

CANADA / JUDGMENT

R. v. Scott

2025 BCSC 1495

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 1495 R. v. Scott

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Scott,

2025 BCSC 1495

Date: 20250724

Docket: 36609

Registry: Vancouver

Rex

v.

Lindsay Scott, also known as Lindsay Mae Scott

Before: The Honourable Justice Verhoeven

Oral Reasons for Sentence

Counsel for the Crown:

B. McCabe, K.C.

Counsel for the Accused:

J. Turner

Place and Date of Hearing:

Vancouver, B.C.

July 16, 2025

Place and Date of Sentence:

Vancouver, B.C.

July 24, 2025

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I. Introduction and Overview

[1] Lindsay Mae Scott is before the Court for sentencing with respect to her conviction for the manslaughter of Justin Mohrmann.

[2] At approximately 8:30 a.m. on Monday, July 11, 2022, Justin Mohrmann ("Mr. Mohrmann") was killed by Lindsay Mae Scott ("Ms. Scott"), who stabbed him once through the heart, using Mr. Mohrmann's own knife. The killing occurred on the sidewalk, on the south side of the 300 block of Smithe Street, in downtown Vancouver.

[3] On April 16, 2025, after a trial with a judge and jury, Ms. Scott was acquitted of the offence of second-degree murder of Mr. Mohrmann, but convicted of the included offence of manslaughter.

[4] At the trial, Ms. Scott admitted killing Mr. Mohrmann, but denied that she had the specific intent required for the offence of murder, due to the influence of mental illness, or illicit drug use, or both.

- [5] There was no medical opinion evidence placed before the jury, but Ms. Scott testified in her own defence, saying that she had a history of mental illness and that she was hallucinating when she stabbed Mr. Mohrmann. She acknowledged that she had been addicted to opiates such as fentanyl and heroin and was also a regular user of methamphetamine (that is "crystal meth" or "speed"), and it was possible that she was under the influence of meth at the time. She also argued that she did not intend to stab Mr. Mohrmann in his chest, but only in his shoulder. She conceded that she should be convicted of manslaughter.
- [6] The jury was instructed that in order to convict Ms. Scott of murder, the Crown was required to prove, beyond a reasonable doubt, either that (1) Ms. Scott meant to cause Justin Mohrmann's death; or (2) Ms. Scott meant to cause Justin Mohrmann bodily harm that she knew was likely to cause his death, and was reckless whether death ensued or not.
- [7] I am required to accept, therefore, that in acquitting Ms. Scott of the offence of murder, the jury found that she did not have the intent required for murder.
- [8] Ms. Scott has been in custody since being arrested on July 11, 2022, the day of the offence, a total of 1,103 days, to today's date. The Crown and defence both agree that credit for pretrial custody should be enhanced by a factor of 1.5. Therefore, for sentencing purposes, Ms. Scott must be considered to already have been custody for the equivalent of 4.5 years.
- [9] The Crown argues that the appropriate sentence is 6.5 years, which would mean that, after taking into account pretrial custody, Ms. Scott would remain in custody for a further two years. The Crown further submits that Ms. Scott's period of incarceration should be followed by three years of probation, which is the maximum period of probation that the law allows, on a number of conditions, including orders for ongoing mental health treatment.
- [10] The position of Ms. Scott is that 4.5 years is an appropriate sentence, and therefore she should be released, on probation, for a period of three years. The defence agrees to virtually all of the Crown's suggested terms for probation, including mandatory compliance with medical treatment.

II. Circumstances of the offence

- [11] The stabbing took place as a result of a random or chance encounter between Ms. Scott and Mr. Mohrmann, at the location of the stabbing. They were complete strangers to each other. Ms. Scott stabbed Mr. Mohrmann once, in the chest, through his heart, using his own knife. When they met, Mr. Mohrmann was probably using the knife to eat some ice cream that he had just purchased from a nearby convenience store.
- [12] CCTV (video) evidence gathered by the police show that Mr. Mohrmann entered a 7-Eleven convenience store located at 1093 Homer Street at about 8:14 a.m., and departed the store at about 8:22 a.m. I infer that this is where he purchased the ice cream. The store is located about two blocks south of where the stabbing occurred, which as I have said, was on the sidewalk on the south side of the 300 block of Smithe Street.

- [13] Prior to the offence, Ms. Scott was wandering the streets of downtown Vancouver in an apparently random manner. Video evidence obtained by the Vancouver Police Department from various locations was compiled, sequenced, and mapped. On the basis of the video evidence, and the testimony of several witnesses, Ms. Scott's movements can be precisely tracked, and to some extent her appearance and behaviour can be observed, beginning at about 8:14 a.m., through the stabbing, and ending at about 8:37 a.m., when she was arrested by VPD members in the vicinity of the Vancouver Public Library. However, the actual encounter between Ms. Scott and Mr. Mohrmann and the stabbing is not captured on any video clip. None of the video clips have sound.
- [14] I will review this evidence in some detail, as it is capable of providing inferences as to Ms. Scott's mental state at the time of the offence, which is a vital consideration for this sentencing decision.
- [15] Ms. Scott was first observed by Ms. Bruce Julia, a witness at trial, in the area of Burrard and Davie Streets, which is several blocks generally southwest of the 300 block of Smithe Street.
- [16] Ms. Bruce Julia was a resident of the area. She was walking eastbound towards the Yaletown SkyTrain station on Davie Street, on her way to work. Near Burrard and Davie Streets, she heard a woman screaming obscenities including "you fucking bitch" at another woman. Ms. Bruce Julia made eye contact with the woman, later identified as Ms. Scott, who began loudly screaming at her, with the same kind of obscenities, repeatedly. Ms. Scott began walking towards Ms. Bruce Julia, who continued walking, hoping no doubt to get away from her. She noted that Ms. Scott was screaming at others as well, but mainly at her. Ms. Scott was barefoot, and carrying what Ms. Bruce Julia thought was a sleeping bag. (The video evidence shows that it was in fact a large winter parka).
- [17] Video evidence taken from a coffee shop on Davie Street shows Ms. Scott walking briskly eastbound on Davie Street, some distance behind Ms. Bruce Julia. Ms. Scott appears to be in an energized, highly agitated state.
- [18] Ms. Bruce Julia thought that she had left Ms. Scott behind her when she reached the corner of Granville and Davie Streets. However, at about 8:19 a.m., as Ms. Bruce Julia was standing on the corner waiting for the traffic light to change, and using her cell phone, she was suddenly attacked from behind by Ms. Scott, who scratched her back and pulled her hair. This very brief interaction was captured on the dash camera of a transit bus that was going through the intersection.
- [19] After this incident, Ms. Scott briskly walked away, smiling and laughing, according to Ms. Bruce Julia. The video shows her meandering into the intersection, against the red light, narrowly missing two transit buses that were driving through the intersection.
- [20] Ms. Bruce Julia testified that Ms. Scott seemed "incredibly angry" and, particularly, "full of rage". Her behaviour was bizarre, and aggressive.

