

CANADA / JUDGMENT

R. v. White

2025 BCSC 2333

COURT

Supreme Court of British Columbia

DECIDED

17 October 2025

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2025 BCSC 2333 R. v. White

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. White,

2025 BCSC 2333

Date: 20251017

Docket: 49090-3

Registry: Penticton

Rex

v.

Norlene Dale White

Before: The Honourable Justice Giaschi

Oral Reasons for Sentence

Counsel for the Crown:

C. Lo

Counsel for the Accused:

M.A. Patterson

Place and Date of Trial/Hearing:

Kelowna, B.C.

September 26, 2025

Place and Date of Judgment:

Penticton, B.C.

October 17, 2025

[1] THE COURT: We are here today for sentencing and these are my reasons for sentence.

Introduction

[2] On December 17, 2024, the defendant was convicted by a jury of four counts of fraud over \$5,000, being Counts 1, 2, 6, and 7 of the indictment, two counts of uttering a forged document, Counts 3 and 4, and one count of attempted fraud, an included offence under Count 4. The victim of all counts was the Ministry of Social Development and Poverty Reduction (the "Ministry").

[3] Subsequent to the verdict of the jury, a hearing was held on May 29, 2025, to address further findings of fact pursuant to s. 724 of the Criminal Code, S.C. 1985, c. C-46.

[4] On June 27, 2025, I released an oral ruling of further findings of fact indexed as R. v. White, 2025 BCSC 1697.

[5] In total, the Ministry was defrauded of \$351,538.99 over a 17-year period, broken down as follows:

- a) Count 1 - \$72,000;
- b) Count 2 - \$8,888.25;
- c) Count 6 - \$9,660; and
- d) Count 7 - \$260,990.74.

[6] The defendant now appears before me for sentencing. The Crown submits that a fit and proper sentence is 2.5 years. The defendant submits the sentence should be two years less a day to be served in the community pursuant to s. 742.1 of the Criminal Code, and to be followed by three years of probation.

Facts

Circumstances of the Offences

[7] The defendant was a client of the Ministry and received benefits from the Ministry during the period from January 2004 to January 2022. The defendant also had two sisters, Marlene and Darlene, who were clients of and received benefits from the Ministry. The sisters suffered from physical and mental disabilities and were cared for by the defendant for most of the period under consideration.

- [8] In addition to the defendant's sisters, David Johnson figures prominently in this matter. He was represented to the Ministry at different times as being a landlord or caregiver to the sisters or as a mortgagee. However, unbeknownst to the Ministry, he lived with the defendant and her sisters and was the common law spouse of the defendant during the relevant period.
- [9] The offences for which the defendant was convicted fall generally into three categories: Count 1 relates to claims made to and paid by the Ministry for travel expenses; Counts 2, 3, 4, 5, and 6 relate to claims made to and paid by the Ministry for moving expenses on three different occasions; Count 7 relates to the defendant's entitlement to receive benefits that were paid by the Ministry.
- [10] The circumstances of the particular offences, particularly Counts 1, 6, and 7, are set out in my ruling made pursuant to s. 724 of the Criminal Code.
- [11] Count 1 of the indictment relates to amounts paid by the Ministry during the seven-year period from September 17, 2014, to November 8, 2021, for the costs and expenses of transporting the sisters of the defendant to medical appointments, mostly in Vancouver.
- [12] During the period covered by Count 1, the defendant represented to the Ministry that specialized vehicles were required to transport her sisters to medical appointments at a cost in excess of the normal mileage paid by the Ministry. The Ministry approved the use of these specialized vehicles, namely a handy bus from 2015 and a motorhome from October 2020, and paid for the costs of transporting the sisters in the approved specialized vehicles.
- [13] During the period covered by Count 1 of the indictment, 79 requests were made to the Ministry to pay transportation expenses for the defendant's sisters based on the use of the specialized approved vehicles. However, on 75 of those occasions, the specialized approved vehicles were not, in fact, used to transport the sisters. In other words, requests were made for payment based on the use of a specialized approved vehicle when, in fact, the specialized approved vehicle was not used. The total amount of the fraud under this count has been determined to be \$95,878 less \$22,846.40, or approximately \$72,000.
- [14] Counts 2 and 3 of the indictment are related. They concern a payment of \$8,888.25 made by the Ministry to the defendant for moving expenses. The defendant had represented to the Ministry that she lived in Osoyoos in February 2009, that her landlord was Mr. Johnson, that she was evicted from her apartment, and that she incurred expenses moving to Nanaimo.
- [15] The defendant submitted a letter dated January 3, 2009, from Mr. Johnson in support of her claim for the moving expenses. In the letter, Mr. Johnson stated that the defendant was to vacate the Osoyoos rental unit by March 31, 2009.
- [16] To return a verdict of guilt on Count 2, fraud over \$5,000, the jury must have found as a fact that either the move from Osoyoos to Nanaimo did not occur, or it did not occur as a result of an eviction. The amount of the fraud under Count 2 is \$8,888.25.

- [17] To return a verdict of guilt under Count 3, the jury must have found the January 3, 2009, letter from Mr. Johnson was, to the knowledge of the defendant, a forged document and that she submitted the document to the Ministry representing it was genuine.
- [18] Counts 4 and 5 of the indictment are also related. They involve a claim for the expenses of moving the defendant's sisters from Osoyoos to Penticton between May 6 and 10, 2010. The defendant submitted a letter to the Ministry advising that the house her sisters lived in, in Osoyoos, was being demolished, and that they had to move to Penticton. She also submitted a letter from Mr. Johnson dated May 6, 2010, in which he stated the house was being rented to the sisters but was to be demolished. The jury must have found that either the move from Osoyoos to Penticton did not occur or it was not as a result of an eviction. However, as there was no evidence that the Ministry actually paid the moving expenses claimed, the jury returned a verdict of attempted fraud on Count 4.
- [19] To reach the verdict it did on Count 5, the jury must have found that the May 6, 2010, letter from Mr. Johnson was, to the knowledge of the defendant, a forged document and that she submitted the document to the Ministry representing it was genuine.
- [20] Count 6 of the indictment relates to another claim for moving expenses between February 12 and March 6, 2015. On this occasion, the defendant represented to the Ministry that her sisters had to move from Penticton to Okanagan Falls because the house they were living in had been sold and they had been issued a vacate order. To reach the verdict it did on this count, the jury must have found that either the move did not occur, or it did not occur as a result of an eviction. The amount of the fraud under this count is \$9,660.
- [21] Count 7 of the indictment relates to the defendant's entitlement to receive the benefits she did during the period from February 5, 2004, to December 1, 2021. The defendant submitted applications for benefits to the Ministry in which she failed to disclose that she lived with Mr. Johnson or that they were in a marriage-like relationship. She also failed to disclose any of his assets in the forms. To reach the verdict it did on this count, the jury must have found:
- a) the defendant and Mr. Johnson were in a common law relationship for part of the period under consideration;
 - b) the defendant failed to list Mr. Johnson as a common law spouse or a member of the household on her applications for benefits;
 - c) the defendant failed to include assets belonging to Mr. Johnson as family assets; and
 - d) if the defendant had reported her relationship status and listed all of her family assets in her applications, she would not have been entitled to benefits.

