COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *R. v. Attachie,*
2025 BCCA 183

Date: 20250610
Docket: CA50118

Between:

Rex

Respondent

And

Adrian James Attachie

Appellant

Before: The Honourable Mr. Justice Abrioux
The Honourable Madam Justice Horsman
The Honourable Justice Fleming

On appeal from: An order of the Provincial Court of British Columbia, dated July 30, 2024 (sentence) (*R. v. Attachie*, Fort St. John Docket 38312-3-C).

Counsel for the Appellant, (via videoconference):	S.J. Runyon
Counsel for the Respondent:	M.G. Scott
Place and Date of Hearing:	Vancouver, British Columbia February 4, 2025
Written Submissions Received:	May 28, 2025
Place and Date of Judgment:	Vancouver, British Columbia June 10, 2025

Written Reasons by:
The Honourable Justice Fleming

Concurred in by:
The Honourable Mr. Justice Abrioux
The Honourable Madam Justice Horsman

Summary:

The appellant appeals a total sentence of 36 months' imprisonment, less credit for time served, arising from guilty pleas to using an imitation firearm in the commission of the indictable offence of forced entry. The appellant submits the sentencing judge made a number of errors in principle that included erroneous consideration of or giving little or no weight to his guilty pleas as a mitigating factor, in circumstances that demonstrated they were significantly mitigating.

Held: Leave to appeal granted and appeal allowed. The sentencing judge erred in principle and the error had a material impact on the sentence. Sentencing afresh resulted in a total sentence of 22 months' imprisonment, less credit for time served, followed by a 12-month probation order.

Reasons for Judgment of the Honourable Justice Fleming:

[1] Mr. Attachie pleaded guilty to using an imitation firearm in the commission of an indictable offence, which was forcible entry on the real property of the victim, contrary to ss. 85(2) and 72(1) of the *Criminal Code*, R.S.C. 1985, c. C-46 (the "Offences"). He appeals the global sentence of 36 months in prison that was imposed.

[2] Mr. Attachie asserts the sentencing judge made several errors in principle that impacted the sentence. The alleged errors include: imposing a harsher sentence than that proposed by the Crown without notice to the parties; failing to abide by s. 726 of the *Criminal Code*, which required him to ask Mr. Attachie if he had anything to say before determining the sentence; improperly considering the impact of a poor police investigation; and erroneous consideration of, or giving little or no weight to, his guilty pleas as a mitigating factor.

[3] For the reasons that follow, I would grant leave to appeal, allow the appeal and after sentencing afresh, impose a global sentence of 22 months' imprisonment followed by a 12 month probation order.

Overview

[4] Mr. Attachie committed the Offences on January 19, 2024, while he was subject to a firearms prohibition order and a 24-month probation order that prohibited him from possessing weapons. He also had a substantial criminal record that included, most significantly, a number of convictions for violent and firearms offences.

[5] Arrested for the Offences on January 21, 2024, Mr. Attachie remained in custody pending a trial in the Provincial Court that was scheduled to start on July 9, 2024.

[6] On that day, Mr. Attachie pleaded guilty to the s. 85(2) offence and the sentencing hearing immediately followed.

Sentencing Proceedings

[7] At the hearing, the Crown proposed an additional six to 12 months' incarceration (plus credit for time served) or an effective sentence of 13 to 19 months in prison. Defence counsel sought a sentence of time served and a two-year probation order focused on treatment and counselling.

[8] The evidence at the hearing included: a document containing what Crown counsel explained were agreed facts or admissions regarding the circumstances of the offence ("Agreed Facts"); Mr. Attachie's criminal record; a robust *Gladue* report dated February 2, 2022 that was prepared for a previous sentencing; and a victim impact statement dated June 28, 2024.