- [21] Subsequent videos show Ms. Scott continuing quickly eastbound on Davie Street, apparently continuing to aggressively verbalize with other bystanders, and walking through traffic at the intersection of Seymour and Davie Streets, again ignoring the traffic light.
- [22] A video from a location on Davie Street near Homer Street shows Ms. Scott continuing to interact with bystanders in a similar fashion.
- [23] A subsequent video shows Ms. Scott proceeding northbound on Homer Street, at 8:24 a.m., having evidently abandoned her parka somewhere.
- [24] Michael Huot encountered Ms. Scott on Homer Street, between Helmcken Street and Nelson Street. He was on his way to work in an office nearby. He parked his car on Homer Street, intending to go into a coffee shop there, in keeping with his usual daily routine. He noticed Ms. Scott coming towards him on the sidewalk. He noticed she was barefoot. He hoped to avoid interacting with her. She jumped in front of him, shouting "look at me", twice. While quite close to Mr. Huot, she made a "spitting sound" as if she was trying to spit, but could not do so, or did not have saliva in her mouth. She then darted across the street, continuing to go northbound on Homer Street. From Mr. Huot's point of view, she seemed "super charged up with energy". Mr. Huot had not provoked her in any way.
- [25] Another video shows Ms. Scott walking northbound on Homer Street at 8:28 a.m.
- [26] The video evidence from before and after the stabbing establishes that it occurred at approximately 8:30 a.m.
- [27] Amy Nguyen had attended a morning yoga class and was walking eastbound in the 300 block of Smithe Street, on the north side of the street, going towards her nearby residence. She saw Ms. Scott approach from across Smithe Street, from the south side of the street. As Ms. Scott walked past going in the opposite direction, she struck Ms. Nguyen's left arm with her left arm and called her a "bitch". This very brief encounter occurred at 8:31 a.m. and is captured on video.
- [28] Ms. Nguyen saw the victim, Mr. Mohrmann, come across the street from the same direction as Ms. Scott had come. He told Ms. Nguyen that he "got stabbed". He was holding his chest. She saw blood on his chest. She called 911, emergency services. Mr. Mohrmann collapsed on the sidewalk.
- [29] Jonathan Chatten was riding his bicycle westbound on Smithe Street, approaching Homer Street. He stopped to put on his helmet. He noticed Ms. Scott across the street, wearing no shoes. She jaywalked from the south side of Smithe Street to the north side of the street. He did not see another person with Ms. Scott. After crossing the street, Ms. Scott continued westbound on the north side of Smithe street, towards Homer Street. From the evidence, it can be inferred this was within moments of the stabbing.

- [30] After getting back on his bicycle, he noticed Ms. Nguyen on the north sidewalk, in the company of Mr. Mohrmann, who had his hand on his abdomen. Mr. Mohrmann identified Ms. Scott as the woman who stabbed him. He followed Ms. Scott on his bicycle as she headed north on Homer Street. He was concerned that she could stab someone else. He called 911 emergency services and remained on the telephone until Ms. Scott's arrest. Her arrest took place at 8:37 a.m., at Library Square, near the intersection of Homer and West Georgia streets.
- [31] Mr. Chatten observed that Ms. Scott was meandering or weaving as she walked. She seemed to be speaking, but to no one in particular. His impression was that people on the sidewalk were giving her a wide berth. Later he noted that she was seated on a bench on Homer Street, at Library Square, next to a man in his 40s or 50s, who looked uncomfortable. This person was William Lethbridge, who was also a witness at the trial.
- [32] Prior to her arrival at Library Square, Ms. Scott was observed by Jesse Antoine in the 800 block of Homer Street, walking very briskly northbound. She looked over her shoulder seven to 10 times during the 10 to 15 seconds that he observed her. She was walking erratically and seemed to be speaking or yelling randomly and incoherently.
- [33] William Lethbridge was sitting on a bench near the library. He testified that Ms. Scott sat down beside him, and said she needed money for "down". He was aware that "down" was street slang for fentanyl, or opiates. She said something about "14 babies died". She also said that she had "just stabbed somebody in the heart". She was shaking her head. Mr. Lethbridge gave her \$20, after which she departed, and was arrested by the police nearby.
- [34] The arresting officers were Constable Gary Athwal, accompanied by Constable Ashleigh Guerreiro, who was a trainee at the time. In response to a dispatch, they attended at the location of the Vancouver Public Library. Both officers were in uniform. They immediately identified Ms. Scott. The encounter is captured on video. As Ms. Scott approached the police officers, she turned around, lowered her trousers, and "moon"ed them. They identified themselves as Vancouver police officers. They told her they were taking her into custody and that she was under arrest. Ms. Scott was not cooperative. She resisted arrest. Constable Athwal forced her down to the pavement. She was face down, thrashing, and injured her face somewhat in the process. According to Constable Athwal, she was saying "gibberish" while yelling or screaming, incoherently.
- [35] VPD detectives Joseph Danielli and Cameron Mackay attended Vancouver jail cells at about 11:41 a.m. in order to provide Ms. Scott with notice of her Charter rights and the police warning. They had difficulty accomplishing this. Detective Danielli was not sure whether Ms. Scott was understanding what she was being told, although he noted that persons in such circumstances regularly feign ignorance or lack of understanding. She was fidgety, spoke quickly, and was unfocused. He noted she was "speaking over me" and it was "hard to tell if she was talking to me or to someone else"; that is, someone who was not present. Detective Danielli thought that her difficult behaviour could be because she was under the

influence of some kind of substance, or suffering from an emotional problem or mental health issue, or a combination of causes.

- [36] Police photographs taken from the scene of the stabbing on the south side sidewalk of Smithe Street show one of Mr. Mohrmann's sandals and his knife, as well as a tub of ice cream, and a computer tablet, lying on the sidewalk. The knife is about 8 inches in length, with a blade of about four-and-a-half inches. It appears to be an outdoor adventure, hunting or camping style knife, with a pointed tip. It is quite obviously capable of being used as a very dangerous weapon.
- [37] As noted, there is no video evidence capturing the encounter between Ms. Scott and Mr. Mohrmann. The only direct witness evidence is from Ms. Scott herself.
- [38] At trial, she explained that since her arrest on July 11, 2022, she had been in custody at a women's prison, the Alouette Correctional Centre for Women ("ACCW") and at the Forensic Psychiatric Hospital ("FPH") at Colony Farm Road, Coquitlam. She testified that she had been diagnosed with schizophrenia, a symptom of which was hallucinations. She testified that over the course of the year prior to trial she had received electroconvulsive therapy, involving the application of electrical current to her brain, administered under general anaesthetic. The therapy induces seizures. She has undergone this procedure twice each week for more than a year. A side effect of the therapy is memory loss. Her electroconvulsive therapy had been reduced in the month prior to trial, so that she could testify at the trial. She testified that her memory remained impaired, however.
- [39] She acknowledged that at the time of the offence, she was a drug user. She used opiates such as fentanyl and heroin, and methamphetamine, in the form of crystal meth. The street slang word for opiates is "down". The street slang name for crystal meth is "side". She has had no access to these drugs while in custody.
- [40] She testified she had no recollection of the events leading up to the stabbing of Mr. Mohrmann. She did not recall encountering Ms. Bruce Julia or Mr. Huot prior to the offence or encountering Ms. Nguyen afterwards. She did not recall wandering the streets prior to the incident, as shown in the videos that she saw at the trial. She thought that at the time, she was homeless, and living on the streets.
- [41] However, she recalled the interaction with Mr. Mohrmann. Her evidence about this was tentative, and vague. She said that she stopped Mr. Mohrmann on the sidewalk, to talk to him, to try to get some money, perhaps. He had a knife with him. She told him the knife was "pretty cool" and asked him if she could "see it". He gave it to her. She did not recall seeing him using the knife or eating ice cream with it. He was just holding the knife when she saw him. She acknowledged that he was friendly, and not threatening in any manner. They had a friendly conversation. She could not remember much of the conversation.