- [22] In my additional findings of fact pursuant to s. 742 of the Criminal Code, I found the evidence was overwhelming that the defendant and Mr. Johnson were in a common law relationship during the entire period covered by the indictment. I further found that during the entire period, the defendant and Mr. Johnson, either individually or jointly, owned two real properties and that the family assets of the defendant had always exceeded the eligibility requirements of the Ministry.
- [23] In my further findings of fact in relation to Count 7, I also determined the total amount paid to the defendant by the Ministry during the period covered by the indictment was approximately \$245,000, but left it to the parties to total the actual payments.
- [24] At the sentencing hearing, I was advised that the parties are agreed that in total, the defendant received benefits of \$260,990.74 during the period covered by the indictment. This is the amount of the fraud under Count 7.

Circumstances of the Offender

- [25] The defendant was born in November of 1959. She is now 66 years of age. The defendant is the mother of two adult children, Colton and Travis. She has a good relationship with her children.
- [26] The defendant has no criminal record.

Pre-Sentence Report

- [27] A presentence report dated February 13, 2025, has been filed. This report discloses:
- a) The defendant had a supportive and loving upbringing, except that there were some difficulties because her mother subscribed to the Jehovah Witness faith and her father did not.
 - b) The defendant had strong bonds with her two sisters, both of whom suffered from myotonic dystrophy, among other disabilities.
 - c) The defendant was married to Andrew Green from 1981 to 1994. She described that she was subject to verbal abuse and coercive control by Mr. Green throughout their marriage.
 - d) The defendant met Mr. Johnson online in 1995. They dated for approximately one year, but since then their relationship has been strictly business and friendship.
 - e) Upon her mother's passing in 2000, the defendant took over the care of her two sisters, as well as raising her two sons. Mr. Johnson assisted in the care of the sisters in a professional capacity.
 - f) The defendant reported no history of behavioural or emotional issues and no history of substance abuse, but did report current difficulties with sleeping, anxiety, and depression.

- g) The defendant advised the report writer she had no close friends or associates, is currently single, and had no supports beyond her two sons.
 - h) The defendant's work history consisted of having worked at Royal Columbian Hospital for a span of two years early in her marriage with Mr. Green.
 - i) She is currently unemployed.
 - j) She collects an old-age security pension in the amount of \$1700 per month. Her son co-owns the residence in which she lives and pays the mortgage.
 - k) She has no significant debt or savings.
 - l) The defendant reported that she was willing to attend any interventions directed by the court, but as of the date of the report had not completed any programs or counselling.
- [28] The presentence report writer noted they were unable to assess Ms. White's attitude and understanding of the offences due to her position on the outcome of the trial.

Psychiatric Report

- [29] A presentence psychiatric report by Dr. Georgia Walton dated April 2, 2025, has also been filed. The report contains much of the same information as is contained in the presentence report and I will not repeat it.
- [30] The additional information provided by Dr. Walton includes:
- a) During the intake assessment, the defendant expressed thoughts of suicide that were thought to be sufficiently concerning to have her undergo a safety assessment.
 - b) In 1986, the defendant was in a motor vehicle accident and has struggled with chronic pain and herniated discs since. She also struggles with chronic fatigue.
 - c) She described her former husband, Andrew Green, as emotionally and physically abusive.
 - d) She described Mr. Johnson as her mother's business partner. She admits to meeting him online in 1995 and to dating for one year, but stated she never cohabited with him. They remained friends. She described him as a big brother type.
 - e) She has no past psychiatric history, although she was prescribed medicine for anxiety.
 - f) The defendant denied all of the charges against her.
 - g) She described herself as socially isolated and suffered significant anxiety related to fears of being incarcerated.
- [31] Concerning the defendant's mental status exam, Dr. Walton wrote:

She presented as a 65-year-old female who appeared her chronological age. She had chin-length white hair and wore glasses on her head. Her speech had normal rate, rhythm, and volume. Her affect was quite labile near the end of the assessment when she spoke about fear of being incarcerated. She described her mood as "emotional". Her thought form was logical and coherent, and her thought content did not include any delusions. She reported some thoughts about wanting to end her life in the future if she was incarcerated but denied any current plan or intent or any active mechanism of ending her life later aside from a hunger strike. She denied any violent ideation. She did not appear internally preoccupied. Her insight into the severity of her current criminal situation was good, and her judgement with regards to participating in this assessment was also good.

[32] Dr. Walton diagnosed the defendant as having:

1. Adjustment disorder with anxious distress.
2. Cluster B personality traits including features of narcissistic personality disorder.

[33] Concerning the risk of recidivism, Dr. Walton wrote:

It is somewhat difficult to assess Ms. White's risk of recidivism of financial fraud. Dr. Walton has not been trained in a structured risk assessment tool that focuses on financial offending. However, there are a few general principals that can be highlighted. Ms. White does not suffer from a substance use disorder, and therefore, substances are not a risk factor in this case. Ms. White does not suffer from a major mental disorder that could perpetuate risk of recidivism. She struggled with anxiety, but this was limited to stress related to her current court case. She does not meet the criteria for an anxiety disorder.

Ms. White demonstrated some traits of narcissistic personality disorder. She described herself as having a high sense of self-importance as well as being deserving of special treatment. She described some of her talents in an overvalued way. She was very concerned of others being critical of her. This narcissistic personality structure may increase her risk of recidivism as she feels entitled to special treatment, including special compensation from the government.

[34] Dr. Walton made the following recommendations:

1. It would be beneficial for Ms. White's financial transactions to be supervised to ensure no fraudulent activity is occurring related to her Old Age Security payments.
2. She would benefit from ongoing stable housing and if she loses the home in Kaleden, would benefit from subsidized housing.
3. She does not appear to be suffering from a major mental disorder, and I would not recommend a referral to a psychiatrist at this time.
4. There is no duty to warn.

5. She would benefit from counseling for emotional regulation to improve her ability to cope with stressful situations.

Support Letters

[35] Several letters of support have been filed. These letters are generally glowing endorsements of the character of the defendant and how she provided extraordinary care to her two sisters.