[9] Written in narrative form, the Agreed Facts describe the victim's statement to police, made after officers attended his home in response to his mother's request for a wellness check. The Agreed Facts specify the victim had told her not to send police because he was concerned about retribution. The account of his statement includes:

- The victim and Mr. Attachie knew each other.
- Mr. Attachie had been at the victim's home the night before and returned that morning with two masked men.
- After they knocked, the victim opened the door and they confronted him, which caused him to retreat to his bedroom.
- Mr. Attachie and the two men confronted the victim again in his bedroom. During the second confrontation, Mr. Attachie pulled his pants down, which the victim interpreted as a demand for oral sex. The victim refused and Mr. Attachie pointed a weapon at his chest that looked like a real rifle.
- The victim managed to knock the weapon away and put Mr. Attachie into a headlock.

- At that point the masked men presented what looked like another firearm and told the victim to release Mr. Attachie, so he did.

- Mr. Attachie punched the victim twice in the face and put him into a headlock for a short time.

- After releasing the victim, Mr. Attachie looked through and took cash from two purses in the residence. He also took a bag belonging to the victim that contained various business documents.

- While leaving the residence, Mr. Attachie told the victim he would return "with a '50 Cal'", which the victim believed was a firearm.

[10] The Agreed Facts also address a statement from Vandy Ludwig, a friend of the victim, who was at his home during the incident. She told police she saw Mr. Attachie there the previous evening and in the morning with two masked men. Ms. Ludwig was in the shower during the bedroom confrontation, but observed injuries to the victim's face when she came out of the bathroom. She also stated that about $380 was taken from her purse.

[11] A further fact in the Agreed Facts was that one of the police officers observed some injuries to the victim's face.

[12] The *Gladue* report identified Mr. Attachie as a member of the Blueberry River First Nation, with ties to the Doig River First Nation. He disclosed to the report writer what she aptly referred to as a "long and significant relationship with trauma". The report describes Mr. Attachie's childhood and youth as marked by poverty; sexual, physical and other abuse; family and community violence; pervasive substance abuse; terrible instability and loss; and a lack of education.

[13] When Mr. Attachie was 15, his father was murdered. Both Mr. Attachie and his mother, who also spoke to the report writer, discussed his substance abuse, which started around this same age, and serious mental health difficulties involving self-harm and suicide attempts. Mr. Attachie recounted being sober from 2013 to

2017, but then relapsing to daily misuse of alcohol and illicit drugs including crack cocaine, crystal methamphetamine and heroin. His heroin misuse had resulted in many overdoses.

[14] Mr. Attachie spoke to the report writer about the connection between his childhood experiences, substance abuse, mental health struggles and involvement with the criminal justice system. The father of four children, Mr. Attachie also indicated his contact with them was limited by his addictions.

[15] The report writer described Mr. Attachie as disconnected from the history and traditional practices of his First Nation(s), although he had mostly lived “on reserve”.

[16] In his victim impact statement, the victim said he experienced significant emotional and psychological effects from the Offences, as well as a number of circumstances that happened after the Offences, which Crown counsel underscored were not attributable to Mr. Attachie. Those other circumstances included the victim’s windows being smashed, and threats and harassment that involved people telling him he was a “rat” for speaking to police. The victim indicated he was afraid to leave his home unattended, he feared for the safety of his children and pets, and he was even afraid of being harmed or killed himself. He also wrote about feeling angry and depressed in part because people thought he was “gay” because of “what happened”.

[17] Central to Crown counsel’s submissions was the importance of Mr. Attachie’s guilty plea, referring to it as “significantly mitigating” and “very significant”, based on the state of the Crown’s case. He submitted for example:

> I need to emphasize that it is a significant mitigating factor on this case that Mr. Attachie has come forward. It’s trial day but one of the issues was how cooperative [the victim] would be. He has his own issues and he was prepared to come to court but how he would have presented and with his background … was going to be an issue.
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> …
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> … as I’d said before, a very significant factor is the guilty plea and I really need to emphasize that because had we run a trial today, we don’t know what the outcome would have been. [The victim] would have given evidence,

> but there's also that secondary jeopardy, as I mentioned, within his community about being named a rat, someone who came forward to court...
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> …
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> So within that community, coming forward to tell the police is a significant factor for him …

[18] In other words, the Crown was concerned about both the victim's willingness to testify and his credibility.

