

CANADA / JUDGMENT

R. v. Sorensen

2025 BCSC 1614

COURT

Supreme Court of British Columbia

DECIDED

30 July 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 1614 R. v. Sorensen

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Sorensen,

2025 BCSC 1614

Date: 20250730

Docket: X085366-2

Registry: New Westminster

Rex

v.

Darren Robert Sorensen

Before: The Honourable Justice Greenwood

Oral Reasons for Sentence

Counsel for the Crown:

A.J. Bonfield

Counsel for the Accused:

J. Sawani

J. Chadi

Place and Date of Hearing:

New Westminster, B.C.

July 11, 2025

Place and Date of Judgment:

New Westminster, B.C.

July 30, 2025

- [1] THE COURT: On February 1, 2025, a jury found Mr. Sorensen guilty of two counts of sexually assaulting J.H. contrary to s. 271 of the Criminal Code.
- [2] Mr. Sorensen now appears before the court for sentencing. He is a 60-year-old male as of this month and is an individual of otherwise good character with strong ties to the community.
- [3] The Crown submits that a sentence in the range of three to four years would be appropriate and seeks a number of ancillary orders, including an order for a DNA sample, a mandatory firearms prohibition for 10 years, and an order requiring Mr. Sorensen to comply with the Sex Offender Information Registration Act.
- [4] The defence submits that a sentence of imprisonment for two years less a day to be served conditionally, followed by three years of probation, is an appropriate sentence.

Circumstances of the offence

- [5] This was a jury trial and, as a result, I must determine the facts upon which the sentencing is based or at least those facts that are necessary for sentencing, considering the issues before the jury and the verdict that the jury rendered. This is addressed in s. 724(2) of the Code, which reads as follows:
 - (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.
- [6] In *R. v. Ferguson*, 2008 SCC 6 at para. 17, the Supreme Court of Canada outlined the two principles that govern a sentencing judge after a jury trial:

First, the sentencing judge "is bound by the express and implied factual implications of the jury's verdict". The sentencing judge "shall accept as proven all facts, express or implied, that are essential to the jury's verdict of guilty", and must not accept as fact any evidence consistent only with a verdict rejected by the jury...

- [7] At para. 18 of Ferguson, the court made it clear that sentencing judges should find only those facts necessary to permit the proper sentence to be imposed in the case at hand. The judge should first ask what the issues on sentencing are and then find such facts as are necessary to deal with those issues.
- [8] Considering Ferguson, the evidence at trial, and the parties' submissions, what follows is my summary of the circumstances of the offences. I have only included those facts that I consider necessary to address the appropriate sentence and whether incarceration or a conditional sentence order is warranted in the circumstances.
- [9] The complainant, who I will refer to as J.H., was living with her fiancé in White Rock at the time of the offences. Mr. Sorensen was a close family friend. J.H. remembered him from a camping trip when she was a young girl and from family get togethers. There was no familial relationship, but she considered him to be like an uncle.
- [10] With respect to Count 1, Mr. Sorensen met with J.H. and her fiancé, and they went to a restaurant and bar called Charlie Don't Surf. All three of them were drinking. I am satisfied from the evidence that J.H. was drinking high alcohol beer and all of them were drinking shooters of Jägermeister. Over the course of dinner, the three continued to drink. By this time, J.H. was intoxicated but was functioning.
- [11] They then went back to the apartment that J.H. shared with her fiancé, who attended the liquor store to buy more alcohol between dinner and the events that followed. J.H., her fiancé, and Mr. Sorensen went into the apartment. They were listening to music and watching TV. The three of them had more drinks and J.H.'s fiancé went to bed, leaving Mr. Sorensen and J.H. on an L-shaped couch. By this time, J.H. was drunk and she was having blackouts or memory loss, which she described as going in and out of consciousness.
- [12] I heard submissions from the Crown and defence about the evidence of consciousness, and I agree that there is not evidence that J.H. was unconscious in the sense of being out cold, but the facts leave no room for doubt but that J.H. was very drunk and affected to the degree that she suffered memory loss and was not always aware of or in control of her surroundings.
- [13] During one period when J.H. became aware of her surroundings, she realized that Mr. Sorensen was on top of her, telling her to be quiet, and penetrating her vagina with his penis. In my view, the jury verdict is only consistent with that conclusion. J.H. had not consented to any sexual activity.
- [14] It is not clear on the evidence what the exact duration of the sexual assault was, because J.H. could not remember, but I accept that the assault took place as described by J.H., which is also consistent with the jury's verdict.

