
CANADA / JUDGMENT

R. v. Skoyen

2020 BCSC 362

COURT

Supreme Court of British Columbia

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2020 BCSC 362 R. v. Skoyen

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Skoyen,

2020 BCSC 362

Date: 20200210

Docket: 105066-2

Registry: Kamloops

Regina

v.

Richard Syver Skoyen

Restriction on Publication: Pursuant to 486.4 Criminal Code of Canada

Before: The Honourable Madam Justice Donegan

Oral Reasons for Sentence

Counsel for the Crown:

N. Flanagan

Counsel for the Accused:

S.P. Varga

Place and Date of Hearing:

Kamloops, B.C.

January 23, 2020

Place and Date of Judgment:

Kamloops, B.C.

February 10, 2020

Introduction

- [1] Richard Skoyen is a 31-year-old, first-time offender, who has been convicted of sexual assault. My task today is to determine a just and proportionate sentence. Counsel agree that a period of imprisonment is required, but disagree on the length. The Crown seeks a sentence of three years' imprisonment and the defence seeks a sentence of two years' imprisonment.
- [2] To craft a proportionate sentence in accordance with the purpose, principles, and objectives the law requires in each unique case is one of the most delicate stages of the criminal justice process in Canada. Although this task is governed by s. 718 of the Criminal Code, R.S.C., 1985, c. C-46 [Code] and, although the objectives set out in those sections guide the courts and are clearly defined, it is a task that nonetheless involves, by definition, the exercise of a broad discretion by the court in balancing all of the relevant factors in order to meet the objectives being pursued in sentencing, *R. v. Lacasse*, 2015 SCC 64 at para. 1.
- [3] Fundamental to this task is to ensure the sentence is proportionate to the gravity of the offence and the degree of responsibility of the offender.
- [4] I will begin by discussing the circumstances of the offence and the effect of the offence on the victim. I will then discuss Mr. Skoyen's circumstances, followed by an outline of the applicable legal principles, followed by my analysis and decision.

Circumstances of the Offence and the Effects on the Victim

- [5] I have outlined the circumstances of this offence in detail in my reasons for judgment on conviction indexed at 2019 BCSC 2298. I find it unnecessary to repeat all of those details here and will instead provide a summary of the crime that Mr. Skoyen committed on July 7, 2017.
- [6] A.G. was introduced to Mr. Skoyen in June 2017 through a photographer who had arranged couples' nude photography shoots in the past. After communications online and through text messages, the two agreed to meet in person for the first time on July 7, 2017, in Merritt, British Columbia. After meeting at a gas station, Mr. Skoyen drove them to a nearby park. While sitting on a bench together, talking and getting to know one another, Mr. Skoyen touched A.G.'s vagina over her clothing. This was consensual, but the activity that followed was not.

- [7] Mr. Skoyen sexually assaulted A.G. in two different locations that night - at the park and then later at a lookout in a different location in Merritt. In both instances, Mr. Skoyen was very rough and aggressive. He forced A.G. to perform fellatio, sodomized her with his fingers, had very aggressive intercourse with her in different positions, forced her to the ground, pinned her arm behind her back, choked her, called her demeaning and vulgar names, all over her repeated pleas for him to stop and her cries that he was hurting her.
- [8] After the first events in the park, Mr. Skoyen simply stopped penetrating A.G.'s vagina with his penis and said, "that's enough for now." A.G. was unfamiliar with Merritt, was bewildered, afraid, in physical pain, and emotionally upset. She became very quiet and submissive towards Mr. Skoyen to avoid being hurt by him any further. She got into his car in the hope that he would be taking her back to where she had parked her car. He did not. He drove her to a lookout point and sexually assaulted her again in much the same aggressive, demeaning fashion, again over her cries and pleas to stop. Again, he forced her to perform fellatio, sodomized her with his fingers, had aggressive vaginal intercourse, slapped her face, placed his hand over her nose to prevent her from breathing, again over her cries and pleas to stop. She told him repeatedly to stop, that he was hurting her. This seemed to only cause him to intensify his efforts. She only stopped fighting him when he told her that if she continued to fight him, he would sodomize her with his penis. After he was finished, Mr. Skoyen got up off A.G. and told her to "clean the fuck up and get in the car." She complied. He drove her back to her vehicle.
- [9] Over the course of the two encounters that evening, A.G. recalled telling Mr. Skoyen "no" or "stop" more than a dozen times. In addition to the physical pain A.G. experienced from this violence perpetrated against her, including a bloody nose, pain on her neck, ribs, back, spine, genital and anal areas, scratches and bruises, nausea and other symptoms related to stress, A.G. has suffered profound emotional pain as well. She described this in her victim impact statement, which is before me.
- [10] To simply summarize her words would not adequately convey what she has experienced. A.G. writes:

This is the hardest thing I've ever had to write. To try to put into words something that really can't be put into words. I am broken. This has broken me.

I wish I could write this from a position of strength and say I'm healed and stronger, But that would be a lie. My life has gone stagnant. I'm at a standstill. Time flies by, my life whizzing by without me.

You think it's going to be one moment compared to all the other moments in my life, and how could it make such a difference in my life but it does; it is this one moment, one night, has made my world very small. And I still don't feel safe. I don't feel safe alone. I don't feel safe around men. I don't feel safe around strangers and meeting new people. I don't have a life now. I don't have friends or relationships. I don't socialize or go out. I spend my nights alone, disassociating so I don't think about it. Most nights I can't sleep or if I am able to sleep, I wake up in cold sweats

from nightmares. Vivid nightmares of that night.

I hear his voice, I feel his breath and I see his face. I wake up feeling the rocks in my back.

I'm grateful for the sleep flashbacks though as they're far less damaging as the ones when I'm awake.

Even the simple sound of mosquitoes buzzing in my ear is enough to spiral me back into that night. It makes working incredibly difficult.

I can't sleep in the dark because of this. My lights stay on.

This night has deeply impacted my work. Being self employed, I rely on myself. I've lost count of the number of days that I've missed. Days where I'm stuck in a depressive episode or crippled by a panic attack. How unnerving flashbacks and panic attacks are at in the forest alone when I'm working. So not only has it affected my day to day ability to work but it affects my reputation as a business and my reliability for clients. The financial loss is palpable - almost 2 years of monthly losses. I'm not even able to take on new clients most times - the anxiety of meeting new people; particularly male clients, so I've also lost potential income that way.

It'd be difficult to try to calculate how much so that is why I'm not seeking restitution but this night has absolutely affected my able to conduct my business and continue to grow.

The fact that it's affected so much of my life has left me with a deep sense of shame. I feel violated and used. I feel betrayed and insulted. I feel worthless and ugly, I'm a different person now and I don't know who that is. A shadow of who I used to be.

I feel unrelenting rage that this happened to me. Rage, that despite everything I know and everything that I did to protect myself, it wasn't enough. Something was taken from me, something I'll never get back.

I don't know how else to express how this has affected my life. Everything is different now, I am just . . . broken.

I have an unnerving fear of this person. Fear of revenge or retaliation seeps into my day. I worry about running into this person or being sought out. I worry about my safety. I'm afraid. I want to feel safe again. I'm not sure how to get there.

[11] It is clear that this crime has profoundly affected every aspect of A.G.'s life, and continues to do so.

Circumstances of the Offender

[12] Following his conviction, Mr. Skoyen's counsel and Crown counsel agreed to seek an order from the court for the production of a pre-sentence report with a psychological assessment, in order to assist with sentencing. I granted the request and sentencing was adjourned. Mr. Skoyen participated in the preparation of those reports and it is from those reports (a pre-sentence report prepared by Probation Officer, Mike Cliffe, and a psychological assessment

prepared by a psychologist, Dr. Kreklewetz), that I derive information about Mr. Skoyen's personal circumstances.