[36] I briefly summarize the content of these letters:

- a) Travis Green, the son of the defendant, describes the defendant as having an unwavering commitment to her family, especially to her two sisters.
- b) Dave Hanson of Interior Health states that the defendant has been attending counselling with the Community Counselling and Treatment Team. This team provides short-term sessions for people with symptoms of depression, anxiety, substance use, or other problems.
- c) Dr. Mari La Cock, the defendant's family physician, states that the defendant was the primary caregiver of her two sisters and that she managed their care in an attentive and compassionate manner.
- d) Dr. Shona Ritchie writes on behalf of the Penticton Chiropractic & Co. She states the defendant and her sisters were clients of the firm for five years. She says that the defendant undertook her responsibilities as a caregiver for her sisters "with extraordinary patience, compassion, and attentiveness." She also states that the defendant demonstrated the qualities of a loving, devoted caregiver.
- e) Gaurav Lalwani, a friend of the defendant, describes her as compassionate, kind, selfless, patient, and supportive.
- f) Gary Tomlinson, a friend and neighbour of the defendant, describes her as a kind and helpful neighbour, and stated that she was attentive to, gentle with, and completely dedicated to her sisters.
- g) Jennifer Sanderson, another friend and neighbour of the defendant, states that she deeply respects the defendant for her dedication, warmth, and tireless care she provided to her sisters. She discusses various times they met for social gatherings and how well the sisters were cared for. She also advises of an incident where the defendant rescued her father from a car that had driven into a lake.
- h) Joan Cameron has known the defendant since 2000 or 2001. She describes her as kind, compassionate, and always ready to help.

- i) Cathy Cunningham, the director of the South Okanagan Chapter of the Muscular Dystrophy Association, described the defendant as an exemplary caregiver whose commitment never wavered.
- j) Thomas Cunningham is a kinesiologist who worked with the defendant and her sisters. He described the defendant as an active participant, advocate, and motivator for her sisters, and also states that she was an active supporter and volunteer for the broader muscular dystrophy community.
- k) Tia Itterman, a long-time friend of the defendant, states that she was always willing to help and was committed and extraordinarily devoted to her sisters.
- l) Kimberly Wiest, another friend of the defendant, described her as one of the most selfless and giving individuals she had ever known. She said the defendant cared for her sisters with dedication, patience, and love.
- m) Savana Bennett describes herself as a friend and mentee of the defendant. She states the defendant is the kindest and most genuine individual she has ever met. She describes the defendant as consistently demonstrating care, empathy, and a deep commitment to the well-being of those around her. She describes her as selfless, kind, and generous.
- n) Colton White, the son of the defendant, wrote a lengthy letter. He describes the defendant as "straightlaced" and says she instilled in him a deep sense of empathy, responsibility, and integrity. He describes her as having extraordinary compassion and courage, and shares several examples of this. He describes the enormous burden on his mother of caring for her sisters, but says she never wavered in this. He advises that he and his brother are prepared to provide her with constant emotional support.

Positions of the Crown and Defence

- [37] The Crown submits that a fit and appropriate sentence for the offences is 2.5 years' imprisonment. The Crown also seeks:
- a) A standalone restitution order in the amount of \$351,538.99 payable forthwith to the B.C. Minister of Finance in Right of His Majesty the King. Although the Crown did not specify the applicable provision, I presume this order is sought pursuant to s. 738(1)(a) of the Criminal Code; and
 - b) An order under s. 380.2 of the Criminal Code that Ms. White be prohibited from becoming or being a volunteer in any capacity that involves having authority over the real property, money, or valuable security of another person for a period of 15 years.
- [38] The defence submits that a fit and appropriate sentence is two years less a day to be served in the community, pursuant to s. 724.1 of the Criminal Code, to be followed by three years of probation.

- [39] Concerning the restitution order sought by the Crown, the defence submits that the order should be in the amount of \$150,000, as a higher amount will lead her into bankruptcy.
- [40] The defence does not oppose the order sought under s. 380.2 of the Criminal Code.
- [41] I observe that neither the Crown nor the defence made submissions on the particular sentences appropriate to each count of the indictment, nor did they make any submissions on whether the individual sentences should be consecutive or concurrent, or on the totality principle.

Analysis

Principles of Sentencing

Purposes and Objectives

- [42] The general principles and purpose of sentencing are set out in ss. 718 through 718.201 of the Criminal Code. The purpose and objectives of sentencing are set out in s. 718:

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:

- (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.

- [43] Pursuant to s. 718.1 of the Criminal Code, the fundamental principle of sentencing is that the sentence must be proportionate to the gravity of the offence and to the degree of responsibility of the offender.

- [44] Other principles of sentencing that I am required to take into account are set out in s. 718.2 of the Criminal Code, which provides, in relevant part, as follows:

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,

. . .

(iii) evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim,

shall be deemed to be aggravating circumstances;

- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
- (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
- (e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders . . .

[45] The case of *R. v. Kaiser*, 2025 NSCA 56, was referred to me by the defence for the propositions that:

- proportionality is the fundamental principle of sentencing;
- all sentencing principles must be considered to achieve proportionality, para. 42 of *Kaiser*;
- the principle of restraint must always be considered, especially for first-time offenders, para. 49 of *Kaiser*;
- all alternatives to incarceration must be considered, para. 50 of *Kaiser*; and
- the objectives of denunciation and deterrence cannot be allowed to render nugatory the other sentencing objectives.

[46] I accept all of these propositions.

Prescribed Limits on Sentence

[47] The maximum sentence that may be imposed for the offences of which the defendant has been convicted are:

- a) 10 years for Counts 3 and 5, uttering a forged document, pursuant to s. 368(1.1)(a) of the Criminal Code;
- b) 14 years for Counts 1, 2, 6, and 7, fraud over \$5,000, pursuant to s. 380(1)(a) of the Criminal Code; and
- c) seven years for Count 4, attempted fraud, pursuant to ss. 463(b) and 380(1)(a) of the Criminal Code.

- [48] There are no prescribed minimum sentences for any of the offences of which the defendant has been convicted.

Conditional Sentences

- [49] Section 742.1 of the Criminal Code provides that if a person is convicted of an offence and the court imposes a sentence of less than two years, the court may order that the sentence be served in the community, subject to various conditions. The limiting conditions include:
- (a) the court is satisfied that the service of the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purpose and principles of sentencing set out in sections 718 to 718.2;
 - (b) the offence is not an offence punishable by a minimum term of imprisonment;
- [50] As set out in *R. v. Proulx*, 2000 SCC 5 at paras. 58-60, and *R. v. Wells*, 2000 SCC 10 at paras. 27-30, the imposition of a conditional sentence requires a two-step process. At the first step, the court must establish that the prerequisites in s. 742.1 are established and exclude probationary measures or a term of imprisonment of two years or more. This involves a consideration of the fundamental principles and objective of sentencing only to the extent necessary to determine if a penitentiary term or probationary order should be excluded. Once these are excluded, the court then proceeds to the second step, which involves a comprehensive assessment of the principles and objectives of sentencing. It is at the second stage that the court determines the duration and venue of the sentence and if a conditional sentence is reasonable in the circumstances. Importantly, consideration of a conditional sentence must be undertaken for any offence that meets the statutory requirements and there is no presumption in favour of or against a conditional sentence: *Proulx* at paras. 77-79.
- [51] I also observe that a conditional sentence need not be of equivalent duration to the sentence of incarceration that would otherwise have been imposed: *Proulx* at paras. 104 and 127.
- [52] In *R. v. T.H.*, 2024 BCCA 123, the Court of Appeal addressed the availability of conditional sentences for the offence of sexual assault. Justice MacKenzie noted that conditional sentences are available, even when denunciation and deterrence are the primary sentencing goals: at para. 60. She also observed that conditional sentences are punitive in nature and can be as harsh as sentences of incarceration: at para. 62. Although the case before me is not one of sexual assault, it is one where denunciation and deterrence are primary sentencing objectives. Therefore, these comments by Justice MacKenzie are relevant here.
- [53] The appropriateness of a conditional sentence is directly raised by the submissions of the parties. It is undisputed that pursuant to the provisions of s. 742.1, a conditional sentence is technically available in this matter if:
- a) a sentence of less than two years is imposed;