- [15] With respect to the allegation in Count 2, that relates to an incident where the parties stayed at J.H.'s apartment and ordered pizza and drank alcohol. There was a dispute in the evidence about whether this was before or after the night at Charlie Don't Surf, but neither counsel suggested in their submissions on sentence that it is necessary to resolve that question in order to arrive at the proper sentence.
- [16] Mr. Sorensen came over to the apartment and he and J.H. and her fiancé drank alcohol. J.H. was drinking beer. Mr. Sorensen was drinking vodka, and they were doing shots. After a number of drinks, J.H.'s fiancé went to bed. Mr. Sorensen touched J.H.'s vagina under her clothing and then penetrated her vagina with his fingers, and told her to lie down. J.H. testified that she did not know how to react and was in shock. I am satisfied that Mr. Sorensen told her to remain quiet on several occasions, and ultimately got on top of J.H. and penetrated her vagina with his penis. I find that the evidence leaves little doubt that J.H. was once again intoxicated at the time.
- [17] Needless to say, in light of the jury's verdict, at no time did J.H. ever agree to any of the sexual activity that formed the subject matter of the two charges.

Victim impact statement

- [18] In addition to J.H.'s testimony at trial in which she described her shock, being stunned, and not knowing how to react, as well as the loss of power that she felt, she also provided and read out a victim impact statement at the sentencing hearing. The victim impact statement is thoughtful and heartfelt. J.H. sees herself as a different person since these offences and has become less trusting of others, less joyous, and has suffered symptoms that she described of PTSD, depression, anxiety, self-blame, and panic attacks, among other difficulties.
- [19] She struggles to interact with people, especially men. Her work has suffered and she described the events as having shattered her trust, serenity, and innocence.
- [20] As is the case with many victims of sexual assault, J.H. feels ashamed, even though intellectually she knows she should not feel that way. I do not intend to summarize everything in the victim impact statement. I have no hesitation in concluding that the effects on J.H.'s mental and psychological health have been profound.

Circumstances of the offender

- [21] As I have indicated, Mr. Sorensen is 60 years old. He has lived a productive life and has no criminal record.
- [22] Mr. Sorensen has strong ties to the community, both through family and friends, through his church, and through his lifelong employment and contribution to society. Mr. Sorensen operates a powder-coating business that employs 14 people on an ongoing basis.

- [23] Mr. Sorensen has taken a number of steps toward his own rehabilitation, including discussing the matter with family and friends, accepting compassion-focused therapy and marriage counselling from a registered psychologist. He has also submitted to a psychological evaluation to address his potential deviant sexual interests and any risk of reoffending. That evaluation report at Tab 1 of the defence materials includes a detailed description of Mr. Sorensen's history, as well as his discussion of the offences for which he is being sentenced, as well as some psychological tests that were administered and some statistical calculation of his likely rate of recidivism. The report concludes that the likelihood of reoffending is either low or very low.