- [13] Mr. Skoyen is currently 31 years old. He has no criminal record. A long-time resident of Penticton, Mr. Skoyen currently lives in that community in the home of his father and step-mother. His mother lives in Penticton as well, and he has a good relationship with her. Mr. Skoyen is not currently in a romantic relationship. He is the father of four-year-old twins, whom he visits with three times a week and for whom he pays support. He does not have any contact with his children's mother.
- [14] Mr. Skoyen's parents separated when he was a toddler and he moved back and forth between them (as well as a short time with his grandparents), over the years. Mr. Skoyen recalled being angry a lot as a child. He recalled that his mother did not know how to handle him and that his father yelled at him a lot, used physical discipline, and that he drank a lot. When Mr. Skoyen was a toddler, he recalled a teenage babysitter exposing himself to him and asking Mr. Skoyen to do the same, but he declined and told his mother.
- [15] Mr. Skoyen shared a bit about his other family members, including a step-brother that suffers from schizophrenia and has had difficulties with the law. He has a step-sister that lives out east.
- [16] Mr. Skoyen described having a difficult time in school and being suspended several times for fighting and absences. He acknowledges that he had a really short temper and bullied others, but he recalled being bullied as well. He was diagnosed with Attention Deficit Disorder at a young age and took medication for this condition until he was about 16 years old. He graduated from high school in 2007 and entered the workforce right away.
- [17] Mr. Skoyen has worked in roofing and installing drywall, as a personal trainer, and most recently in the oil and gas industry in northern Alberta. He completed several courses and obtained tickets to qualify to work in the industry. He was to return to work in July 2019, but did not. To Mr. Cliff, the probation officer, Mr. Skoyen reported that he was unable to return to work because of problems with anxiety. To the psychologist, he reported that he was laid off from his heating HVAC job after the charges for mental health reasons and "left on good terms". In any event, Mr. Skoyen is currently not working and is collecting medical employment insurance. He takes prescribed medications for depression and anxiety daily.
- [18] Mr. Skoyen would like to return to school in the future in order to complete a six-month heating, ventilation, and air-conditioning course to improve his future employment options.
- [19] Mr. Skoyen has been seeing a counsellor in Penticton for about 18 months. The counsellor confirms that he completed an anger management course in December 2016, which pre-dates Mr. Skoyen's current offence. There is no further information about this course and why Mr. Skoyen chose to complete it, but nevertheless he has completed that course.

- [20] In terms of substance misuse, Mr. Skoyen used to be heavily involved in alcohol consumption and use of illicit drugs such as cocaine, crystal methamphetamine and ecstasy. He discontinued using these substances several years ago or more. Believing that cannabis helps calm him and take the edge off what he calls his "high-strung" personality, Mr. Skoyen acknowledges current daily and frequent use of marihuana.
- [21] Mr. Skoyen continues to deny this offence against A.G.. He maintains that A.G. consented to having "rough sex" with him that day. Mr. Skoyen discussed his sexual history with the psychologist who prepared the report before the court, Dr. Kreklewetz. He explained that he has had over a hundred sexual partners in his life, all female and all age appropriate, and that he was into "rough sex" and found it difficult to reach orgasm without the "rough" aspect. He described himself as "almost a sex addict" in the past. He described his sexual activities also included watching an excessive amount of "rough sex pornography", sometimes all day. However, Mr. Skoyen told the psychologist that since he has taken medications and attended counselling sessions, he now makes better choices and perceives that somehow his "brain is different".
- [22] Mr. Skoyen told Dr. Kreklewetz that it is tricky to explain "rough sex to people". He says "If both people are willing, it's not forcing. It's like a dance and someone has to take the lead - she is submitting".
- [23] Mr. Skoyen further disclosed that the rough sex he engaged in got "out of hand and crazy" when he was younger, and that he "would do anything, power play, I am always the dominant", and that looking back, he says it gave him some form of power and control in his life and made him feel better about himself. He said "I guess you're not trying to hurt the other person; you discuss boundaries ahead of time".
- [24] As the psychologist observes, Mr. Skoyen's description of consensual "rough sex" is at odds with his conduct towards A.G. on July 7, 2017. Rather than "not trying to hurt the person", as he asserts, Mr. Skoyen completely disregarded A.G.'s lack of consent and pleas to stop, and rather seemed to take pleasure in her pain and his power over her.
- [25] Mr. Skoyen discussed aspects of his "rough sex", such as slapping (but not punching) and choking to the point of passing out. Despite this long-standing history of engaging in what he calls "rough sex", Mr. Skoyen told Dr. Kreklewetz that he no longer engages in this type of sexual activity. He explained that once he started being happier with himself and working on himself, he "projected myself onto the person I was with. It had been meaningless sex... Now I can't have rough sex at all. It felt crazy, like I want to run away".
- [26] As part of her assessment, Dr. Kreklewetz offered the following diagnoses:

Adjustment Disorder with depressed mood

[ADHD] by history

Cannabis Use Disorder, moderate severity

Alcohol Use Disorder in sustained remission

Stimulant Use Disorder (cocaine/crack) in sustained remission

[27] Dr. Kreklewitz also discussed another possible diagnosis, sexual sadism disorder. She explained that the diagnostic criteria for this disorder are as follows:

A. Over a period of at least six months, recurrent and intense sexual arousal from the physical and psychological suffering of another person, as manifested by fantasies, urges, or behaviours; and

B. The individual has acted on these urges with a nonconsenting person, or the sexual urges are fantasies causing clinically significant distress or impairment in social, occupational, or other important areas of functioning.

[28] Dr. Kreklewitz opined that the nature of the index offence and Mr. Skoyen's responses to A.G.'s pain and pleas for him to stop, as well as his expressed past interest in "rough sex", raise the possibility of an underlying sexual sadism disorder, but she was clear that she could not make a conclusive diagnosis of this disorder at this time. She explained that she could not do so because there is "insufficient evidence to determine whether Mr. Skoyen's sexual violence regarding the index offence represents a longer pattern of behaviour/sexual interest (i.e., six [months or more].)" She wrote that when she interviewed him, Mr. Skoyen detailed his previous interest in "rough sex". However, no information was available to her regarding the nature of sexual interactions with previous partners (for example, non-consenting partners, disregarding of boundaries, pain inflicted, etc.).

[29] As part of her assessment, Dr. Kreklewitz also performed a risk assessment. She described at pages 8 and 9 the actuarial tools she used, and ultimately opined that Mr. Skoyen's risk for sexual re-offending, based on an assessment of dynamic factors, should be considered to fall in the "low to moderate range". Taken together, the results of the two actuarial tools she used, she opined, places Mr. Skoyen in the low-moderate range for sexual recidivism.

[30] Dr. Kreklewitz recommends that Mr. Skoyen engage in sex offender treatment and substance use programming, to prevent future relapse to alcohol and other drugs, as well as to address his current level of cannabis use.

Positions of the Parties

[31] The Crown submits that the primary emphasis in this case should be on the objectives of denunciation and deterrence. Mr. Flanagan submits that a three-year period of imprisonment falls within the range of sentences for this type of offence, as discussed by our Court of Appeal in *R. v. G.M.*, 2015 BCCA 165, and is a proportionate sentence overall. He highlights the aggravating features of this offence, which include significant violence, Mr. Skoyen's callous disregard for A.G.'s repeated pleas to stop and the obvious pain she was experiencing. He argues that rehabilitation should play a lesser role because Mr. Skoyen

continues to fail to accept responsibility or display any understanding of what he has done.

- [32] The defence acknowledges the primacy of denunciation and deterrence in a case like this, but urges the court to consider the low end of the range, a federal sentence of two years' duration. Mr. Varga emphasizes mitigating factors, including that Mr. Skoyen is a first-time offender, that he has been assessed at a low to moderate risk of reoffending, and that he has been subject to restrictive bail conditions for over two years now without incident. Mr. Varga argues that while Mr. Skoyen does not accept the court's findings at trial, he has nevertheless gained some insight into his behaviours to the extent that he no longer engages in what he has termed "rough sex". As well, he submits that the objective of specific deterrence has already been achieved in this case. The fact of the conviction itself has caused Mr. Skoyen's employment, mental health, and relationships to suffer. He argues that in this case, incarceration itself meets the objectives of general deterrence and denunciation.