- b) I am satisfied that such a sentence would not endanger the safety of the community; and
 - c) I am satisfied such a sentence is consistent with the fundamental purpose and principles of sentencing.
- [54] I am satisfied that the prerequisites of s. 742.1 are met in this matter such that I must consider a conditional sentence in my comprehensive assessment of a fit and proper sentence. In other words, I am satisfied that Step 1 is such that I must go to Step 2.

Probationary Sentence

- [55] Section 731(1) of the Criminal Code provides that the court may order probation in two circumstances: first, where no minimum punishment is prescribed, the offender may be released on conditions prescribed in a probationary order; second, where the offender is sentenced to a term of imprisonment of not more than two years, an additional probationary term can be imposed.
- [56] Pursuant to s. 732.2(2)(b) of the Criminal Code, the maximum period of probation is three years.
- [57] I observe that if a sentence of more than two years is imposed, a period of probation is not available.

Concurrent versus Consecutive Sentences

- [58] Section 718.3(4) of the Criminal Code addresses consecutive sentences for multiple offences. It provides, in relevant part:
- (4) The court that sentences [a defendant] shall consider directing
 - (a) that the term of imprisonment that it imposes be served consecutively to a sentence of imprisonment to which the [defendant] is subject at the time of sentencing; and
 - (b) that the terms of imprisonment that it imposes at the same time for more than one offence be served consecutively, including when
 - (i) the offences do not arise out of the same event or series of events . . .
- [59] The decision to impose consecutive or concurrent sentences is discretionary. Generally, concurrent sentences are appropriate where the acts constituting the offences were part of a linked series of acts within a single endeavour: *R. v. G.P.W.* (1996), 106 B.C.A.C. at para. 35, and *R. v. Li*, 2009 BCCA 85 at para. 47.

Totality Principle

- [60] Where a defendant is convicted of more than one offence, the sentencing judge must craft a global sentence which reflects the overall gravity of the offences and the defendant's moral blameworthiness. This is a two-stage process. At the first stage, the court determines the appropriate sentence for each offence and whether they are concurrent or consecutive. At

the second stage, if consecutive sentences are imposed, the court must assess whether the resulting overall sentence is unduly harsh or disproportionate. If it is, it must be adjusted to arrive at an appropriate global sentence: *R. v. G.F.*, 2018 BCCA 339 at paras. 35-37.

Caselaw - Similar Offences and Offenders

[61] I have been referred to an extensive number of authorities by the parties. I limit my review to the more salient authorities that, for the most part, involve welfare fraud.

Welfare Fraud Cases

[62] In *R. v. Friesen*, 1994 CanLII 2011, the defendant pleaded guilty to fraudulently obtaining more than \$5,000 from the Ministry of Social Services and Housing from December 31, 1985, to August 31, 1991. The amount she obtained by fraud was over \$12,000. The fraud consisted of her not disclosing all of her sources of income. She was 43 years old and had four prior convictions for theft and one prior conviction for possession of stolen goods. She lived with a 12-year-old son. She was sentenced to nine months' imprisonment in Provincial Court. She appealed her sentence to the Court of Appeal, arguing that there should be home detention or that the sentence should be reduced to 90 days. The appeal was dismissed with Justice Taylor stating at para. 11 as follows:

11 The case is one in which deterrence of others who may be like minded has, unfortunately, to be emphasized, in priority to other considerations. Not only is welfare fraud a matter of growing public concern, but it has to be regarded as a form of crime in respect of which there is a real chance that substantial penal consequences will deter, and one also in respect of which knowledge that repeated, and outrageous, dishonesty, such as that practiced by the appellant, goes lightly punished inevitably serves as a stimulus to similar dishonesty in others. [Emphasis added.]

[63] In *R. v. Anderson-Davis*, 2000 BCSC 42, the defendant pled guilty to two counts of defrauding the Ministry of Social Services of benefits to which he was not entitled. The frauds occurred over two distinct four-year periods. The amount defrauded was \$136,700 in total. The Crown sought a sentence of two years less a day. The main issue was whether the defendant should be given a conditional sentence order. The mitigating factors were the guilty plea, the absence of a criminal record, and the defendant had acknowledged the wrong he had done and had agreed to sell his home to repay the amount defrauded. Additionally, he was not likely to commit any other offences and was no danger to the community. The defendant was sentenced to 18 months to be served in the community.

[64] I note that, unlike the defendant in *Anderson-Davis*, Ms. White did not plead guilty or acknowledge her wrongdoing, although I hasten to add that these are not aggravating factors.

- [65] In *R. v. D'Amour*, 2002 CanLII 45015, a decision by the Ontario Court of Appeal, the defendant was committed of defrauding the Community Services Department of the City of Toronto of \$14,636.98 over a two-year period. The frauds consisted of failing to update her financial circumstances which resulted her in receiving benefits to which she was not entitled. She had no criminal record. At trial, a conditional sentence order was rejected and the defendant was sentenced to 90 days to be served intermittently, followed by a one-year period of probation. The probation included a term requiring the appellant to pay \$100 per month towards restitution. On appeal, the Ontario Court of Appeal upheld the sentence, except for the part of the probation order requiring her to pay \$100 per month towards restitution. The comments of the Ontario Court of Appeal at paras. 69-72 are instructive. At para. 69, it was noted the fraud was serious in that she took money that properly should have gone to others and no doubt damaged the appearance of the integrity of the benefits program. At paras. 69-72, the importance of specific and general deterrence as sentencing objectives were noted as precluding a CSO:
- [69] As often happens in cases involving welfare fraud, the trial judge had a difficult sentencing decision. The appellant had no criminal record and was, in all other respects, a responsible member of the community. As a single parent, her lot in life has not been an easy one and she has worked hard to provide for herself and her daughter. However, the fraud was serious. The appellant systematically defrauded the Department of a substantial amount of money over a long period of time, to fund, what many would regard as an extravagance. In doing so, she took money that properly should have gone to others and no doubt damaged the appearance of the integrity of the benefits program and fed the prejudices of those who see every benefit program as a breeding ground for "welfare bums".
- [70] Counsel at trial made strong arguments in favour of their respective positions. Those arguments were renewed and repeated on appeal. In her careful reasons, the trial judge reviewed those arguments, the relevant sentencing principles, and the case law. She ultimately concluded that a proper expression of the principles of general and specific deterrence precluded a conditional sentence and required a period of incarceration, albeit one that allowed the appellant to serve her term of imprisonment intermittently. In coming to that conclusion, the trial judge emphasized what she characterized as the appellant's "open and unrepentant disrespect for the law". In the trial judge's assessment, this attitude made specific deterrence particularly important in the sentencing process.
- [71] The appellant's evidence supported the trial judge's assessment of her attitude towards the law. In her evidence, the appellant made it clear that she was prepared to operate on the basis that the ends justified the means. She believed that her daughter was entitled to "the best education" that she could get and if that education could not be funded within the limits of the law, the appellant was prepared to break the law to get the money from the public purse. The appellant's testimony provides no reason to think that she would not make the same decision if faced with another situation in which, in her view, the government did not adequately meet her financial needs. Not only is this attitude patently wrongheaded, it does