Crown application for a SOIRA order

- [24] I will pause here to address the issue of ancillary orders and, in particular, the Crown's application for what is referred to as a SOIRA order. That relates to the Sex Offender Registry Act, and whether an order to comply with it should be imposed.
- [25] The ancillary orders that the Crown seeks are not in dispute with the exception of the SOIRA order, which is an order sought by the Crown pursuant to s. 490.012(3) of the Criminal Code for Mr. Sorensen to comply with the Sex Offender Information Registration Act.
- [26] The provisions at issue were enacted following the constitutional challenge to s. 490.012 and s. 490.013(2.1) brought in *R. v. Ndhlovu*, 2022 SCC 38, and they came into effect in October 2023.
- [27] The defence contends that a SOIRA order under the new provisions is not warranted in this case, arguing that there is no real risk of reoffending based on the personal circumstances of Mr. Sorensen, citing *Ndhlovu* at paras. 9, 85, and 87, and *R. v. Hart*, 2023 BCSC 933, where a similar order was refused on the basis that requiring the offender to register with the Sex Offender Registry would not advance the objectives of the SOIRA regime and would have had a significant impact on the offender's liberty.
- [28] The Crown position is that the order is justified based on the unknowns at play, including Mr. Sorensen's limited remorse and limited insight into his offending behaviour, and based on the presumptive nature of an order under s. 490.012(3) of the Criminal Code.
- [29] Section 490.012(3) of the Criminal Code creates a presumption in favour of making a SOIRA order upon sentencing for a primary designated offence such as sexual assault. Justice Donegan described the presumptive nature of an order for an offender to comply with the provisions of SOIRA, in *R. v. Wiens*, 2025 BCCA 162 at para. 11:
- [11] Section 490.012(3) of the Criminal Code provides that offenders convicted of designated offences such as sexual assault are required to comply with the provisions of SOIRA, unless a court is satisfied the offender has established either that: (a) there is no connection between the making of the order and the investigation or prevention of sexual crimes (the "no connection" exception); or (b) the impact of the order on the offender, including on their

privacy or liberty, would be grossly disproportionate to the public interest in protecting society (the "grossly disproportionate" exception). In other words, an order under s. 490.012(3) is presumptive, unless the offender establishes that one of the two exceptions applies. . .

- [30] As outlined by Justice Fairburn in *R. v. Eldon*, 2025 ONCA 348 at para. 44, the threshold for each exception is high. There must be either "no connection" between making the order and the purposes of SOIRA or the impact of the order would not just have to be disproportionate but grossly disproportionate. As outlined in *Eldon*, the analysis in any given case must begin with the statutory presumption front and centre (para. 52), and the relevant factors should be looked at through the "required presumptive lens." That is how I am approaching the task at hand.
- [31] Section 490.012(4) lists a number of factors that a judge is required to consider, including the nature and seriousness of the designated offence, the victim's age and other personal characteristics, the nature and circumstances of the relationship between the person and the victim, the personal characteristics and circumstances of the person, the person's criminal history including the age at which they previously committed any offence and the length of time for which they have been at liberty without committing an offence, the opinions of experts who have examined the person, and any other factors that the court considers relevant.
- [32] In my view, Mr. Sorensen has not met the burden of establishing that one of the exceptions in s. 490.012(3) applies. I do accept that the opinion of the expert who examined Mr. Sorensen was that his risk of recidivism is low. I also acknowledge that he has no criminal history whatsoever and I accept that the risk of reoffending is relatively low, but it is not non-existent.
- [33] I must balance those factors against other factors. The circumstances of the offence demonstrate intoxication, sexual assaults outside of his home province with someone much younger with whom he did not have any kind of sexual relationship, behaviour on the part of Mr. Sorensen that is at odds with what those who know him best have ever observed in the past, and two incidents of similar assaultive behaviour within a reasonably short time, both with aggravating factors.
- [34] When I combine that with the level of remorse which I will address in a moment, I am unable to draw the conclusion that there is no connection between the making of the order and the investigation or prevention of sexual crimes in the future.
- [35] I accept that the impact of the order on Mr. Sorensen's privacy and liberty should not be underestimated. As in *Hart*, Mr. Sorensen is just about 60 years old and the duration of the order will pose a hardship on him, but there is nothing else about his personal characteristics that would increase the hardship of registration and subsequent compliance. Moreover, I would note that under the legislative regime, Mr. Sorensen would be eligible to apply for a termination order pursuant to s. 490.015(1)(b) after 10 years, as opposed to what

would otherwise be a 20-year order pursuant to s. 490.013(2)(b).