Legal Parameters and Principles

- [33] This offence carries with it a maximum sentence of ten years' imprisonment.
- [34] The determination of a just and appropriate sentence is a highly individualized exercise that goes beyond any mathematical calculation. Many courts have recognized that imposing a just and proportionate sentence in serious cases such as this is among the most challenging responsibilities a judge can have. It involves a careful balancing of a variety of factors in the context of a particular set of circumstances in respect of a particular offender. This balancing process is to occur within a legislative framework informed by common law principles, and that framework is set out in s. 718 of the Code.
- [35] Section 718 of the Code provides that 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 by imposing just sanctions. This is to be achieved by imposing sentences that have one or more of the following objectives:
- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
 - (b) to deter the offender and other persons from committing offences;
 - (c) to separate offenders from society, where necessary;
 - (d) to assist in rehabilitating offenders;
 - (e) to provide reparations for harm done to victims or to the community; and
 - (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

- [36] The objectives of sentencing are given sharper focus in s. 718.1, which mandates that a sentence be "proportionate to the gravity of the offence and the degree of responsibility of the offender". This proportionality principle is fundamental in Canadian law. Thus, whatever way the judge may wish to accord the objectives identified in s. 718, the resulting sentence must respect the fundamental principle of proportionality: *R. v. Nasogaluak*, 2010 SCC 6 at para. 40.
- [37] Section 718.2 provides a non-exhaustive list of secondary sentencing principles, including the consideration of aggravating and mitigating circumstances, the principles of parity and totality, and the instruction that an offender should not be deprived of liberty if less restrictive sanctions may be appropriate in the circumstances, and to consider all available sanctions other than imprisonment that are reasonable in the circumstances: *Nasogaluak* at para. 40.
- [38] With respect to the principle of parity found in s. 718.2(b), a court cannot lose sight of the individualized nature of the assessment described by the Supreme Court in *Nasogaluak* in these terms:
- [43] The language in ss. 718 to 718.2 of the Code is sufficiently general to ensure that sentencing judges enjoy a broad discretion to craft a sentence that is tailored to the nature of the offence and the circumstances of the offender. The determination of a "fit" sentence is, subject to some specific statutory rules, an individualized process that requires the judge to weigh the objectives of sentencing in a manner that best reflects the circumstances of the case (*R. v. Lyons*, [1987] 2 S.C.R. 309; *M. (C.A.)*; *R. v. Hamilton* (2004), 72 O.R. (3d) 1 (C.A.)). No one sentencing objective trumps the others and it falls to the sentencing judge to determine which objective or objectives merit the greatest weight, given the particulars of the case. The relative importance of any mitigating or aggravating factors will then push the sentence up or down the scale of appropriate sentences for similar offences. The judge's discretion to decide on the particular blend of sentencing goals and the relevant aggravating or mitigating factors ensures that each case is decided on its facts, subject to the overarching guidelines and principles in the Code and in the case law.
- [39] Subsection 718.2(d) and (e) emphasize the need for restraint in the use of imprisonment. These provisions require that an offender is not to be deprived of liberty if less restrictive sanctions are appropriate in the circumstances, and that all available sanctions other than imprisonment that are reasonable in the circumstances and consistent with the harm done to victims or the community should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders. *Mr. Skoyen* is not Indigenous.
- [40] In *R. v. Pham*, 2013 SCC 15, the Supreme Court of Canada discussed the fundamental principle of proportionality and its interplay with the sentencing objectives and other principles at paras. 7-8:

- [7] LeBel J. explained proportionality as follows in *R. v. Ipeelee*, 2012 SCC 13, [2012] 1 S.C.R. 433, at para. 37:

Proportionality is the sine qua non of a just sanction. First, the principle ensures that a sentence reflects the gravity of the offence. This is closely tied to the objective of denunciation. It promotes justice for victims and ensures public confidence in the justice system. Second, the principle of proportionality ensures that a sentence does not exceed what is appropriate, given the moral blameworthiness of the offender. In this sense, the principle serves a limiting or restraining function and ensures justice for the offender. In the Canadian criminal justice system, a just sanction is one that reflects both perspectives on proportionality and does not elevate one at the expense of the other.