- [42] She testified that while she had the knife in her hand, she saw a "dome of a demon" drape down over his body. It transformed him into a demon. She was frightened. She stabbed him with the knife. She testified that she thought she hit him in the shoulder, which is what she intended, but then realized that she had stabbed him in the chest. When she saw that she had stabbed him in the chest, instead of the shoulder, she "freaked out" and ran away.
- [43] She also testified that a "dome came down from the sky, and went all over him". She said that this was a hallucination of a type that she was having, of things coming down from the sky, and of demons. She testified that she also had auditory delusions. There was a "woman who would guide me". She said that she was hearing voices that "guided me throughout the day". She also said she had "so much visuals". This comment was unexplained.
- [44] She stabbed Mr. Mohrmann either because he had transformed into a demon, or in order to save him from the demon. Her evidence on all this was difficult to follow.
- [45] She did not remember how she got to Library Square. She had a vague memory of speaking with a man on a bench, that is, Mr. Lethbridge. She did not remember the conversation with him, but recalled that he gave her \$20. She did not recall saying to Mr. Lethbridge "I just stabbed somebody in the heart". She recalled walking away with the \$20. She had an "urge to moon the people in the streets" for no reason that she could recall. She recalled only that police officers told her she was under arrest. She did not recall the discussion with Detective Danielli later the same day.
- [46] In my view, in her evidence at trial she downplayed her consumption of drugs and their effect at the material time. She testified that she did not think she was under the influence of drugs at the time of the event, but acknowledged that it was possible she had taken some methamphetamine ("side") at five or six in the morning, or in other words, two to four hours before the stabbing.
- [47] She also described the events in question to a psychiatrist, Dr. Barinder Singh, for purposes of an NCRMD (not criminally responsible) opinion and report prepared by Dr. Singh dated April 13, 2023, and to Dr. Mark Levy, a psychiatrist who prepared a psychiatric presentence report, (PSR) dated June 17, 2025. Her evidence at trial and her statements to the doctors are inconsistent.
- [48] Dr. Singh's report was not in evidence at the trial. It is in evidence on the sentencing hearing, however.
- [49] Dr. Singh interviewed Ms. Scott on 11 occasions during March and April 2023. Ms. Scott told Dr. Singh that she had been using crystal meth for several years prior to the offence and also hearing voices and having hallucinations for several years. She also used fentanyl daily, in the month prior to the offence.
- [50] Her statements to Dr. Singh about the stabbing were inconsistent between retellings.

- [51] To Dr. Singh, Ms. Scott described having various hallucinations, including a hallucination involving a "dark shadowy ray dropping from the sky and onto various people's heads" who would disintegrate. These individuals were "bad" in some way. These individuals were "ghouls", "terrorists", or "baby rapers". She said her head was full of evil people and she was trying to make them disappear.
- [52] Ms. Scott told Dr. Singh that she had used some "speed" from two to five hours prior to the offence. It appears that in speaking with Dr. Singh she used the words "speed" and "meth" interchangeably.
- [53] She told Dr. Singh that she approached Mr. Mohrmann who was eating ice cream out of the tub, with a dagger. He seemed like a really nice person. She was hoping for some food, and some money. She asked him for a bite of his ice cream. He gave her the dagger, and she used it to take a bite. She asked him if he had any money. He declined to give her money and began walking away with his dagger and ice cream. This made her angry. She called him back and asked for more ice cream. When he gave her the dagger, she ate more ice cream and then used the knife to stab him.
- [54] She explained to Dr. Singh that she thought he was "one of the bad ones", and she thought she was doing the right thing. She said that stabbing Mr. Mohrmann was an impulsive action. She thought he would go "poof" like the other people she had seen "disintegrate" that day. She explained that she was convinced of her delusions as she ran away, crossing the street, where she encountered Ms. Nguyen. She began to understand then that the man (Mr. Mohrmann) was not a demon. She stated that in retrospect, she thought, "I think I'm a stupid idiot" and "I didn't do the right thing".
- [55] However, during subsequent interviews with Dr. Singh, she retracted her initial narrative, saying that she wanted to be more honest about the incident. Dr. Singh reports that Ms. Scott said, "I [do] not want to waste your time and stop myself from getting the right help, even if it means jail". She stated that she was angry that Mr. Mohrmann did not give her money. Her anger was compounded by her hunger, stress, and fatigue, and her delusions about the shadows. She said that she was a "ball of rage", and this resulted in her desire to stab Mr. Mohrmann. She "just snapped" when he refused to give her money. When he walked away from her after declining to give her money, she wanted him to come back so she could stab him. She said there were no shadows on the victim, and she did not think he was a demon. The voices did not make her do it. However, she did not intend to kill him, but she did want to stab him, maybe in the shoulder.
- [56] She told Dr. Singh that she did not know if she would have done the same things if she had not been using substances that day.

- [57] Dr. Singh diagnosed stimulant use disorder, opioid use disorder, and generalized anxiety disorder. In Dr. Singh's opinion, Ms. Scott did not meet the criteria for a verdict of NCRMD, because she was able to appreciate the nature and quality of her actions at the material time, and she was able to understand that it was wrong to stab someone in the heart, given that she said her intent was only to stab him in the shoulder.
- [58] In relation to the causes of her conduct at the time of the stabbing, Dr. Singh noted the working diagnosis that was made at St. Paul's Hospital on July 13, 2022, upon discharge from St. Paul's hospital two days after the stabbing, of unspecified schizophrenia spectrum and related disorder, most likely substance induced psychosis.
- [59] Dr. Singh commented that Ms. Scott's presentation from the video footage of July 11, 2022, "portrays someone who is hyperactive, moving around Vancouver barefoot, which would be in keeping with her history of intoxication with crystal methamphetamine".
- [60] Dr. Singh's report summarized Ms. Scott's personal and mental health medical condition prior to the incident in considerable detail. She noted a history of stimulant use disorder, stimulant induced psychosis, and opioid use disorder, extending, on the records, to at least two years prior to the offence.
- [61] Ms. Scott was interviewed by Dr. Levy for the psychiatric PSR on one occasion, on May 16, 2025, by video. Notably, this interview was a few weeks after her testimony at trial. She acknowledged that on the day of the incident, she was "walking around with some girl, doing meth". Her statements to Dr. Levy about the event were somewhat similar to her trial testimony, and the initial statements that she made to Dr. Singh. She told him that she intended to save Mr. Mohrmann from the demon. She wanted to eat the ice cream and saw a demon sitting beside him. She was frightened and wanted to stab the demon to save Mr. Mohrmann. She wanted to help Mr. Mohrmann get away from the demon, but not to kill him. She said she committed the offence due to hallucinations, but not substance use. She was hearing voices. She saw a demon go over Mr. Mohrmann and come down on him. He had given her his knife. She intended to hit him in the shoulder, but actually stabbed him in the chest.
- [62] Dr. Levy's report notes that prior to the offence, Ms. Scott was known to the housing outreach team of the Altira Women's Resource Society. She was described as a heavy user of fentanyl and crystal methamphetamine. He added, "Her daily use was thought to have resulted in numerous rounds of drug-induced paranoia and psychosis". He added that Ms. Scott was seen by an outpatient psychiatrist on April 2, 2022 (therefore, about three months before the offence), whose impression was that her psychosis was likely related to substance use. Dr. Levy noted the discharge summary from St. Paul's Hospital on July 13, 2022, which contained diagnoses of: (1) unspecified schizophrenia spectrum and related disorder, most likely substance induced psychosis; and (2) substance use disorder.

