach the conditions of the order, there are potentially very serious consequences, including the possibility that your CSO would terminate and you would serve the remainder of your sentence in custody. Do you understand?

[76] THE ACCUSED: Yes.

[77] THE COURT: After your CSO is completed, you must comply with a probation order for a period of two years. The conditions of your probation order will be as follows:

- You must keep the peace and be of good behaviour;
- You must appear before the court when required to do so by the court. You must notify the court or the probation officer in advance of any change of name or address, and promptly notify the court or the probation officer of any change of employment or occupation;

- You must report by telephone to a probation officer in Kamloops within two business days after completion of your conditional sentence, unless you have obtained, before your completion of your conditional sentence, written permission from the probation officer to report elsewhere or within a different timeframe. After that, you must report as directed by your probation officer;
- When first reporting to your probation officer, you must provide them with the address where you live and your phone number. You must not change your address or phone number without notifying your probation officer in writing in advance of any change;
- Your reporting will end when you have satisfied your probation officer that you have: (a) completed all your counselling and treatment, or that it is not required, and your officer has told you that you are no longer required to report;
- You must have no contact or communication, directly or indirectly, with Laura Taylor, Sekani Poole, Leroy Sellars, Darwyn Sellars, Anita Fiestas, Cory Myhr, Shelly Webstad, or Sarah Nurmi;
- You must not possess or consume controlled substances as defined in the Controlled Drugs and Substances Act, except with a medical prescription;
- You must attend, participate in, and complete any intake, assessment, counselling, or education program as directed by your probation officer;
- You must not possess, directly or indirectly, any weapon as defined in the Criminal Code, including: firearms and ammunition; cross-bows, prohibited or restricted weapons or devices, or explosive substances; anything used, designed to be used, or intended for use in causing death or injury to any person, or to threaten or intimidate any person; any imitation of all the above, including any compressed air guns or BB/pellet guns; or any related authorizations, licences, and registration certificates, and you must not apply for any of these.

[78] Do you understand those conditions, Ms. Saunders?

[79] THE ACCUSED: Yes.

[80] THE COURT: Count 6 of the indictment is a secondary designated offence. I did not hear any submissions to the contrary from counsel and, in the circumstances, I am satisfied that a DNA order is appropriate in this case, so you will submit to the taking of samples of DNA for the purpose of registration in the DNA data bank, Ms. Saunders. I will direct that you attend at the Kamloops RCMP detachment by August 31, 2022, for the purpose of the taking of samples, and you will submit to the taking of samples.

[81] I will also order a s. 109 mandatory firearms prohibition for life.

[82] I take it there are no submissions to be made with respect to forfeiture of the firearm that was seized as a result of the offence?

[83] CNSL A. KAISER: No, My Lady.

[84] THE COURT: I will make the forfeiture order sought by the Crown in that case.

- [85] All right, Mr. Mann, Mr. Kaiser, did I miss anything?
- [86] CNSL A. KAISER: Just one thing that I would ask the court to perhaps waive the victim fine surcharge. Ms. Saunders has been and will be sort of in her own residence for most of the time and her ability to pay that is minimal.
- [87] THE COURT: I do not see any difficulty with that. I think in the circumstances, imposing the victim fine surcharge on Ms. Saunders in these circumstances would constitute an unreasonable hardship for her, and in those circumstances I will waive the victim fine surcharge.
- [88] CNSL S. MANN: And there's nothing further from Crown. Thank you, Madam Justice.
- [89] THE COURT: Thank you, Mr. Mann. I do not think there was any stay entered for the remaining counts, was there? Or was it done?
- [90] CNSL A. KAISER: I'm not sure if it has or not. Could we inquire with --
- [91] CNSL S. MANN: In any event, I do direct a stay of proceedings for all remaining counts on the indictment, Madam Justice.
- [92] THE COURT: Thank you, Mr. Mann. I am not going to waive the reading in of the conditions for Ms. Saunders. That should happen, and just so that everybody is absolutely clear, I am assuming, Ms. Saunders, you still live in Kamloops, right? And you are going to go back to Kamloops today? Just so that there is no misunderstanding, the condition with respect to house arrest will commence tomorrow, to give you an opportunity to get back to Kamloops once your conditions have been typed up, they have been read in to you downstairs, and you sign them.
- [93] THE ACCUSED: Okay.
- [94] THE COURT: I do not want you to be in breach right off the bat, so --
- [95] THE ACCUSED: Okay.
- [96] THE COURT: Is there anything else?
- [97] CNSL A. KAISER: Nothing from defence.
- [98] THE COURT: Good luck, Ms. Saunders.
- [99] THE ACCUSED: Thank you.
- [100] CNSL A. KAISER: Thank you, Justice Church.
- [101] CNSL S. MANN: I would only note, Madam Justice, that the prohibition against being in Williams Lake, I would assume that takes effect immediately, as Ms. Saunders intended to leave town promptly. Is that the plan?
- [102] THE COURT: I think she just said that --

[103] CNSL A. KAISER: I expect her to leave as soon as she signs. She is here with her ride and --

[104] THE COURT: Is that the plan, as soon as you are done here, to head right back?

[105] THE ACCUSED: Yes.

[106] THE COURT: Mr. Mann, that seems to be the plan. As soon as Ms. Saunders has finished her paperwork in the court registry, she is on the way.

[107] CNSL S. MANN: Thank you, Madam Justice.

[108] THE COURT: All right, thank you.

[109] CNSL A. KAISER: Thank you, Madam Justice.

"The Honourable Madam Justice Church"

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