[19] Crown counsel also described the case as factually complex and informed the Court he had lost contact with Ms. Ludwig "recently". He added "she didn't really see the violence", although she could corroborate Mr. Attachie was in the residence with "two individuals". The sentencing judge interjected, "with two masked individuals" and "she lost money from her purse". Crown counsel pointed out these facts were admitted by Mr. Attachie and reiterated "it's a more difficult case factually".

[20] Defence counsel's submissions also emphasized the guilty plea was a strong mitigating factor based on the same circumstances — a vulnerable Crown case involving vulnerable witnesses and a "very complex trial". Further, she highlighted Mr. Attachie's "acceptance of responsibility" as reflected by the plea in these circumstances.

[21] During her submissions, the judge acknowledged: "It would have been a challenge I understand for the Crown to make out its case". Defence counsel responded: "Yes. Unfortunately all individuals involved in this matter are involved in the criminal subculture of Fort St. John". She went on to identify specific credibility issues for the victim and the witness before emphasizing Mr. Attachie's admissions had saved "a very complex trial", the Crown a "lot of trouble" and the "complainants a lot of discomfort in the courtroom".

[22] Addressing also a "minimalist" police investigation, defence counsel told the Court the victim's allegations had actually not been investigated at all, including no follow-up on who the two masked men were.

[23] The judge responded:

> … I think I've made this comment recently in court … I'll take your word because I haven't seen any evidence of the investigation. Previously I'd seen evidence of a lack of investigation where another victim who is perhaps known to police, would not be a sympathetic complainant, very similarly situated to [the victim] and almost no police investigation … if that is the state of police investigations of the vulnerable population in Fort St. John or the Peace region, something publicly should be said and done. Because it's incredibly disappointing, if the police can't protect our most vulnerable, then who could be protected.

[24] Regarding the late timing of the guilty plea, defence counsel explained the parties had been in discussions for some time working toward a resolution, and the Crown had spoken with or involved the victim, as indicated by his victim impact statement prepared 11 days earlier.

[25] Both counsel also identified the *Gladue* factors as significantly mitigating.

[26] Related to this, Crown counsel highlighted that Mr. Attachie was "very much in a drug use mode" at the time of the offence and Ms. Ludwig "thought that he was quite intoxicated with narcotics". He suggested that "what Mr. Attachie plans to do with his life now is significant" and if he proposed a plan that removed him from the "drug culture" and that cycle, "then we have some hope for him".

[27] On the issue of a plan, and in support of the two-year probation order Mr. Attachie was proposing, defence counsel informed the judge that he had completed an application for residential treatment to a specified centre that could be accepted as early as the next day. She also said that while Mr. Attachie had spent "a bit" of time in treatment before, he had not been strongly committed and this was "pretty much" the first time that he had been proactive in seeking treatment. Defence counsel attributed Mr. Attachie's initiative to resources at Kamloops Regional Correctional Centre, his desire to see his children, and the impact of the overdose death of a young cousin. Police found Mr. Attachie with his deceased cousin when they arrested him for the Offences. Defence counsel submitted that since then, "[h]e has sat in custody, contemplating how many people he's lost, but those losses did culminate in his loss of [his cousin]".

[28] Unfortunately, neither party provided the judge with any cases in support of their positions on sentence or to assist him in applying the parity principle.

[29] Crown counsel suggested there was “nothing on point” involving “violence of this type”. Highlighting the knock at the front door and the victim’s ability to defend himself at one point during the bedroom confrontation, he described the offence as “somewhat within the home invasion cases” but also “not a home invasion per se”, which typically result in “federal jail” time of two, three or even four years.