III. Findings - Effect of Mental Illness and Intoxication

[63] As noted by the Court of Appeal of British Columbia in *R. v. Badhesa*, 2019 BCCA 70 [Badhesa], at para. 43:

insofar as possible, taking into account all relevant evidence, a sentencing judge should strive to determine the extent to which an offender's mental illness contributed to the offending conduct, including any contribution to his or her self-induced intoxication.

[Citations omitted.]

[64] The Court added that the "judge should attribute a degree of moral culpability to the offender commensurate with the magnitude of the mental illness and its overall role in the commission of the offence": *Badhesa* at para. 44, emphasis in original.

[65] In considering this, I must remain mindful of the fact that the jury found that Ms. Scott did not have the intent required for murder. However, there is no way to know if the jury reached this conclusion based on her evidence of mental disorder, or the equivocal evidence at trial about her possible consumption of meth, or a combination of these two influences; or possibly, a reasonable doubt based upon her evidence that she only intended to stab the victim in the shoulder. Individual members of the jury may have reached their conclusions by different paths of reasoning, while being unanimous in the result.

[66] Taking all available evidence together, both from the trial, and from the sentencing hearing, I conclude that Ms. Scott's actions in stabbing Mr. Mohrmann resulted from a combination of both her mental health condition and her voluntary consumption of crystal meth prior to the offence. It is not possible to separate these influences, or to say which cause predominated.

[67] As I have said, in my view she downplayed her consumption of meth in her evidence at trial. She was more forthcoming about this in her statements to Dr. Singh, and Dr. Levy. Her mental illness is interrelated with her long history of drug abuse. The conclusion that she had consumed crystal meth prior to the stabbing is supported by her admissions to that effect to the psychiatrists, Dr. Singh's expert assessment of the manner in which she appeared in the videos, and her history of regular, steady drug use.

[68] On the evidence overall, it is clear that Ms. Scott was in a state of extreme agitation both before and after the stabbing. This is supported by the evidence of almost all of the witnesses, as well as the video. This suggests that her second "honest" narrative of the events that she gave to Dr. Singh is more credible than the first narrative. In the second narrative, she was driven primarily by anger, but also other factors such as stress, fatigue, and her delusions about the shadows.

[69] However, my conclusions do not fundamentally change depending upon which version of events she related to Dr. Singh is more credible. If she acted out of anger, her anger was wildly disproportionate, and irrational. I conclude that even if extreme sudden anger played a role in her actions, and this seems very likely, her behaviour remains best explained by the combined effects of her mental illness and drug use.

IV. Circumstances of the Offender

[70] Ms. Scott was 34 years of age at the time of the offence. She is now 37. She is not married and has no children. She has no criminal record. The sources of information available concerning her personal history and background consist of her very brief testimony about this at the trial, as well as the psychiatric reports of Drs. Singh and Levy, and a presentence report prepared by a probation officer.

[71] The details of Ms. Scott's personal history gleaned from these various sources are somewhat inconsistent and lead me to conclude that Ms. Scott's personal history as she relates it is not very reliable, in general.

[72] I place most weight on the background information set out in the report of Dr. Singh. As noted, Dr. Singh interviewed Ms. Scott many times, during 2023, before Ms. Scott began treatment with electroconvulsive therapy at FPH, which has affected her memory.

[73] Some facts relating to her personal history are clear enough. She was born at the Burnaby hospital and grew up in the Lower Mainland. Her parents divorced at a young age, and she was raised by her mother, and stepfather. Her stepfather is self-employed, in a specialized painting business.

[74] Ms. Scott was raised as an adherent to the Church of Scientology. As a child she was mostly homeschooled. At the approximate age of 12, she spent six months at a Church of Scientology branch in Los Angeles. She returned to Vancouver to reside with her mother and stepfather. At 17 years of age she moved to Toronto, with a much older boyfriend. She completed grades 10 and 11 at a public high school there. She does not believe she graduated from high school. She has no further education.

[75] She reported that when she was in Toronto her 40-year-old boyfriend was emotionally and physically abusive towards her. After one or two years, she returned to Vancouver and lived with her mother and stepfather until she was approximately 26 years of age. Her mother compelled her to leave the home due Ms. Scott's drug use.

[76] Since leaving home, Ms. Scott has generally not had stable housing. For income, she received social assistance and would occasionally supplement her income with sex work. At times she lived in various social housing places and sometimes lived on the streets. She had been a regular user of illicit drugs, consisting of opiates and methamphetamine, for several years

- [77] She has a very limited employment history. She told Dr. Singh that she worked with her stepfather in his painting business part-time during her youth, but has not had a job since.
- [78] She told Dr. Levy that in her 20s, she worked in a few restaurants, but resigned after a few months because she resumed drug use. At times, following that, she was a sex worker. She also supported herself by panhandling and social assistance. To Dr. Levy, she reported three past relationships, including the first, when she followed her partner to Toronto at the age of 17. The other two relationships lasted for several months. All of her partners were drug users. Contrary to her statement to Dr. Singh, she told Dr. Levy that there was no violence in her relationships.
- [79] At trial, Ms. Scott testified that she worked at a retail store, American Apparel, for six months during her 20s, but had no other previous employment.
- [80] I conclude, in summary, that Ms. Scott has a very limited employment history, has not had meaningful employment for several years or more, and has no significant occupational skills.
- [81] It has been three years since the offence. She has been in custody during that time, and as a result has had no access to illicit drugs. Since her arrest, her time has been spent at ACCW, and at FPH. She has received treatment for her mental health condition at both institutions, and particularly at FPH. She is remorseful. The probation officer's presentence report states as follows:

Lindsay admits that her substance use "took [her] whole life" and recognizes that her substance use impacted her behaviour. Her long-term goal is to be substance free.