- [36] On balance, I am not satisfied that the defence has established that the impact could be described as grossly disproportionate when balanced against the public interest in protecting society from sexual crimes.
- [37] Given that there is a legal presumption in favour of granting the order, unless one of the exceptions has been established, the order will be granted at the conclusion of sentencing.
- [38] Returning then to the issue of sentence and what sentence ought to be imposed, I will begin by addressing the letters of support that were filed on behalf of the defence.
- [39] Mr. Sorensen filed a number of letters of support that are contained in Exhibit 2: from his wife; from his friends and neighbours who have known him for many years; his older sister; clients who have become friends; and those he works with. A summary of the letters would not convey the level of support and obvious standing in that community that Mr. Sorensen has. Without fail, the letters show that, apart from the offences committed here, Mr. Sorensen has been compassionate about other people, generous, and has been a person of high character, has a strong work ethic, is sincere, honest, spiritual, dedicated, loyal, and is a person with integrity, as well as being a good friend and husband.
- [40] I would note that the writers of the letters are all aware of the situation that Mr. Sorensen is facing, and they have indicated how out of character it was for him. They also spoke to his remorse, which is an issue I will address now.
- [41] The Crown argues that Mr. Sorensen has exhibited some remorse, but that it is a qualified remorse, and it appears to be a remorse for his marriage. The Crown points out that in the psychological report from ARCH Psychological Services that I have already mentioned, Mr. Sorensen describes the events as an "affair" rather than an offence and felt guilty for putting himself and J.H. in the position he did, rather than remorse for what he did to her. The letters of support outline how remorseful he is but do not indicate what is meant by remorse.
- [42] The defence says that Mr. Sorensen's remorse is genuine for both J.H. and his wife and marriage. He stresses that Mr. Sorensen has a desire to take responsibility for his actions, but that moving toward regret, remorse, and accountability is a journey rather than a moment of time.
- [43] Mr. Sorensen took the opportunity to address the court this morning, and he expressed his deep regret and apologies to everyone involved, and to all of the people he hurt.
- [44] I accept that Mr. Sorensen has some genuine regret and remorse and concern for other people but, in my view, there is a limit to the weight that can be put on the remorse in this case, essentially for the reasons outlined by the Crown.

- [45] The assertions of remorse in the letters of support are equivocal and equally consistent with remorse for Mr. Sorensen's marriage and his view that he had an extramarital affair. The letters of reference refer to his genuine remorse and to remorse for his actions, but they are mostly conclusory statements. This is not to criticize the authors of the letters as their general statements are understandable. But they do not expand on what is meant by remorse, and it is addressed in much greater detail in the psychological report.
- [46] I would note that one of the letters refers to Mr. Sorensen acknowledging having made a mistake and then refers to his remorse. Another speaks to his deep regret "about this whole situation". It is difficult to reconcile those kinds of statements with the facts of the two offences before the court. It is noteworthy, in my view, that nothing in the defence materials refers to the offences before the court as sexual assaults.
- [47] There is a relatively clear indication in the psychological report that Mr. Sorensen maintains his innocence, and of course he is entitled to do that. It is important not to treat that as an aggravating factor and I will not do so. But in my view, the psychological report as a whole undermines the presence or significance of a high degree of true remorse in this case. For example, there is nothing in the psychological report or any of the other materials that speaks to remorse for the psychological impact that is specific to sexual assault or the true impact of the offence in relation to J.H.
- [48] As the Crown points out, the incident is referred to as an "affair", and as "an extramarital affair" in the report, and I would note that the report also indicates at times that the worst pain that Mr. Sorensen ever caused someone was the pain that he had caused to his wife by what he has put her through. Another section of the report states that if Mr. Sorensen could go back in time, he would avoid going up to the room and "helping someone with their emotions", in apparent reference to J.H.
- [49] In my view, the references to an affair and extramarital affair and Mr. Sorensen's descriptions of his own actions tend to demonstrate that he does not have true insight into his conduct, the inherent violence of the offence, or the harm caused by it. For those reasons, remorse is entitled to very little weight in the circumstances, in my view. If the path to remorse is a journey, Mr. Sorensen has not yet arrived at the destination.