[30] The judge voiced some disagreement with Crown counsel’s characterization of the offence as not as serious as a real home invasion or falling only “somewhat within the home invasion cases”. During defence counsel’s submissions, the judge also commented that Mr. Attachie had more recent convictions, which showed “he’s not yet getting it, that violence is unacceptable”.

[31] Before reserving his decision, the judge stated that he needed to review case law to better understand the sentencing range or “at least” give him an idea of where “courts place this”. Crown counsel responded that if he was able to locate some cases, he would forward the citations after consulting with defence counsel.

[32] The date for decision was subsequently scheduled for July 30, 2024.

[33] In the interim, the Court notified the parties that the s. 85(2) offence required a conviction for another indictable offence, citing *R. v. Pringle*, [1989] 1 S.C.R. 1645, 1989 CanLII 65.

[34] As a result, Mr. Attachie pleaded guilty to the forcible entry offence on July 30, 2024. Counsel confirmed there was no change in the parties’ positions on sentence and provided very brief additional submissions, as well as an updated calculation of credit for time served.

[35] The judge delivered his sentencing decision later that day.

Reasons for Sentence

[36] The judge began his oral reasons by outlining the guilty pleas; identifying the maximum penalties for both offences (14 years for the s. 85(2) offence and two-years for the s. 72(1) offence); the previous mandatory minimum of one year's imprisonment for the s. 85(2) offence; the parties' positions; and the time served calculation of 242 days.

[37] The judge outlined the circumstances of the Offences based on the Agreed Facts, although he referred to Mr. Attachie striking the victim's face "several times" and looking through "several purses" (at para. 28) instead of "twice" and "two", respectively.

[38] The judge went on to discuss the harm or trauma to the victim, including his fear of being harmed or killed and leaving his home unattended; damage to his home that he attributed to threats against him for participating in this matter; and "reputational loss", based on the feeling others now challenge his sexual identity due to the circumstances of the Offences and having been labelled a rat: at paras. 31–32.

[39] Turning to Mr. Attachie's circumstances, the judge commented that much of what he knew about him was taken from the *Gladue* report prepared in relation to previous offences. He noted Mr. Attachie did not discuss the specific details of those offences with the report writer, before stating he had, "similarly declined to provide details of why he committed the offences for which he stands to be sentenced today" (at para. 34). The judge then made additional related findings:

> [34] …Aside from the very late guilty plea to these offences, Mr. Attachie has not demonstrated any insight into the trauma he caused to his victim. He has also not expressed any real guilt, remorse, or shame for his actions

[40] After setting out the fundamental sentencing principle of proportionality and some of the secondary sentencing principles, the judge commented that he had not been provided with any case law and cited none himself that would engage the parity principle.

[41] Addressing the objectives of sentencing, the judge identified denunciation and deterrence as primary and rehabilitation as secondary when sentencing for violent crimes, especially where they violate the safety and security of the victim's home.

[42] From there the judge found and discussed seven aggravating factors. The first and second are essentially the same — the significant effect of the Offences on the victim. The judge's discussion under the first factor also included some commentary on the "generally poor investigation"; the Crown's "rather casual approach" to sentencing; and the victim being a vulnerable member of the community who is equally deserving of its protections: at para. 45.

[43] His reasons regarding the other aggravating circumstances included:

- Mr. Attachie's "recent, highly relevant, and concerning criminal record", which demonstrates he considers violence an acceptable means of gaining what he wants and that he has no respect for the right of others to live peacefully in their own residences: at para. 47. It also showed he had only recently completed his last custodial sentence and had previously been sentenced to prison for unlawfully being in a dwelling house and fire-arms related offences.

- Mr. Attachie planned the Offences; he had two masked men with him when he forcibly entered the victim's residence with an imitation firearm, which demonstrated "his resolve to commit the offences and the acts he engaged in": at para. 48.