- [8] In addition to proportionality, the principle of parity and the correctional imperative of sentence individualization also inform the sentencing process. This Court has repeatedly emphasized the value of individualization in sentencing: *Ipeelee*, at para. 39; *R. v. Wust*, 2000 SCC 18, [2000] 1 S.C.R. 455, at para. 21; *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500, at para. 92. Consequently, in determining what a fit sentence is, the sentencing judge should take into account any relevant aggravating or mitigating circumstances (s. 718.2(a) of the Criminal Code), as well as objective and subjective factors related to the offender's personal circumstances.
- [41] The Supreme Court of Canada emphasized this again in *Lacasse*, instructing sentencing courts that proportionality is to be determined both on an individual basis, that is in relation to the offender himself and to the offence committed by that person, and by comparison with sentences imposed for similar offences committed in similar circumstances. The concepts of individualization and parity of sentences must be reconciled for a sentence to be proportionate: para. 53.
- [42] With respect to the offence of sexual assault, particularly sexual assaults involving intercourse, our Court of Appeal has provided guidance in *G.M.*, a case discussed by both counsel. In *G.M.*, the Court discussed the range of sentences for sexual assault involving intercourse as being from two to six years' imprisonment. While setting out the range is an important consideration, the Court also stressed that ranges are not hard and fast rules. They constitute guidelines.
- [43] This concept was explained in *Nasogaluak*, where the Court held:
- [44] The wide discretion granted to sentencing judges has limits. It is fettered in part by the case law that has set down, in some circumstances, general ranges of sentences for particular offences, to encourage greater consistency between sentencing decisions in accordance with the principle of parity enshrined in the Code. But it must be remembered that, while courts should pay heed to these ranges, they are guidelines rather than hard and fast rules. A judge can order a sentence outside that range as long as it is in accordance with the principles and objectives of sentencing. Thus, a sentence falling outside the regular range of appropriate sentences is not necessarily unfit. Regard must be had to all the circumstances

of the offence and the offender, and to the needs of the community in which the offence occurred.

[44] It is within this legal framework that I approach my task in this case.

Analysis and Decision

[45] Here, as in all cases, the dominant sentencing principle is that the sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. This is a fundamental principle in all cases.

[46] I find that Mr. Skoyen's degree of responsibility for this offence is very high and the gravity of this offence is very serious. The primary sentencing objectives in this case are denunciation and deterrence. There are no exceptional or unique circumstances in this case which would undermine or lessen the primacy to be given to these two objectives.

[47] Mr. Skoyen committed a very serious sexual assault over an extended period of time in two separate locations, disregarding clear and repeated pleas by his victim to stop, and clear indications that she was being hurt by what he was doing. He demonstrated the kind of demeaning behaviour and contemptuous disregard for the personal integrity of others that our Court of Appeal in G.M. stressed requires a clear denunciatory and deterrent sentence.

[48] Having said this, I do not lose sight of the important principle of restraint and, albeit of lesser importance in this particular case, rehabilitation. Mr. Skoyen is young and has no prior criminal history. He is intelligent and has engaged in counselling in the past. He has overcome significant drug addictions. He is capable of rehabilitation. What makes rehabilitation a challenge here is that Mr. Skoyen continues to lack any kind of insight into his offence. He continues to believe that because A.G. discussed the potential for sexual activity and discussed certain sexual boundaries with him beforehand, because she brought a blanket and pillows and, "made a three-hour round trip to meet someone you had never met", that "she expected to have sex" and that what happened "was 100% consensual". He continues to believe the long disproven myth that women who are sexually assaulted all behave a certain way, such as trying to run away or going immediately to the hospital, and he continues to assert that if they do not behave this way, then they must be seen to have been consenting.