serious harm to others who must look to the government for financial assistance. Benefit programs like the one provided under the Act could not function as self-reporting programs, and could well cease to exist at all, if applicants generally believed, as the appellant does, that it was appropriate to misrepresent the facts if, on the true facts, the program did not provide what an applicant regarded as adequate funding.

[72] The reasons of the trial judge reveal no error in principle and no misapprehension of the relevant evidence. There is no basis upon which this court can interfere with her conclusion that a short period of intermittent incarceration was necessary.

[66] These comments are apt here. Ms. White has a similar attitude to that of the defendant in D'Amour. She has not expressed any remorse or understanding of her crimes. As Dr. Walton noted in her report:

. . . she feels entitled to special treatment, including special compensation from the government.

[67] As it is 3:04, I think we will take a short 15-minute break.

(PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

(PROCEEDINGS RECONVENED)

[68] THE COURT: All right, continuing with my reasons.

[69] In R. v. Oliynyk, 2002 SKCA 37, the defendants, who were spouses, pled guilty to defrauding the Department of Social Services of approximately \$157,000. The sentencing judge imposed a six-month conditional sentence on the wife and a 15-month conditional sentence on the husband. The Crown was granted leave to appeal only the sentence imposed on the husband. The fraud consisted of not reporting income over the course of 12 years. The husband was 62 years of age at the time of sentencing and suffered a disability on his left side. The Saskatchewan Court of Appeal allowed the appeal and increased the sentence for the husband to one year in an institution, in addition to time already served under the conditional sentence order. Paragraphs 8-11 of the reasons are notable.:

[8] We are all of the view the sentence imposed was not a fit sentence. Ultimately, the sentencing Judge relied only on two factors, age and health, when deciding to impose a conditional sentence. A conditional sentence in the circumstances fails to emphasize the principles of denunciation, proportionality, and general deterrence.

[9] This was a calculated crime which took place over 12 years during which time the respondent received and completed, often on a monthly basis, forms from the Department in which he deliberately failed to declare his wife's income. After approximately 12 years of deceiving the Department, he deliberately misled a social worker during a home visit. The respondent could have stopped his fraudulent efforts at any time during the 12 years, instead each month for 12 years he consciously and deliberately continued the fraud. He compounded his culpability by overriding his wife's doubts and concerns. Such repetitive deceit must be deterred.

- [10] The sentencing judge recognized the respondent's actions led to one of the largest welfare frauds and there is little hope of recovery. The sentence was not proportionate to the magnitude of the crime and fails to denounce the respondent's culpability.
- [11] The Court recognizes, in appropriate circumstances, a non-carceral sentence may be imposed in cases of fraud . . . however, welfare fraud has also resulted in institutional incarceration . . . In the circumstances we are of the view a fit sentence is that of one year incarceration in an institution in addition to the time already served on the conditional sentence. The Crown's appeal is allowed and the sentence below is set aside. The respondent is sentenced to one year in an institution in addition to the time already served on conditional sentence.
- [70] I observe that there are many similarities between Oliynyk and the matter before me, particularly Count 7. If anything, the offences before me are more calculated, more repetitive, continued over a longer period of time, and resulted in a greater deprivation than those in Oliynyk.
- [71] In *R. v. Reith*, 2003 BCSC 1454, the 56-year-old defendant pleaded guilty to a charge of impersonating her dead sister to collect social assistance and was also found guilty of fraud over \$5,000. The amounts at issue are not clear from the judgment, but appear to be \$40,000 for the impersonation count and \$60,000 for the fraud count. The fraud conviction related to the accused not advising the Ministry of amounts she had collected over the years. The Crown argued for a sentence of two years' imprisonment. The defendant argued for a conditional sentence order. The court imposed a combined sentence of one year imprisonment to be followed by one year of probation. Helpfully at paragraph 18, Justice Crawford set out the factors to consider in sentencing for fraud. Those are:
1. The nature and extent of the loss;
 2. The degree of premeditation found, notably, in the planning and application of a system of fraud;
 3. The accused's actions after the commission of the offence;
 4. The accused's previous convictions;
 5. The personal benefits generated by commission of the offences;
 6. The authority and trust existing in the relationship between the accused and the victim; and,
 7. The motivation underlying the commission of the offences.
- [72] In *R. v. Smith*, 2007 BCCA 468, the defendant and his spouse were both charged with defrauding the Ministry of Human Resources between 1995 and 2004. The defendant defrauded the Ministry of approximately \$41,000. His spouse defrauded the Ministry of approximately \$42,000. The defendant's spouse pleaded guilty and was sentenced to 12 months to be served in the community. The defendant was found guilty after a trial. He was

sentenced to 14 months' imprisonment. He had no prior record. The sentence was upheld on appeal. It was particularly noted that the spouse pled guilty, the defendant was the operating mind behind the fraudulent scheme, and the defendant took minimal responsibility for his actions. The Court of Appeal quoted with approval the following paragraph from the sentencing justice:

I have considered s. 118 of the Criminal Code and in order to meet those principles, in my view, a conditional sentence would not be appropriate. It is necessary to incarcerate the accused in order to deter him and other persons from committing offences. A conditional sentence would, under these circumstances, fail to denounce the unlawful conduct perpetrated by this offender over a long period of time involving a substantial amount of public funds. In addition, a conditional sentence would send the wrong message to the general public and would not act as a sufficient deterrent no matter how restrictive a conditional sentence could be crafted.

[73] I observe that there are many similarities between this case and the matter before me, particularly Count 7. Again, if anything, the matter before me is more serious as it continued over a longer period of time and resulted in a greater deprivation to the public purse.