- Mr. Attachie threatened the victim with the imitation firearm in order to compel him to engage in a sexual act. In doing so he "did not merely brandish the imitation firearm, he pointed it at [the victim's] chest": at para. 49.

- Mr. Attachie was subject to a lifetime firearms prohibition order at the time, thus he committed the Offences knowing the imitation firearm would cause fear and being aware he should not have.

- Confronting and forcing the victim to retreat first from the doorway and then again into his bedroom where Mr. Attachie inflicted violence on him had characteristics of a home invasion and constituted an incredible invasion of the sanctity of not only the victim's home, but his bedroom.

[44] The judge then accepted that the mitigating factors were Mr. Attachie's relative youth at 33 years old; his identity as an Indigenous offender; and his guilty pleas. He specified the "significant" and relevant" *Gladue* factors "mitigated" or reduced his moral culpability to "some degree", but not as significantly as they might have, given the serious and violent circumstances of the Offences.

[45] Addressing the guilty pleas, the judge stated:

> [53] …As I noted, he has demonstrated little, if any, remorse or acceptance of the facts upon which his guilty pleas were entered. Thus, I give minimal weight to this as a sign of his remorse for the damage and the harm he has caused his victim, but he has saved considerable court time and effort.

[46] After that, the judge imposed a 12-month prison sentence for the forcible entry offence and a 24-month prison sentence for the s. 85(2) offence, to be served consecutively as required by s. 85(4) of the *Criminal Code*, less 242 days "enhanced credit". This left 853 days to be served from the effective total sentence of 36 months' imprisonment.

[47] At the end of his reasons, the judge said to Mr. Attachie: "I know this is not the news you were anticipating or hoping for": at para. 112.

Standard of Review

[48] The standard of review on a sentence appeal is deferential. This Court can intervene to vary a sentence only if the sentence is demonstrably unfit or the sentencing judge made an error in principle that had an impact on the sentence: *R. v. Lacasse*, 2015 SCC 64 at paras. 41 and 44.

[49] Errors in principle include: an error of law; a failure to consider a relevant factor; or an erroneous consideration of an aggravating or mitigating factor. The

weighing or balancing of relevant factors can also form an error in principle but "only if by emphasizing one factor or by not giving enough weight to another" the judge exercises their discretion unreasonably: *R. v. Friesen*, 2020 SCC 9 at para. 26, citing *R. v. McKnight* (1999), 135 C.C.C. (3d) 41, 1999 CanLII 3717 (O.N.C.A.) at para. 35. Appellate intervention will be warranted where the impact of the error on the sentence is apparent from the judge's reasons: *Friesen* at para. 26, citing *Lacasse* at para. 44.

Did the judge commit an error in principle that impacted the sentence?

***Nahanee* error**

[50] Mr. Attachie asserts the judge's failure to notify the parties of his intention to impose a harsher sentence was contrary to *R. v. Nahanee*, 2022 SCC 37.

[51] *Nahanee* established that failing to provide notice and the opportunity for further submissions before imposing a sentence that is harsher than the sentence proposed by the Crown is an error in principle: at para. 52.

[52] Addressing the notice requirement, the majority held that notice is not required to take any particular form. The judge must do more than simply asking questions or expressing vague concerns about the parties' sentencing proposals. But it is enough to advise the parties that the sentence proposed by the Crown "appears too lenient, having regard to the seriousness of the offence and/or the degree of responsibility of the accused": at para. 45.

[53] Mr. Attachie submits the judge did precisely what the majority identified was insufficient — questioning and expressing imprecise concerns about the parties' positions. The Crown does not dispute that the judge failed to provide adequate notice.

[54] The majority in *Nahanee* identified three types of errors in principle where failing to provide notice would warrant appellate intervention (at para. 59):

i. the failure prevented the defendant from providing further information that would have impacted the sentence;

ii. the sentencing judge failed to provide reasons for imposing the harsher sentence; thereby foreclosing meaningful appellate review; or

iii. the sentencing judge provided erroneous reasons for imposing the harsher sentence.