Lindsay is open to doing anything related to counselling and programming and would like support with her mental health and her substance use.

Lindsay takes full responsibility for the offence. She recognizes that she has shattered the lives of the victim's loved ones.

When asked about the impact of her behavior on the community and those around her, she shared that people seem to view her differently now. However, she finds it difficult to reflect on this, as the topic feels overwhelming.

In terms of how this affects her personally, Lindsay believes she will go to hell and believes she is a bad person. She explains that her mental health played a major part in the offence and indicates she was also using crystal methamphetamine on the day of the offence.

Lindsay believes she needs to stay connected with positive, healthy, prosocial supports, like her mother and her stepfather, to stay out of trouble. She would like to work on positive things such as cooking, sewing and school. Lindsay states she also needs to care more about her physical and mental health.

[82] Dr. Levy reports that despite aggressive treatment, Ms. Scott continues to be symptomatic. She reported to Dr. Levy that she continued to have visual and auditory hallucinations. Dr. Levy noted that she has not used substances for more than two years. In his view, she is "not at acute risk". He diagnosed schizophrenia, and substance use, in remission. I take this to mean a substance use disorder, in remission, because she has had no access to opiates or methamphetamine.

[83] According to Dr. Levy, risk factors for future violence on the part of Ms. Scott are most notably substance use and, to a lesser extent, psychosis. He adds that:

Factors which may increase the risk of violence in individuals with chronic psychosis include substance use, especially alcohol and drug use, which can exacerbate psychotic symptoms and increase the likelihood of violence.

Individuals with a history of violent behavior are more likely to engage in violence again.

Additional risks include a lack of awareness or understanding of one's illness and its connection to violence.

Finally, isolation, and a lack of strong social support can increase the violence risk.

Treatment/management require stable housing, support, monitoring, and medication management, in addition to abstinence from substance use.

[84] Dr. Levy recommended that if Ms. Scott is sentenced to a period of incarceration, it should be to a place where she can receive ongoing psychiatric treatment. If she is released on probation, she requires ongoing psychiatric follow-up, monitoring and treatment, which could be provided through the Vancouver Adult Forensic Outpatient Clinic.

[85] In short, Ms. Scott continues to suffer from mental illness involving visual and auditory hallucinations. Her risk of engaging in future violence largely depends upon whether she can successfully avoid drug use, which will depend upon treatment, and stable social supports.

[86] Ms. Scott's mother and stepfather, as well as her biological father, all attended the sentencing hearing. Through defence counsel, I am told that they are all very supportive of Ms. Scott. Her mother and stepfather are willing to have Ms. Scott reside with them at their home in Vancouver, where they have resided for 14 years. They have a bedroom available for her. I am told that her mother fully understands the challenges that they face in supporting Ms. Scott. Her biological father is a contractor who works in several locations in British Columbia. I am advised that he is prepared to offer Ms. Scott employment, if needed.

V. Consequences of the offence

[87] Justin Mohrmann was 29 years of age at the time of his death. His mother reports that he was her only child. I have two victim impact statements. One is provided by his mother, [redacted], and another is provided by a friend of the family, [redacted]. His mother reports

that Mr. Mohrmann had come to Vancouver from Alberta for a better life. The family friend reports that he ended up in the Downtown Eastside. Both state that he was soon returning to Alberta for a job and was excited about his future. The family friend reports that Mr. Mohrmann was very good to his mom, loved her very much, and would do anything for her. He was "ready to start his new job in Alberta and could not wait to support his mom and give her a better life". He reports that Mr. Mohrmann was a kind person, who was treasured by many people. The family friend has suffered a deep personal loss, and fears that Mr. Mohrmann's mother may never recover from the pain of losing her only son.

- [88] The pain and loss experienced by Mr. Mohrmann's mother, as expressed in her victim impact statement, is profound, and palpable. She reports that "Justin was on a great path and making huge improvements in his life". She has health issues, and her son was helping her with them. Without his help, she feels unable to function. Her emotional pain resulting from the loss of her son impacts her ability to care for her own physical pain. She grieves her loss daily. She reports that when her son was killed, she was working two days a week in the kitchen where she lives. Since the incident, she has been unable to work due to intense anxiety, sadness, and poor physical and mental health.
- [89] His mother is saddened because she will never see him get married, or have children, and she will never have grandchildren.
- [90] In short, the loss of her only child has had a devastating impact on his mother.
- [91] Mr. Mohrmann's killing took place in broad daylight, on a busy downtown street, on a weekday morning. The stabbing was a random, senseless act of violence. It is the kind of crime that horrifies and terrifies the community. Members of the public are led to justifiably fear that the same or similar violence could occur to themselves, or to anyone, at any time or place. This kind of crime does serious damage to the public's sense of safety and security.

VI. Legal Parameters and Principles of Sentencing

- [92] Sections 724(1), (2) and (3) of the Criminal Code set out the parameters governing determination of facts applicable to sentencing, as follows:

724 (1) In determining a sentence, a court may accept as proved any information disclosed at the trial or at the sentencing proceedings and any facts agreed on by the prosecutor and the offender.

- (2) Where the court is composed of a judge and jury, the court
- (a) shall accept as proven all facts, express or implied, that are essential to the jury's verdict of guilty; and
- (b) may find any other relevant fact that was disclosed by evidence at the trial to be proven, or hear evidence presented by either party with respect to that fact.

- (3) Where there is a dispute with respect to any fact that is relevant to the determination of a sentence,
- (a) the court shall request that evidence be adduced as to the existence of the fact unless the court is satisfied that sufficient evidence was adduced at the trial;
 - (b) the party wishing to rely on a relevant fact, including a fact contained in a presentence report, has the burden of proving it;
 - (c) either party may cross-examine any witness called by the other party;
 - (d) subject to paragraph (e), the court must be satisfied on a balance of probabilities of the existence of the disputed fact before relying on it in determining the sentence; and
 - (e) the prosecutor must establish, by proof beyond a reasonable doubt, the existence of any aggravating fact or any previous conviction by the offender.

[93] In *R. v. Ferguson*, 2008 SCC 6 at para. 17, the Court held that the sentencing judge is bound by the express and implied factual implications of the jury's verdict and must not accept as fact any evidence consistent only with a verdict rejected by the jury.

[94] The fundamental purpose, objectives, and the principles of sentencing are set out in s. 718 of the Criminal Code. In *R. v. Newton*, 2016 BCSC 1440 [Newton], a case having some similarity to this one, Justice H. Holmes (now Associate Chief Justice Holmes) summarized the general sentencing principles, as follows:

[40] The fundamental purpose of sentencing is to protect society, and to contribute to respect for the law and the maintenance of a just, peaceful, and safe society. Section 718 of the Criminal Code relates that fundamental purpose to the six main objectives of sentencing, which it sets out as follows: (1) denunciation of the offending conduct and of the harm done to victims and the community; (2) deterrence of the offender and of other people from criminal conduct; (3) separation of the offender from society where necessary; (4) rehabilitation of the offender; (5) reparation to victims or the community; and (6) the fostering of the offender's acknowledgement of responsibility and of the harm done to victims or the community.