[74] In *R. v. Keuris*, 2008 BCSC 480, the accused pled guilty to defrauding the Ministry of Employment and Income Assistance of \$25,000. The Crown sought a conditional sentence order, while the defendant sought a conditional discharge. The defendant was 35 years old with no criminal record. The fraud consisted of the defendant not advising the Ministry that she was living with another person. The defendant was sentenced to six months to be served in the community. At para. 26, Justice Barrow wrote:

[26] What I distil from the authorities noted is that general deterrence is perhaps the most significant factor in fashioning a sentence in cases of this kind. The welfare system exists to benefit those in need. It is a system that deals with a great number of people. To manage it within an environment of scarce resources, it depends on the honesty of those who access it. As Judge Rounthwaite noted in *R. v. Lim*, [2005] B.C.J. 1359 (P.C.):

When people take scarce social assistance funds dishonestly they steal from taxpayers, they reduce funds available for those in genuine need, and they necessitate the expenditure of funds on investigation.

I endorse those remarks.

[75] In *R. v. Fayemi*, 2009 BCPC 123, the accused defrauded the Ministry of Housing and Social Development of approximately \$15,000 over a 15-month period. The fraud consisted of misrepresenting the offender's income. She was given a suspended sentence and two years' probation. Important mitigating factors were the lack of a criminal record, the entering of a guilty plea, and the fact that the accused was suffering from a mental illness that significantly impaired her usual reasoning processes during the relevant period. The sentencing judge also found the fraud was far from a major one.

- [76] In *R. v. Bavarsad*, 2008 BCCA 137, the defendants were convicted in Provincial Court of welfare fraud in the amount of approximately \$87,000 over a period of seven years. They were given a conditional sentence of 12 months to be followed by 12 months' probation. In addition, they were subject to an order for restitution and to a fine of \$150,000. The only issue on the appeal was the fine of \$150,000. The Court of Appeal held that the fine was unnecessary and excessive.
- [77] At para. 9 of *Bavarsad*, Chief Justice Finch noted that a relationship with welfare authorities was one of trust:
- [9] This offence involved dishonesty over many years in a relationship with the welfare authorities, a relationship that is based on trust. The applicants have shown limited remorse, and appear to have been mainly concerned with the stigma and shame attached to their criminal conviction. It is not clear that the money obtained by fraud was used in acquiring the various assets owned by the applicants.

Non-Welfare Fraud Cases

- [78] The defence refers me to several non-welfare fraud cases in support of its submissions. In *R. v. Tran*, 2021 ONSC 1888, the defendant was convicted of one count of fraud over \$5,000 and one count of possession of proceeds of crime over \$5,000. The employer of a friend was the victim of the fraud, which involved 589 credit card transactions over a three-year period. The defendant received over \$291,000 from the fraudulent transactions. The defendant was 42 years old with a successful career and no criminal record. He was sentenced to two years less a day to be served in the community, followed by two years' probation.
- [79] In *R. v. Anderson*, 2012 BCSC 1255, the three defendants were convicted of fraud following a trial. The fraud involved a complicated scheme related to stumpage fees. It was determined that the government was defrauded of no less than \$514,000. The Crown sought sentences of three years for two of the defendants and two years less a day to be served in the community for the other defendant. All defendants sought sentences that could be served in the community. Justice Barrow imposed sentences of one year on one defendant and of two years less a day on the other two defendants. All sentences were to be served in the community.
- [80] The relevance of *Anderson* is that it demonstrates a conditional sentence order can be appropriate even where the amount of the fraud is very significant. However, a distinguishing feature of *Anderson* is that it concerned only one fraudulent scheme and one count of fraud for each defendant. In the matter before me, there are multiple counts and at least three different schemes.
- [81] In *R. v. Callender*, 2009 CanLII 72039, a decision of the Ontario Supreme Court, the defendant was convicted by a jury of defrauding a bank of \$280,000 and of using a forged document. The defendant was 44 years old and a first-time offender. The Crown sought a conditional sentence of six to nine months. The defendant sought a suspended sentence.

The defendant was sentenced to nine months to be served in the community, to be followed by one year probation. I would observe that the sentencing judge considered the Crown's position to be "exceedingly fair" and said that but for the Crown's position, they "might have considered a short period of incarceration."

- [82] In *R. v. Henn*, 2022 ONCA 768, the defendant pled guilty to defrauding her employer of approximately \$45,000 over three years. The defendant was 38 years old, had no prior criminal record, and was the sole breadwinner for her family. She was sentenced to 12 months' imprisonment followed by three years' probation. An appeal by the defendant was allowed. The Ontario Court of Appeal substituted a conditional sentence of two years less a day followed by three years' probation. The court held that the sentencing judge erroneously considered the appellant's failure to pay restitution before the guilty plea as an aggravating factor and failed to consider the appellant's deteriorated psychosocial status which led her to make bad decisions. At para. 27, the court wrote:
- [27] The sentencing judge correctly noted that general deterrence is a core goal of sentencing for a fraud conviction. But a conditional sentence can be appropriate even where deterrence and denunciation are the paramount considerations . . . This is particularly so "in circumstances where the offender is forced to take responsibility for his or her actions and make reparations to both the victim and the community, all the while living in the community under tight controls" . . .
- [83] In *R. v. Garrick*, 2012 ONSC 2528, the defendant was convicted after trial of three counts of fraud over \$5,000. In total, he defrauded three individuals of approximately \$139,000. The defendant was 42 years old, had no criminal record, and was an educated man. The Crown sought a sentence of between 21 and 36 months' incarceration, but admitted a conditional sentence would be a fit sentence. The defence sought a conditional sentence of 18 months. The court imposed a conditional sentence of 23 months. With credit for presentence custody and strict bail conditions, the actual sentence was 13 months to be served in the community.
- [84] I observe that the sentencing judge in *Garrick* did not consider individual sentences for each count and therefore did not consider whether the sentences should be served concurrently or consecutively, or consider the totality principle.
- [85] In *R. v. Corner*, [2005] O.J. No. 3590, the defendant pled guilty to defrauding her employer of approximately \$157,000. The defendant had a chaotic and dysfunctional life, including her spouse was severely injured in a car accident and she was his caregiver. The mitigating factors included: the guilty plea; no prior record; she told her employer of the offence; she expressed remorse; the offence was committed because of addictions to gambling and alcohol; and she was the primary caregiver of her spouse who was unable to work. The sentencing judge imposed a conditional sentence of 18 months to be followed by 24 months' probation. At para. 27, the sentencing judge wrote:

27 While I accept that in most breach of trust frauds of this magnitude jail is imposed, I am persuaded by the factors already noted in this case that a conditional sentence is appropriate . . .

[86] I observe that few of the mitigating factors identified in Corner are present here.