[55] Mr. Attachie does not suggest he would have made additional submissions had notice been provided, which *Nahanee* requires to establish the first type of error. Instead he argues the judge provided flawed reasons for imposing the harsher sentence which include his other alleged errors in principle: erroneously considering or failing to give sufficient or any weight to the guilty pleas as a mitigating factor; failing to comply with s. 726 of the *Criminal Code*; and concluding Mr. Attachie should be punished more harshly to compensate for the poor police investigation.

[56] Ultimately, Mr. Attachie identifies the other alleged errors in principle as existing independently of the "*Nahanee* issue". I will consider them in this way.

Effect of poor police investigation

[57] Mr. Attachie makes very brief submissions in support of his allegation the judge erred by imposing a harsher sentence to compensate for the poor police investigation.

[58] The Crown acknowledges the judge's colloquy and reasons suggest he had an ongoing concern that offences committed against persons living "on the fringe of our society" or those "known to engage in illegal activity", which included the victim, were not properly investigated by the local police.

[59] But the Crown disagrees that any of this, or the judge's view regarding its own "rather casual approach" to sentencing, played a role in imposing a harsher sentence.

[60] I would agree with the Crown. As I have indicated, the judge's comments on this issue in the reasons formed part of his discussion of the impact of the Offences on the victim as an aggravating factor(s). Read functionally and contextually, I interpret them as reflecting the judge's emphasis on the harm to the victim, as well as expressing frustration with local law enforcement and Crown counsel's approach to sentencing, which again included not providing him with any case law.

[61] As a result, I am not persuaded the judge's sentence was harsher than the sentence proposed by the Crown to compensate for an inadequate investigation or prosecution. I would not accede to this asserted error.

Failure to comply with s. 726

[62] Section 726 of the *Criminal Code* provides, "[b]efore determining the sentence to be imposed, the court shall ask whether the offender, if present, has anything to say".

[63] The recognized purposes of s. 726 include providing an accused with the opportunity to "personally and publicly express remorse" and reminding the courts and the public that "the accused is a real human being": *R. v. Rigler,* 2013 BCCA 117 at para. 19. Accordingly, the accused's right to address the court before being sentenced is about more than ensuring the court has all the information it needs: *Rigler* at para. 19.

[64] However, appellate intervention will be justified only if a judge's failure to comply with s. 726 is shown to have caused substantial prejudice or resulted in a miscarriage of justice: *R. v. Soranno*, 2024 BCCA 230 at para. 40.

[65] The Crown acknowledges the judge failed to ask Mr. Attachie whether he had anything to say as required by s. 726 of the *Criminal Code*.

[66] The judge also made a related error in finding Mr. Attachie had “declined” to provide “details of why he committed the [O]ffences”: at para. 34.

[67] In brief submissions, Mr. Attachie characterizes the judge’s findings, at para. 34, about his failure to demonstrate or express “real guilt, remorse or shame”; “any insight into the trauma he caused the victim”; or acceptance of the circumstances of the Offences, as inferences drawn from his silence. He argues those inferences then drove the judge’s decision to give limited or no weight to the guilty pleas. Because the judge determined he was not genuinely remorseful in the absence of evidence, Mr. Attachie says he was clearly prejudiced by being denied the opportunity to speak. Exercising his right to do so became the only means by which he could have demonstrated his remorse to “address the assumptions the judge was harbouring”.

[68] While I accept substantial prejudice *could* be made out on this basis, I am not persuaded the s. 726 error *standing alone*, resulted in meaningful prejudice to Mr. Attachie. I say this recognizing there was no evidence dealing specifically with whether he *felt* remorseful or *actually* appreciated the harm he had caused the victim. But Mr. Attachie has not asserted the judge’s findings involve an error in fact. Further, unlike in *Rigler*, Mr. Attachie did not apply to adduce fresh evidence and provide an affidavit setting out what he would have said. Absent an affidavit, or the assertion of a palpable and overriding error, in my view this ground cannot be made out on its own.