[41] The relative emphasis to be given to the various sentencing objectives will vary, according to the particular offence and the particular offender.

[42] Further principles of sentencing, designed to help achieve the sentencing objectives I have outlined, are set out in sections 718.1 and 718.2 of the Criminal Code. Principles that apply in this case include the following: (1) a sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender, and should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances (the proportionality principle); and (2) a sentence should be increased or reduced to reflect any relevant aggravating or mitigating circumstances relating to the offence or to the offender.

- [95] In *R. v. Carte*, 2017 BCSC 2421 [Carte], Justice DeWitt-Van Oosten added:
- [65] Achieving a proportionate sentence is a case-specific determination, requiring a multi-factoral analysis tailored to the individual circumstances of the offence and the offender: *R. v. Nur*, 2015 SCC 15 at para. 43. All relevant factors must be considered.
- [96] The offence of manslaughter encompasses a very broad set of factual circumstances and as a result there is a correspondingly wide variance in sentences imposed, ranging from life imprisonment at one end of the spectrum, to a suspended sentence on the other: *R. v. Pettigrew*, 1990 CanLII 5417 (B.C.C.A.); *R. v. Vaudreuil*, 1995 CanLII 348 (B.C.C.A.); *R. v. Billings*, 2004 BCSC 653.
- [97] It has often been said that the circumstances of a manslaughter can range from a situation of "near murder" down to that of a "near accident".
- [98] It is important for the sentencing judge to determine the individual offender's degree of moral culpability, and to ensure that the sentence properly reflects this.
- [99] In British Columbia, the Court of Appeal has stated that the range of sentences for manslaughter is from four to 15 years, in general: *R. v. Green*, 2001 BCCA 672 at para. 10. A "range" is a guideline, not a rule.
- [100] An offender's degree of blameworthiness is integrally related to the assessment of a fit sentence: *R. v. Plowman*, 2015 BCCA 423 [Plowman] at para. 39.
- [101] In *Plowman*, a case involving a conviction for manslaughter, the Court added:
- [40] In [*R. v. C.A.M.*, [1996] 1 S.C.R. 500, 1996 CanLII 230], at para. 80, the Supreme Court suggested that an assessment of the moral culpability of an offender requires an examination of his intentional risk-taking, the consequential harm he has caused, and the normative character of his conduct. In *Stone*, at para. 247, that Court affirmed this more extensive list of factors for consideration from *Laberge*:
- [23] Therefore, the court must look not only at the physical characterization of the act itself, but must assess a range of other considerations. These include the choice of weapon used to effect the unlawful act, the degree of force the offender used in perpetrating the act, the extent of the victim's injuries, the degree of violence or brutality, the existence of any additional gratuitous violence, the degree of deliberation involved in the act, the extent to which the act reflected forethought of action or planning, the complexity of the act, what, if anything, provoked the act, the time taken to perpetrate the act and the element of chance involved in the resulting death.
- [102] In *Badhesa*, the Court stated:
- [26] Sentences imposed for manslaughter range from a suspended sentence to life imprisonment. Given that wide range, the judge must carefully determine the degree of an individual offender's moral culpability and craft a sentence that accounts adequately for the

unique constellation of relevant factors present in a case. The task is complex and sometimes factors unrelated to where the unlawful act falls on the "near accident" to "near murder" spectrum nonetheless bear on the degree of the offender's moral culpability. Where an offender falls on the spectrum of individual moral culpability is a question of fact.

[103] In *Badhesa*, the Court discussed the influence of mental illness and self-induced intoxication in the context of sentencing decisions for manslaughter. The Court stated:

[40] Impaired reasoning, delusional disorders and other compromised mental conditions distinguish those afflicted from ordinary, fully accountable offenders for sentencing purposes. Where an offender is found to be criminally responsible, but suffering from a serious mental illness or disability, a more lenient disposition than would otherwise be called for may well be appropriate to reflect a diminished level of criminal responsibility.

[42] When mental illness causes or contributes to the commission of an offence, it is a mitigating factor and a sentence may be reduced because the offender's moral culpability is attenuated. In these circumstances, general deterrence is a less weighty consideration because a mentally ill offender is not an appropriate medium for making an example to others. Nor does specific deterrence or severe punishment play a significant role in the determination of a fit sentence. The former is meaningless when an offender is out of touch with reality and the latter may be disproportionate to the offender's degree of responsibility.

[Citations omitted.]

[104] The Court concluded, in summary, that where the offender's mental illness contributes to their self-induced intoxication, the offender's degree of moral culpability may be attenuated: *Badhesa* at para. 46.

VII. Positions of the Crown and Defence

A. Position of the Crown

[105] The Crown contends that, notwithstanding Ms. Scott's mental state at the time she killed Mr. Mohrmann, the circumstances should be characterized as far closer to the "near murder" end of the scale than "near accident". The Crown acknowledges, however, that if the court finds that Ms. Scott's mental state played a significant role in the commission of the offence, her moral blameworthiness would be attenuated.

[106] As noted, the Crown submits that in all the circumstances of the case, an appropriate sentence would be a period of incarceration of six-and-a-half years, less pretrial custody of approximately 4.5 years, with the addition of three years probation, on conditions, including consent of Ms. Scott to ongoing psychiatric and medical treatment during probation.

B. Position of the Defence

[107] The defence takes no issue with the legal principles outlined by the Crown in its submissions, or with the facts relating to the sentence. However, as previously noted, the defence submits that an appropriate sentence would be four-and-a-half years in custody which, after credit, has already been served, together with three years probation, as the Crown suggests. In this respect, Ms. Scott consents to the psychiatric and medical treatment conditions sought by the Crown.

[108] The defence recognizes the importance of the protection of the public, as the Crown emphasizes, but the defence submits that rehabilitation of the offender is also an important consideration. The defence fully acknowledges the devastating impact of the offence on Mr. Mohrmann's mother, in particular. The defence emphasizes that Ms. Scott's moral blameworthiness is attenuated by her mental health condition. The defence emphasizes Ms. Scott's remorse, her insight into the causes of her behaviour, her determination to overcome her addiction, and willingness to undergo any counselling, programs, or medical treatment that may be available to her.

VIII. Analysis

A. Aggravating and Mitigating Circumstances

[109] The aggravating circumstances are as follows:

1. the nature of the killing itself. Ms. Scott used Mr. Mohrmann's own knife to fatally stab him through the heart. I am unable to determine whether Ms. Scott intended to stab Mr. Mohrmann in the chest, as the facts would suggest, or whether she intended to stab him only in the shoulder, as Ms. Scott maintains. In either case, she carried out an act of extreme violence.
2. The killing was unprovoked, and objectively senseless;
3. I can infer that Ms. Scott's attack was very sudden. Mr. Mohrmann had no forewarning or opportunity to defend himself. It appears that Ms. Scott took advantage of Mr. Mohrmann's friendly and generous good nature, to not only engage with her, but also to surrender his very dangerous knife;
4. Ms. Scott voluntarily consumed mind-altering drugs, consisting of crystal meth, prior to killing Mr. Mohrmann;
5. The killing took place in a very public place;
6. Ms. Scott fled the scene, without offering any assistance to Mr. Mohrmann; and,
7. The killing has had an indelible impact on Mr. Mohrmann's family, and specifically, his mother, and [redacted], a family friend.