[87] In *R. v. Gasparetto*, 2008 CanLII 49579, the defendant pled guilty to one count of defrauding two individuals. The total amount was \$180,000. The defendant was a 47-year-old first-time offender who suffered from anxiety disorders. The court did not accept that she suffered from a gambling addiction, but did accept that most of the money appears to have been lost gambling. The mitigating factors were the guilty plea, her mental issues which the court found could have contributed to her inability to make good decisions, she expressed remorse and apologized to her victims, and she did not breach her bail conditions. The sentence imposed was a conditional sentence of 18 months to be followed by three years' probation.

[88] I again observe that the mitigating factors in *Gasparetto* are not present here.

[89] *R. v. Habib* is a case involving the appropriate sentence for gun possession charges. It was referred to me for the proposition that sentencing judges must give serious and sufficient consideration to family separation consequences when determining the length of a prison term, particularly at paras. 44 and 48. I accept this as a proposition, but fail to see the relevance here. The defendant does not live with or support her sons.

Uttering Forged Documents

[90] The parties provided me with no authorities that meaningfully addressed a range of sentences for the offences under Count 3 and 5 of using or uttering a forged document. I presume this is because they assumed any sentence under these counts would be concurrent with the related fraud charge.

Discussion of Authorities

[91] From the foregoing authorities, I extract the following general observations:

- 1) First, denunciation and deterrence are the primary considerations for these types of offences, but cannot overwhelm the other objectives of sentencing.
- 2) Second, the range of sentences for fraud, particularly welfare fraud, is broad and depends on a number of factors, including the amount of the fraud, the degree of premeditation, the duration of the fraud, and the defendant's motivation.
- 3) Based on the authorities, the range for welfare fraud is very roughly from three months to 18 months.
- 4) Conditional sentences are available for welfare fraud, but are very dependent upon the amount of the fraud and the particular circumstances of the offence and the offender.

[92] I also make two additional observations. First, the total amount of money fraudulently obtained by the defendant in this matter is significantly more than in any of the welfare fraud cases to which I have been referred. Second, the duration of the frauds in this matter is significantly longer than in any of the cases to which I have been referred.

Discussion

[93] I now turn to the application of the various principles and factors to the circumstances of this case.

[94] The defendant has defrauded the Ministry of slightly over \$350,000 over a combined period of 17 years. The frauds were of three different types: one was related to transportation costs; three were related to improperly claimed moving expenses; and the largest involved the defendant fraudulently misrepresenting her entitlement to benefits by not disclosing her relationship with Mr. Johnson. Further, in support of her fraudulent activities, she submitted forged documents to the Ministry.

Aggravating Factors

[95] There are several aggravating factors that I take into account.

[96] First, the quantum of the amounts defrauded is aggravating. While the amounts under Counts 2 and 6 are less than \$10,000 each, the amounts under Counts 1 and 7 are significant, being \$72,000 and approximately \$261,000. The combined amount of \$351,000 is, by any measure, significant and aggravating. As noted, the amount appears to be unprecedented when viewed against other welfare fraud cases.

[97] Second, the duration of the frauds also appears to be unprecedented when viewed against other welfare fraud cases. The transportation fraud under Count 1 occurred over a seven-year period. The entitlement fraud under Count 7 occurred over 17 years. The defendant had many opportunities to desist her fraudulent schemes but did not do so. The fact that the fraudulent activity under Counts 1 and 7 occurred over lengthy periods of time is aggravating.

[98] Third, the fact that the victim of the fraudulent activity is the Ministry, a welfare-type agency, is an aggravating factor. The courts have rightly and repeatedly noted that the effect of such frauds is to divert money away from those in need.

[99] Relatedly, the fourth aggravating factor is that the Ministry must, of necessity, rely on and have trust in the honesty of its clients. Without such trust and honesty, the welfare system simply cannot function to provide the necessary assistance to persons in need. The defendant abused the trust imposed on her to be honest in her dealings with the Ministry.

- [100] Fifth, the offences disclose a relatively high level of planning and deliberation. This is evidenced first by the fact that three different modes of fraudulent activity were engaged in: namely, in relation to transportation expenses, in relation to moving expenses, and in relation to entitlement to benefits. Second, the use of forged documents in conjunction with the moving expense frauds under Counts 2 and 4 denotes both planning and deliberation.
- [101] Finally, the fact that the defendant involved her sisters in the frauds committed under at least Count 1, if not Counts 4, 5, and 6, is an aggravating factor. The evidence at trial and during the sentencing hearing is to the effect that the sisters were not just physically disabled, but also mentally and cognitively challenged. They were clearly totally dependent and reliant on the defendant. The defendant abused this position by involving them in the frauds committed.

Mitigating Factors

- [102] The defendant has submitted that there are several mitigating factors I must take into account. I agree with some but not all. The absence of a criminal record is a mitigating factor, as is the defendant's devotion and dedication to the care of her sisters. I have some difficulty with the other mitigating factors urged on me, expressly or implicitly, by the defendant.
- [103] The defendant suggests that the defendant has strong supports in the community. I do not agree. The presentence report indicates that she has minimal supports other than her two sons, one of whom lives in Nevada. Dr. Walton also noted in her report that the defendant described herself as socially isolated.
- [104] The defence suggests the defendant has attended counselling and will attend whatever counselling is ordered. However, the counselling she has attended has been minimal and appears to me to be more related to the anxiety and stress she is experiencing as a result of these criminal proceedings. There is no evidence she has attended any counselling to address the factors that may have caused her to commit the offences.
- [105] The defence points out the defendant had an abusive marriage with Mr. Green. That may be so, but her marriage to Mr. Green had ended long before the events giving rise to these offences.
- [106] The defence suggests that the defendant suffers from various health issues and injuries, including chronic back pain. Again, that may be so, but an offender's health is rarely relevant and generally should not be considered a basis for deducting time from an otherwise appropriate sentence: *R. v. Potts*, 2011 BCCA 9 at para. 85. I do not consider her health issues to be mitigating.

- [107] The defence suggests that the defendant was not motivated by greed in the commission of the offences and that this is a mitigating factor. I accept that motive is relevant, but do not accept the defendant was not motivated by greed. The defendant's motivation was to extract money from the Ministry for herself or her sisters to which they were not entitled. Her motivation was greed.
- [108] The defence suggests that the defendant suffered from a mental disorder that was instrumental in the commission of the offences. More specifically, the defence submits that Dr. Walton diagnosed the defendant as having adjustment disorder with anxious distress and a narcissistic personality disorder. The defence says these disorders impaired her ability to understand her offences or to express remorse. In my view, the defence misreads or reads too much into Dr. Walton's report. First, a careful reading of the report discloses that the adjustment disorder with anxious distress stems from the sequelae of this criminal proceeding and did not play a role in her commission of the offences. Second, Dr. Walton did not diagnose the defendant as having a narcissistic personality disorder. She diagnosed her as having personality traits that include features of narcissistic personality disorder. Finally, Dr. Walton did not link a mental disorder to the commission of the offences. In fact, she wrote, "Ms. White does not suffer from a major mental disorder that could perpetuate risk of recidivism", suggesting mental disorders were not causative of her committing offences.