[49] Despite the fact that Mr. Skoyen does not yet seem to understand that a sexual partner can withdraw his or her consent at any time and that the word "no" actually does mean "no", I do see a role for rehabilitation in this case. Again, Mr. Skoyen is a young, first-time offender who has taken some steps on his own to engage in counselling, and seems to be learning about and understanding his sexual needs and desires. If he were to engage honestly in the sexual offender counselling that will be made available to him in jail, he is, I think, capable of gaining actual insight into his offending and is capable of rehabilitation.

[50] I have touched on the mitigating factors already, and for clarity I will set them out here again:

- Mr. Skoyen has no criminal history;
- in the 13 years since he completed high school, Mr. Skoyen has been a productive member of society, maintaining employment, and in the recent last few years, has been supporting his two children;
- he has managed to remain free of alcohol and illicit drugs for many years now;
- he has engaged in counselling on his own accord;
- Mr. Skoyen has been under the weight of these allegations and on bail conditions for some time, with no suggestion that he has failed to comply with conditions or been involved in any criminal behaviour;
- Mr. Skoyen has a supportive immediate family;
- Mr. Skoyen has good prospects for employment; and
- Mr. Skoyen has been assessed at a low to moderate risk to re-offend.

[51] There are also aggravating factors, all of which I am convinced beyond a reasonable doubt. They are:

- the nature of the sexual assault, which is aggravated as it involved protracted acts in two locations, with physical violence over and above the violence inherent in a sexual assault. Mr. Skoyen not only perpetrated acts that were demeaning and caused physical and emotional pain, he threatened to perform another act, to sodomize A.G. with his penis, in order to keep her from resisting any further. His demeaning behaviour and contemptuous disregard for her personal integrity solely for his own pleasure is an aggravating feature of this crime; and
- the effects on A.G. are profound and life-altering.

[52] Mr. Skoyen if you could please stand.

[53] Considering your circumstances, the circumstances of this offence, the principles and objectives of sentencing, the aggravating and mitigating factors I have outlined in light of the authorities, I find that a sentence of three years' imprisonment is a proportionate sentence. It is a sentence that reflects the gravity of the offence you have committed, while not exceeding what is appropriate, given your moral blameworthiness in committing it. I think it is a sentence that recognizes the seriousness of the offence and the harm done to the victim, but it also takes into consideration the mitigating factors I have outlined. It is a sentence which is crafted to achieve the primary objectives of denouncing your conduct and deterring you and other likeminded persons from committing offences of this nature, but does not lose sight of the principle of restraint and your prospects of rehabilitation. Although it is an individualized sentence, I think the sentence also satisfies the principle of

parity.

[54] I also make the following ancillary orders.

- This is a primary designated offence under s. 486.04 of the Code. Mr. Skoyen is to provide a sample of his DNA pursuant to s. 487.051 of the Code for inclusion in the DNA data bank;
- Pursuant to s. 490.012 of the Code, Mr. Skoyen is required to comply with the Sex Offender Information Registration Act for a period of 20 years;
- Pursuant to s. 109(2)(a) of the Code, Mr. Skoyen is prohibited from possessing any firearm, other than a prohibited firearm or restricted firearm, and any crossbow, restricted weapon, ammunition, and explosive substance until ten years have elapsed from the date of his release from imprisonment on the sentence imposed today;
- Pursuant to s. 109(2)(b) of the Code, Mr. Skoyen is prohibited from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device, and prohibited ammunition for life; and
- Pursuant to s. 114 of the Code, Mr. Skoyen shall surrender to a peace officer, a firearms officer, or chief firearms officer anything in his possession that would violate the firearms prohibition orders that I have just imposed under s. 109(2) of the Code, together with every authorization, licence, and registration certificate relating to anything in his possession which would violate the firearms prohibition that I have just imposed under s. 109(2), and he must do so within 14 days of today's date.

[55] Unless there is anything that requires clarification or that I have overlooked, counsel, that completes my reasons.

[56] MR. FLANAGAN: No, My Lady, thank you.

[57] THE COURT: Mr. Varga?

[58] MR. VARGA: Nothing, Your Honour.

[59] THE COURT: Thank you very much. Thank you, counsel. Mr. Skoyen, please go with the sheriff.

"S.A. Donegan J."

DONEGAN J.

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