Principles of Sentencing

- [50] Turning to the relevant legal principles, the determination of an appropriate sentence is a highly-individualized process that is informed by the circumstances of the offence, the personal circumstances of the offender, relevant aggravating and mitigating factors, and the community context in which the offence occurs: see *R v. Maslehati*, 2024 BCCA 207 at para. 5.
- [51] Section 718 of the Criminal Code sets out the fundamental purposes of sentencing:

718 The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives . . .

[52] The objectives are then listed in s. 718 and include denunciation, deterrence, separation of the offender where necessary, rehabilitation, providing reparations for harm done to victims or the community, promotion of a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

[53] In *R. v. Goldfinch*, 2019 SCC 38 at para. 37, the Supreme Court of Canada recognized the profound impact that the offence of sexual assault has on victims:

... As time passes, our understanding of the profound impact sexual violence can have on a victim's physical and mental health only deepens. Parliament enacted s. 276 to address concrete social prejudices that affect trial fairness, as well as the concrete harms caused to the victims of sexual assault. Throughout their lives, survivors may experience a constellation of physical and psychological symptoms, including high rates of depression, anxiety, sleep, panic and eating disorders, substance dependence, self-harm, and suicidal behaviour

[54] In *R. v. Friesen*, 2020 SCC 9 at para. 89, the Supreme Court of Canada underlined the moral blameworthiness of sexual assault, including sexual assault of adult victims:

All forms of sexual violence, including sexual violence against adults, are morally blameworthy, precisely because they involve the wrongful exploitation of the victim by the offender - the offender is treating the victim as an object and disregarding the victim's human dignity

[55] It is the role of appellate courts to provide guidance in the form of ranges that reflect the parameters within which sentences might ordinarily be imposed, recognizing that ranges are guidelines only.

[56] In *R. v. G.M.*, 2015 BCCA 165, the court held that in "serious sexual assault cases", denunciation and deterrence are paramount principles of sentencing, and the generally applicable range of sentence is a penitentiary sentence between two and six years of imprisonment.

[57] In *R. v. S.S.*, 2023 BCCA 207 at para. 25, the court considered the same range, though noting that after *G.M.* was decided, the Supreme Court of Canada has cautioned against approaching sentencing in sexual assault cases as though there were a hierarchy of physical acts that correlate to the harm caused. This is consistent with the recognition in *Friesen* and other cases that all sexual assaults are serious and may have profound impacts on survivors of sexual assault.

[58] In *Maslehati*, the Court of Appeal found that in cases of adult sexual assault with aggravating circumstances, a conditional sentence order will rarely be available and a penitentiary term of at least two years of imprisonment will generally be required (paras. 12 and 92).

[59] In Maslehati, the court did not depart from the range set out in the previous cases I have mentioned, but moved away from the terminology of a "serious sexual assault". Justice DeWitt-Van Oosten explained that the proper focus is on the circumstances surrounding the offence at issue:

[73] Accordingly, rather than describe some sexual assaults as "serious" and other sexual assaults as something other than that, I consider it constructive when distinguishing between cases for purposes of sentencing to focus on the circumstances surrounding the offence at issue, including the nature of the sexual contact, its duration, the context in which it occurred, and the actual and reasonably foreseeable harms that flowed from it. The more aggravating the circumstances, the objectively graver the offence.

[60] At para. 74, she stated:

[74] Circumstances that may be found to elevate the already-inherent seriousness of a sexual assault (and are therefore aggravating), include:

- highly invasive, violative and/or demeaning sexual conduct;
- prolonged duration and/or repeated occurrences;
- additional physical violence and/or physical injury;
- administering drugs or alcohol to incapacitate the victim, or taking advantage of incapacity;
- threats and/or the use of a weapon;
- persistence in the face of communicated non-consent, or acts intended to overcome resistance;
- more than one offender involved;
- sexual assault in the presence of children;
- the violation occurs in the victim's home;
- planning and/or steps taken to facilitate the offence;
- attempts to prevent disclosure or avoid detection;
- age of the victim;
- a particularly vulnerable victim;
- actual and reasonably foreseeable harms that flowed from the offence, including significant impact on the victim; and,
- breach of trust.