[110] The mitigating circumstances are as follows:

1. Ms. Scott does not have a criminal record;
2. Ms. Scott was suffering from mental illness at the time of the offence, and she was also intoxicated by her use of crystal meth. The killing was brought on, at least in part, by delusions and hallucinations she was suffering from at the time. I accept, as well, that she was in an extremely angry and agitated state at the time of the killing, which was itself a result of her mental illness, consumption of crystal meth, and her personal circumstances at the time;
3. Ms. Scott was willing to plead guilty to manslaughter at an early stage of the proceedings. Given the jury's verdict, this is equivalent to an early guilty plea;
4. Ms. Scott made numerous admissions which shortened the length of the trial;
5. Ms. Scott is remorseful, and accepts responsibility for her crime;
6. Ms. Scott has already undergone aggressive psychiatric medical treatment, and is willing to undertake any additional forms of treatment that may be recommended for her; and,
7. She has a supportive family.

[111] I accept therefore that Ms. Scott's moral blameworthiness is attenuated to a significant degree by her mental illness and drug intoxication. Further, I note that Ms. Scott has no criminal history, and no history of violence. Unlike many other manslaughter cases involving mental health and intoxication issues, Ms. Scott had no real reason to believe that consumption of crystal meth could make her prone to commit such a violent act. She was unaware of any propensity towards violence on her part. She did not carry or possess the weapon, until the moment Mr. Mohrmann handed it to her. She acted on a sudden impulse.

B. Case Authorities

[112] The Crown cites a number of authorities, all of which involve the offence of manslaughter, coupled with a mental health disorder and/or intentional drug consumption. The cases cited are:

- R. v. Patterson, 2024 BCSC 1093
- R. v. Anderson, 2024 BCSC 545
- R. v. Newton, 2016 BCSC 1440
- R. v. Carte, 2017 BCSC 2421
- R. v. Haslett, 2015 ONSC 5569
- R. v. Denny, 2016 NSSC 76

[113] The sentences imposed in these cases range from six-and-a-half years [Anderson] to eight years [Haslett and Denny].

- [114] A comparison of this case with Newton and Carte is useful.
- [115] In Newton, the offender pleaded guilty to manslaughter in the death of Caesar Rosales, a stranger to Mr. Newton. While they were both riding a public bus in Kelowna, Newton suddenly, without warning, and without any prior dealings between them, stabbed Mr. Rosales in the neck. The victim died from blood loss shortly thereafter. Newton discarded the knife that he had used in a hedgerow beside an apartment complex near where he got off the bus, shortly after the stabbing.
- [116] Mr. Newton was charged with second-degree murder. The Crown accepted a guilty plea to manslaughter. There was undisputed evidence that Mr. Newton was in the midst of a drug-induced psychosis when he stabbed Mr. Rosales.
- [117] Mr. Newton was 23 or 24 years of age at the time of the offence. The evidence indicated that Mr. Newton was suffering from a drug-induced psychosis involving hallucinations and paranoid, grandiose delusions at the relevant time. He had consumed heroin, GHB, speed, and crystal methamphetamine. According to the psychiatrist, he was "floridly psychotic" at the time of the assault.
- [118] Justice H. Holmes noted that Mr. Newton had an "appalling criminal record", beginning when he was 18 years of age. In five-and-a-half years since then, he had accumulated about 50 convictions. However, the record included no offences involving violence.
- [119] While in custody, Mr. Newton was receiving treatment for his drug addiction and stated that he intended to continue with the treatment, including after his release. Justice Holmes found that the primary sentencing objectives were denunciation and deterrence, and that rehabilitation also played an important part. Aggravating factors included the attack on an uninvolved and unsuspecting, defenceless individual, his use of a weapon, that the offence took place in a public place in the presence of numerous members of the community, and that he was in a state of extreme self-induced intoxication by illegal drugs. Further, he knew that he had an addiction problem but had recently turned down help in overcoming it.
- [120] Mitigating factors included that he was a youthful offender, for sentencing purposes. Rehabilitation played an important role in determination of his sentence. He had the support of his family. He had received treatment for his addiction while in custody and intended to continue with treatment. He was very remorseful, and he pleaded guilty to manslaughter. He had been willing to do so even before the preliminary inquiry took place. In the Court's view, this was a very substantial mitigating factor, especially in view of his remorse and acknowledgement of responsibility.
- [121] Justice Holmes rejected the Crown's contention for a 10-year sentence, and also the defence suggestion of four to six years. Justice Holmes stated that four to six years would not sufficiently reflect the objectives of denunciation and deterrence, given the nature of the offence, and the fact that the offender had a very long criminal record, albeit not for offences involving violence. Holmes J. imposed a sentence of seven years.

- [122] In Carte, the offender was 28 years of age at the time of sentencing. The sentencing judge, Justice DeWitt-Van Oosten, imposed a sentence of seven-and-a-half years imprisonment.
- [123] The circumstances of the offence were as follows. On a street in downtown Victoria, when Mr. Carte was under the influence of drugs, and had only recently been released from jail, he used a knife or edged weapon of some kind to gravely wound a 20-year-old man, in his neck, severing the victim's carotid artery and resulting in his death two days later. Mr. Carte did not know his victim. The victim did nothing to provoke Mr. Carte. Indeed, he told Mr. Carte not to touch him, three times. Instead of moving away, he swung at the victim in a "punch-like motion" but evidently had a knife (or some other form of sharp-edged instrument) in his hand.
- [124] Although Mr. Carte had a pre-existing mental disorder of schizophrenia, Dewitt-Van Oosten J. was not satisfied that his mental disorder played a role in the assault. Mr. Carte did not have an explanation for his conduct, other than impairment by drugs. He had been released from custody only two days before the offence. At the age of 28, he had an adult criminal record with at least 39 prior convictions, with 10 convictions for offences of violence, such as assault and uttering threats.
- [125] He had been willing to plead guilty to manslaughter since the charge of second-degree murder was first laid against him.
- [126] Justice Dewitt-Van Oosten observed that the attack was deliberate. Mr. Carte made a conscious choice to assault the victim with a knife (or some other form of sharp-edged instrument) in his hand, after it was made clear to him, at least three times, that the victim did not want him in his personal space. The victim did not threaten, or intentionally antagonize him, nor was the victim aggressive in any way. It was a "senseless, unprovoked and grave assault that resulted in the death of a young man whose family and friends have been left devastated and in pain": Carte at para. 96. Accordingly, it was an offence that "appropriately falls at the more serious end of the offence range".