Consecutive or Concurrent

- [109] As indicated, concurrent sentences are generally appropriate where the acts constituting the offences are part of a linked series of acts within a single endeavour. In my view, this test is met only in relation to Counts 2 and 3, and separately in relation to Counts 4 and 5. There was a single endeavour or purpose in relation to Counts 2 and 3, and separately in relation to Counts 4 and 5. The endeavour or purpose was to extract money from the Ministry for moving expenses. That purpose was achieved through making fraudulent representations and using a forged document.
- [110] Therefore, the sentences I will be imposing under Count 3 will be concurrent with that under Count 2, and the sentence to be imposed under Count 5 will be concurrent with that to be imposed under Count 4.
- [111] The sentences to be imposed on all other counts of the indictment are to be consecutive. This is so because the various frauds are in relation to different types of benefits, transportation expenses, moving expenses, or general entitlement to benefits, involved different representations or omissions, and involved different timeframes.

Availability of Conditional Sentence

- [112] Now, as part of the process of determining a fit and proper sentence, I must consider whether a conditional sentence is appropriate, as is urged on me by the defence. I have given very careful consideration to the availability of a conditional sentence and to s. 718.2(e) of the Criminal Code.
- [113] However, in my view, a conditional sentence would not be a fit and proper sentence for several reasons.
- [114] First, in my view, in the circumstances of this case, where there are multiple incidents of welfare fraud occurring over a lengthy period of time and involving, in total, a large sum of money, the objectives of denunciation and deterrence demand a period of incarceration in an institution. Although I appreciate that these objectives cannot overwhelm the other objectives of sentencing, in the particular circumstances of these offences and this offender, denunciation and deterrence as objectives loom very large.
- [115] Second, and relatedly, I am of the view that the defendant's moral culpability is extremely high. Her lack of criminal record and her reputation in the community, as disclosed by the many support letters, does not negate or significantly diminish this high moral culpability.
- [116] Third, I am not satisfied that a sentence served in the community would not endanger the safety of the community. The defendant continues to deny her commission of the offences and has not expressed any remorse for what she has done. She has absolutely no insight into her crimes and to the damages they have caused. As Dr. Walton wrote:
- ... she feels entitled to special treatment, including special compensation from the government.
- [117] I hasten to add that I do not consider these factors to be aggravating. Indeed, it would be inappropriate to do so. However, they are a relevant consideration in determining if a conditional sentence order is appropriate.
- [118] Finally, and most importantly in my view, given the number of offences, the total amount of the fraud, and the lengthy period of time over which the frauds occurred, and the importance of denunciation and deterrence as sentencing objectives, a fit and proper sentence in this case demands a term of incarceration exceeding in total two years' imprisonment. A CSO or conditional sentence order is therefore unavailable.

Imposition of Sentence

- [119] Ms. White, please stand.
- [120] On Count 1 of the indictment, I sentence you to nine months' imprisonment.
- [121] On Count 2 of the indictment, I sentence you to three months' imprisonment to be served consecutively with Count 1.

- [122] On Count 3 of the indictment, I sentence you to three months' imprisonment to be served concurrently with Count 2 and consecutively with Count 1.
- [123] On Count 4 of the indictment, attempted fraud, I sentence you to three months' imprisonment to be served consecutively with Counts 1 to 3.
- [124] On Count 5 of the indictment, I sentence you to three months' imprisonment to be served concurrently with Count 4, but consecutively with Counts 1 to 3.
- [125] On Count 6 of the indictment, I sentence you to three months' imprisonment to be served consecutively with Counts 1 to 5.
- [126] On Count 7 of the indictment, I sentence you to 18 months' imprisonment to be served consecutively with Counts 1 to 6.

Totality Principle Considerations

- [127] Given that I have imposed consecutive sentences on multiple counts, I must assess whether the resulting sentence of 36 months or three years is unduly harsh or disproportionate.
- [128] The Crown has proposed an overall sentence of 2.5 years. Frankly, I consider that the Crown's position is quite generous to the accused. However, given the Crown's position and taking into account the defendant's age, I reduce the overall sentence to 2.5 years.
- [129] You may sit, Ms. White.

Ancillary Orders

- [130] The Crown also seeks an order pursuant to s. 380.2 of the Criminal Code. I do not understand the defendant to oppose such an order. Therefore, Ms. White is prohibited from becoming or being a volunteer in any capacity that involves having authority over the real property, money, or valuable security of another person for a period of 15 years.
- [131] The Crown also seeks a restitution order in the amount of \$351,538.99 payable forthwith to the B.C. Ministry of Finance in Right of His Majesty the King. The defence does not oppose such an order, but submits that it should be in the amount of \$150,000.
- [132] Restitution orders are governed by ss. 737.1 to 741.2 of the Criminal Code. Pursuant to s. 738(1)(a), a restitution order may be made up to the value of the property lost. In this case, that is the amount requested by the Crown.
- [133] Pursuant to s. 739.1 of the Criminal Code, the offender's financial means or ability to pay does not prevent the court from making a restitution order. Although the defence says a restitution order in the amount sought by the Crown will bankrupt the defendant, I do not accept this. The very nature of the offences of which she has been convicted means that her assets are hidden and her financial means is unclear.
- [134] In my view, this is an appropriate case to make the restitution order sought.

- [135] Therefore, I order that the defendant is to make restitution in the amount of \$351,538.98 to the B.C. Ministry of Finance in Right of His Majesty the King on or before April 17, 2026.
- [136] Anything else, counsel?
- [137] CNSL M. PATTERSON: Not from me, Justice.
- [138] CNSL C. LO: No, thank you, Justice. And just for clarity, I heard on Count 7, I heard 18 months -- sorry, eight months. I understand from the math, it should be 18, correct?
- [139] THE COURT: Eighteen months, I said, on Count 7.
- [140] CNSL C. LO: Yes, thank you.
- [141] THE COURT: You may have heard eight. I am pretty sure I said 18 months.
- [142] CNSL C. LO: And -- and certainly when you said three years at the end, that was the math, so I just wanted to make sure.
- [143] THE COURT: No, no, I --
- [144] CNSL M. PATTERSON: And just for -- for clarity, for totality purpose, the total sentence is two and a half years.
- [145] THE COURT: The total sentence is 2.5 years.
- [146] CNSL M. PATTERSON: And Justice, again for clarity, the restitution order is a standalone order?
- [147] THE COURT: Yes, it is.
- [148] CNSL M. PATTERSON: Okay, thank you.
- [149] CNSL C. LO: Thank you, Justice, I have nothing further, thank you.
- [150] THE COURT: All right, thank you, we are concluded.

"Giaschi J."

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