- [61] In *Maslehati* at para. 92, the Court of Appeal held that in the absence of diminished moral blameworthiness or compelling mitigation, a penitentiary term of at least two years' imprisonment will generally be required for an adult sexual assault that is prosecuted by indictment and involves aggravating circumstances, even where that assault is committed by a first-time offender and does not involve penile penetration.
- [62] Against this background, it is also necessary to recognize that the sentencing process also involves consideration of the individual circumstances of the offender, any mitigating factors, the prospects of rehabilitation, and ultimately the proportionality of the final sentence imposed. As outlined in s. 718.1 of the Code, a sentence must be proportionate to the seriousness of the offence and the degree of responsibility of the offender.

Aggravating factors

- [63] In my view, there are numerous aggravating circumstances with respect to the offences that Mr. Sorensen committed, including the fact that the victim was intoxicated, vulnerable, and in her own home where she ought to have been safe. The fact that J.H. was intoxicated enough to be blacking in and out, and in an obviously-reduced state, did not deter Mr. Sorensen. While all sexual assaults are serious, this was not an isolated or momentary event. Both counts involve somewhat prolonged events of an uncertain duration and were highly invasive, involving penile penetration, and clear violations of J.H.'s sexual integrity.
- [64] I accept that there was no familial relationship or formal breach of trust, but in my view, it is an aggravating circumstance that the victim's family and Mr. Sorensen were close friends and that the victim considered Mr. Sorensen to be the equivalent of an uncle. Mr. Sorensen had no regard for that relationship and the facts suggest that he exploited it to his advantage.
- [65] I also find it aggravating that on both occasions, Mr. Sorensen told J.H. to be quiet while he was sexually assaulting her. That can be seen as a step taken to avoid detection, but also an exercise of control over J.H. at the time of the offence.
- [66] Another aggravating factor to consider is the fact that there were two separate incidents of sexual assault separated in time. This suggests that Mr. Sorensen proceeded on the second occasion without reflection and with no regard for J.H.'s interests or the importance of her sexual integrity. In my view, it is not necessary to definitively determine which offence took place first as, either way, the second offence could only be considered as highly aggravating. Both incidents were highly-invasive events that would foreseeably cause untold harm to the psychological and mental health of J.H.

Mitigating factors

- [67] There are several mitigating factors in the case at bar, as well, including the total absence of a criminal record, Mr. Sorensen's otherwise good character, his contributions to the community and his support from the community, steps he has already taken towards his rehabilitation and strong prospects for rehabilitation.
- [68] I accept, based on the cumulative total of the defence materials, that the prospects of rehabilitation in Mr. Sorensen's case are strong and that overall he is a relatively low risk to reoffend, as far as that can ever be determined. The only hesitation in Mr. Sorensen's case in that regard is, as I have already noted, his lack of insight into the true nature of the offences he committed.
- [69] I heard submissions on the reliability of various tests that were used in the psychological evaluation report at Tab 1 of Exhibit 2, but I do not feel that it is necessary to determine that issue. I agree with the Crown that, to some extent, the tests have certain frailties, but overall I accept that Mr. Sorensen presents as a strong candidate for rehabilitation.

The required balancing and the principle of proportionality

- [70] As in many cases, this case includes both aggravating and mitigating factors. Such factors do not automatically lead to the preference of one principle of sentencing over another. What is required is a balancing of all the factors in the particular circumstances of this case and arrival at a proportionate sentence. The weighing of the various factors relates, of course, to the issue of whether a sentence of incarceration should be imposed or a sentence that can be served conditionally.

- [71] As the Supreme Court of Canada stated in *R. v. Proulx*, 2000 SCC 5 at para. 116:

116 Sentencing judges will frequently be confronted with situations in which some objectives militate in favour of a conditional sentence, whereas others favour incarceration. In those cases, the trial judge will be called upon to weigh the various objectives in fashioning a fit sentence. As La Forest J. stated in *R. v. Lyons* . . . "[i]n a rational system of sentencing, the respective importance of prevention, deterrence, retribution and rehabilitation will vary according to the nature of the crime and the circumstances of the offender". There is no easy test or formula that the judge can apply in weighing these factors. . . .