C. Assessment

- [127] In this case, as I said, I accept that the degree of responsibility, that is, the moral blameworthiness, of Ms. Scott is reduced on account of her mental state at the time of the offence. The stabbing was an impulsive act. There was no premeditation. Ms. Scott did not bring the weapon. There was a chance encounter with Mr. Mohrmann. Tragically, he possessed a deadly weapon.
- [128] Whether the attack was primarily the result of active delusions, as she said at trial, or whether the attack was the result of an angry desire to punish Mr. Mohrmann for refusing to give her money, her conduct was heavily influenced by a combination of intoxication by drugs and her mental illness.

- [129] But a sentence must be proportionate to the gravity of the offence as well as the degree of responsibility of the offender. Here, the offence is very grave. The life of an innocent young man was senselessly taken, by a violent attack in a public place. In my view, denunciation and general deterrence are the primary sentencing objectives in this case. The gravity of the offence demands a strong message of condemnation.
- [130] The four-and-a-half year sentence suggested by the defence is insufficient to address these considerations.
- [131] Ms. Scott's actions were driven in part by her consumption of crystal meth. While she may have had no reason to believe that she was capable of such violence, she at least ought to have known that consuming crystal meth would result in a loss of personal control, especially in view of her history of mental illness, including auditory and visual hallucinations. I agree with the comments of Justice Holmes, in Newton, who said:
- [54] It is extremely important that people who embark on the use of mind-altering drugs which carry high risks of inducing behaviour out of their conscious or rational control understand that they will be held accountable for harm they do to others while they are in the intoxicated or altered state. The lure of the drugs can be strong from the start, and the addiction is hugely powerful once it has set in. The Court's message, through its sentence, must therefore be strong.
- [132] However, I also agree that rehabilitation and protection of the public are important sentencing considerations. In the circumstances of this case, where Ms. Scott will inevitably be released from custody in the relatively near future, these are two sides of the same coin. Ms. Scott has expressed remorse, which I accept as sincere. She does not simply state that she intends to undergo treatment, as is seen in many cases. She has already demonstrated her willingness to undergo what Dr. Levy describes as aggressive treatment for her mental health and addiction issues. She consents to an order for further treatment during her three-year period of probation. I place considerable weight on these facts.
- [133] Although she is not particularly youthful, with the support of her family, she may yet be able to extricate herself from her previous drug addicted and drug centered lifestyle. She recognizes that her substance use "took her whole life" as she said to the PSR author.
- [134] The gravity of Ms. Scott's offence is similar to that in Newton and Carte. Ms. Scott's degree of moral responsibility is somewhat less than in those cases. In Carte, the offender's conduct was caused by his voluntary consumption of drugs, rather than mental illness. He used his own weapon, which he concealed. He had a very serious criminal record including numerous convictions for violence. The sentence imposed in that case was seven-and-a-half years.

[135] In Newton, the offender was sentenced to seven years. The offender had an appalling criminal record, although without offences of violence. The offender was in a state of extreme self-induced intoxication by illegal drugs. In Ms. Scott's case, her condition was caused by a combination of mental illness, as well as consumption of crystal meth.

[136] In my view, in all the circumstances of this case, a fit sentence is six years, together with a term of probation of three years, which, as noted, is the maximum allowed by law.

IX. Sentence, and Ancillary orders

[137] Ms. Scott, would you please stand.

[138] Lindsay Scott, for the crime of manslaughter, in relation to the killing of Justin Mohrmann, I sentence you to a term of imprisonment of six years, before consideration of credit for pre-sentence custody. In that respect, I will hear further submissions from counsel, in a few moments.

[139] I also order a term of probation of three years, beginning with your release from custody. The terms of probation are all those that are set out in the Crown's written submissions, which I will state in a moment. You may be seated.

[140] The terms of probation are:

- a) Report to 275 East Cordova Street, Vancouver, within two business days of your release from custody, and thereafter as and when directed by your probation officer;
- b) Reside as directed and not change your residence without prior written permission of your probation officer;
- c) Not to have any contact directly or indirectly with any member of the victim's family, including but not limited to [redacted] or [redacted], if they become known to you;
- d) Not to be within a two-block radius of any residence, place of employment, educational facility or place of worship of any member of the victim's family, including but not limited to [redacted] or [redacted], if it is known to you or becomes known to you;
- e) Not to possess any knives or other sharp bladed instruments, except for the preparation and consumption of food, or for employment purposes;
- f) Not to possess or consume any alcohol, drugs or any other intoxicating substances except with a medical prescription;
- g) Having consented in court, you must:
 - i. Report to Forensic Psychiatric Services or elsewhere for any intake, assessment, counselling, or treatment as directed by your probation officer.
 - ii. Attend all scheduled appointments with your doctor, psychiatrist, counsellor and mental health worker.

- iii. Take all medication and medical treatment prescribed for you.
- iv. Provide your probation officer with the names, addresses and phone numbers of your doctor, psychiatrist, psychologist, counsellor and mental health worker.
- v. Authorize your probation officer to give all professionals identified in this condition a copy of this order.
- vi. Authorize your probation officer to tell all professionals identified in this condition that if you do not follow this order, they have your permission to notify your probation officer.
- vii. Sign any document that is necessary for your probation officer and all professionals identified in this condition to check your attendance and completion of any intake, assessment, counselling, or treatment program.
- viii. If you decide not to follow the terms of this order, you must immediately report this in person to your probation officer and tell them why. If their office is closed, you must return immediately on the next business day during regular business hours and speak to them.

[141] The terms relating to avoiding the victim's mother and the family friend are imposed solely to allay the concerns the victim's mother expressed in her victim impact statement, and despite the fact that there is no evidence to suggest that they are necessary for her safety in any way. Ms. Scott consents to these terms.

[142] The Crown also seeks a curfew condition in respect of Ms. Scott's term of probation, for house arrest. The defence opposes only this order. I am not persuaded that a house arrest condition is appropriate.

[143] Pursuant to my decision, Ms. Scott will remain in custody for a further one-and-a-half years. After that, I expect she will be residing with her mother and stepfather. She will be on probation for a full three years. She will be undergoing treatment. I am not satisfied that a curfew or house arrest condition will serve a purpose in the circumstances of this case. The primary purpose of a probation order is rehabilitative rather than punitive: *R. v. Duguay*, 2019 BCCA 53 at para. 61. The objectives of rehabilitation and protection of the public are adequately served by the length of the period of probation imposed, and the other conditions of probation.

[144] I also make the ancillary orders sought by the Crown. Both are mandatory. These orders are:

1. Firearms Prohibitions-Section 109(3) - (a) That Ms. Scott be prohibited from possessing any firearm, other than a prohibited firearm or restricted firearm, and any crossbow, restricted weapon, ammunition, and explosive substance for ten years; and (b) any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life; and

2. DNA Order-Section 487.051- Manslaughter is a primary designated offence under the Criminal Code pursuant to s. 487.04, therefore the order is mandatory.

[145] I am satisfied that the victim fine surcharge should be waived. Ms. Scott has no means to pay a fine. Payment of the fine would simply be an unnecessary hardship and would potentially interfere with her efforts at rehabilitation.

[Submissions of Counsel regarding calculation of the net sentence]

[146] After allowing for credit for time served, the remaining time to be served in custody is 539 days, or in other words, one year and 174 days.

"Verhoeven J."

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