Is a conditional sentence appropriate in the circumstances?

- [72] Counsel for Mr. Sorensen has submitted that a conditional sentence order with onerous conditions, followed by three years of probation, would be an appropriate sentence. He cited a number of authorities in support of his position, including: *R. v. T.H.*, 2024 BCCA 123; *R. v. Bateman*, 2024 BCSC 660; *R. v. C.R.F.*, 2024 BCSC 853; *R. v. M.K.M.*, 2024 BCSC 575; *R. v. Ancheta*, 2024 BCPC 64; *R. v. Turner*, 2024 BCPC 52; *R. v. Narcisse*, 2017 BCSC 2485; *R. v. G.D.L.*, 2022 BCSC 940; *R. v. Proznick*, 2023 BCPC 307; *R. v. B.-Q.*, 2023 BCSC 671; *R. v. Azim*, 2023 BCSC 482; and *R. v. Croteau*, 2022 BCSC 2352.

- [73] Some of these cases are cases in which a CSO was imposed. Others are cases where a traditional jail sentence was imposed, but one where the sentence was less than two years in length.
- [74] Counsel for Mr. Sorensen submits that if the court determines that a sentence of less than two years is a proportionate sentence, then there are no remaining concerns with respect to Mr. Sorensen being a danger to the community, reoffending, or abiding by the conditions.
- [75] The proposed conditions include a period of house arrest followed by a curfew, 240 hours of community service, counselling and treatment as directed, abstaining from alcohol and drugs, not to possess weapons, and not to possess firearms, as well as the usual conditions related to reporting and residing and not changing one's residence.
- [76] The probation order features heavily in the submissions of the defence, as well, and when combined with the proposed CSO, it would involve five years of court supervision.
- [77] Counsel acknowledges that many of the cases he relies on have distinguishing features and that no two cases are exactly alike, but argues that collectively they demonstrate:
- 1) that a CSO is an available sentence for the offences under consideration; and
 - 2) that where an accused has no prior record, history of good character, and presents a low to medium risk of reoffending and has strong support in the community, a CSO is on the table for consideration.
- [78] I agree that a CSO is a potential sentence that must be considered in appropriate circumstances. In my view, the issue is not whether a CSO can be imposed, but whether it would represent a proportionate sentence in the particular circumstances of this case.
- [79] In T.H., the Court of Appeal confirmed that in appropriate circumstances, a court can consider a CSO as an available sentence. As defence counsel said, it cannot be ruled out. However, T.H. involved a single incident, as opposed to two, and the court noted at para. 66 that it was a borderline case and that the high standard of deference with respect to sentence appeals was the decisive factor.
- [80] Some of the cases are distinguishable on various bases. For example, in Bateman, the accused was very young at the time of the offence. His relationship was marked by immaturity and adolescence, and he had head injuries that were likely to have had a mild to moderate causal effect upon his offending, without which the sentencing judge would have had no hesitation in imposing a penitentiary sentence as sought by the Crown: para. 65.
- [81] In C.R.F., the offender had psychological issues which the sentencing judge found attenuated his moral blameworthiness to some minor extent, and the circumstances of the offence were quite different from those at bar.

- [82] There were significant Gladue factors in play or at play in M.K.M., Turner, and Narcisse that are not present in this case. For example, in M.K.M., Gladue factors attenuated the offender's moral blameworthiness (paras. 68, 79-82). In Turner, in addition to the Indigenous background of the offender, he had cognitive difficulties that played a role in reducing his moral culpability. In Narcisse, the offender pled guilty part way through the trial and, in addition to Gladue factors, he was a youthful offender. The sentencing judge found that his moral blameworthiness was tempered by such background factors (paras. 63-66).
- [83] While much of the guidance in the cases cited by the defence remains valid, I would note that they were all decided before the additional guidance provided by the Court of Appeal in Maslehati. In my view, an important feature that distinguishes many of the cases relied on by the defence from the present case is that the mitigating factors in those cases reduced the moral blameworthiness of the offender in relation to the offence or offences under consideration.
- [84] In this case, Mr. Sorensen has put forward some compelling mitigating factors but, in my view, they are not the kind of mitigating factors that attenuate or reduce the moral blameworthiness for the offence. While I would not discount the mitigating factors, and I must not do so, I do not consider them sufficiently compelling or such as to reduce the moral blameworthiness of the offence and take this case outside of the appropriate range of sentence described in the appellate cases I have already cited.
- [85] As I have already noted, the Court of Appeal held in Maslehati that in the absence of diminished moral blameworthiness or compelling mitigation, a penitentiary term of at least two years' imprisonment will generally be required for an adult sexual assault that is prosecuted by indictment and involves aggravating circumstances, even where that assault is committed by a first-time offender.
- [86] Many of the kinds of aggravating factors set out in Maslehati are present in this case: there was highly-invasive sexual conduct; repeated occurrences; taking advantage of the victim's state of intoxication; attempting to control the event by telling J.H. to be quiet; the violations occurring within the victim's home; and the foreseeable harm to the victim's mental and psychological well-being, a harm that came to pass as is evident by the victim impact statement.
- [87] In my view, Mr. Sorensen's moral blameworthiness for the offence and his degree of responsibility is high. Mr. Sorensen is a high-functioning individual with no unique background factors that would diminish the moral blameworthiness associated with the offence. In my view, given the circumstances of these offences, the principles of deterrence and denunciation take on paramount importance, and a penitentiary sentence is required.
- [88] In light of that conclusion, a conditional sentence order cannot be imposed, as it only applies where the court is satisfied that a sentence of less than two years is appropriate.
- [89] Mr. Sorensen, would you please stand.

- [90] For the offence of sexual assault on Count 1, I sentence you to three years of imprisonment. For the offence of sexual assault on Count 2, I sentence you to three years of imprisonment. Both sentences shall run concurrently.
- [91] I find that under normal circumstances, these offences would attract consecutive sentences, as the two counts involved distinct and separate events, but in my view, consecutive sentences would offend the principle of totality in this case and would be too harsh and would be disproportionate. The best means of achieving a proportionate sentence is to have the sentence run concurrently, for a total sentence of three years.
- [92] In addition, I make the following ancillary orders:
- [93] Pursuant to s. 487.051 of the Code, I make an order authorizing the taking of a sample of bodily substance from you for the purposes of DNA analysis and inclusion in the DNA Data Bank.
- [94] Pursuant to s. 109, you are prohibited from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, firearm part, ammunition, prohibited ammunition, and explosive substance for 10 years after release from your term of imprisonment.
- [95] Pursuant to s. 743.21 of the Code, you shall not communicate, directly or indirectly, with J.H. during the custodial period of the sentence imposed.
- [96] Pursuant to ss. 490.012(3) and s. 490.013(2)(b) of the Code, there will be an order requiring you to comply with the Sex Offender Information Registration Act for a period of 20 years.
- [97] I would also order, pursuant to s. 743.2 of the Code, that a copy of these reasons for sentence be forwarded to the Correctional Services of Canada.
- [98] Is there anything I have neglected, counsel?
- [99] CNSL A. BONFIELD: Not that I can think of, Justice, no.
- [100] THE COURT: Mr. Sawani?
- [101] CNSL J. SAWANI: Justice, in the normal course, of course, during placement the -- I'm sure the correctional facility will recognize that Mr. Sorensen does hail from out of province, but if there could be a note on the endorsements that, if possible, that his -- his penitentiary sentence be one where he would be close to his family in Alberta?
- [102] THE COURT: All right, that makes sense to me. Mr. Bonfield?
- [103] CNSL A. BONFIELD: I have no submissions.
- [104] THE COURT: All right. Yes, there can be a note to that effect, yes. All right, thank you.

"Greenwood J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/16/2025BCSC1614.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-sorensen-2025>

Prepared on 28 October 2026 · Esheria