Consideration of the guilty pleas as a mitigating factor

[69] The core issue in this appeal involves Mr. Attachie’s assertion the judge’s consideration of his guilty pleas and the resulting decision to give them little or no weight as a mitigating factor, involved an error or errors in principle that impacted the sentence.

Legal Principles

[70] A guilty plea is a recognized mitigating factor: *Friesen* at para. 164. The mitigating effect of a guilty plea will vary depending on the circumstances of the case: *R. v. Daya*, 2007 ONCA 693 at para. 15. As with all mitigating and aggravating circumstances, determining the weight to be given to a guilty plea is within the sentencing judge's discretion: *Lacasse* at para. 78.

[71] Failing to consider a guilty plea as mitigating, and failing to give the guilty plea sufficient weight as a mitigating factor can be errors in principle: *Friesen* at para. 164; *R. v. R.M*., 2019 BCCA 409 at para. 7.

[72] In *Lacasse*, the majority underscored that the decision to weigh a mitigating or aggravating factor in a given way is not in itself a reversible error, unless the weighing is unreasonable: at para. 78.

[73] Even failing to mention a guilty plea as mitigating will not necessarily warrant appellate intervention where the error did not impact the sentence. This was the case in *Friesen* where the offender pled guilty to a particularly egregious sexual offence against a young child and attempted extortion of the child's mother. The Crown's case was overwhelming because the offender's conduct had been audio-recorded. Satisfied the guilty pleas were entitled to less weight in this circumstance, the Court was not convinced that their mitigation advantages were sufficient "such that explicit consideration of the guilty plea would have impacted the sentence": at para. 164.

[74] In *R.M.*, Justice Fenlon, writing for this Court, reviewed and distilled the principles underlying the treatment of a guilty plea as mitigating:

> [6] …There are two main reasons that a guilty plea is, in general, treated as justifying a discount from the sentence that otherwise would have been imposed. First, a guilty plea demonstrates that the accused acknowledges responsibility for his conduct, is generally a sign of remorse, and may be the first step towards rehabilitation: *R. v. Kreutziger*, 2005 BCCA 231 at para. 10; *R. v. Edgar*, 2010 ONCA 529 at para. 111; *R. v. Gaya*, 2010 ONSC 434 at para. 51. Second, a guilty plea saves court resources and spares the victim and other witnesses the difficult experience of testifying about often

> traumatic events: *R. v. Johnston and Tremayne*, [1970] 2 O.R. 780 at 783 (C.A.) citing *R. v. de Haan*, [1967] 3 All E.R. 618 (C.A., Crim. Div.); *Kreutziger* at para. 10.
>
> [7] Although it is an error in principle to fail to give sufficient weight to a guilty plea, there is no rule that a sentencing judge must give the same effect to every such plea. The sentencing exercise is not formulaic. It does not involve simply ticking off mitigating and aggravating factor boxes without considering the circumstances of the case. That this is so is evident from even a brief sampling of cases.
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> [8] In *R. v. Spiller*, [1969] 4 C.C.C. 211 at 214–215 (B.C.C.A.), this Court observed that the rehabilitative rationale for treating a guilty plea as a mitigating factor will not apply with equal force in all cases. A guilty plea will not always reflect remorse; where the Crown's case is strong and the accused is inescapably caught, a guilty plea may be the only reasonable option left open to an offender.

[75] Addressing the weighing of a guilty plea as a mitigating factor, Fenlon J.A. held it was open to a judge to give little, or even no credit, to a guilty plea where the circumstances do not accord with the *principled bases* for reducing a sentence based on the plea: at para. 12. In other words, she highlighted the connection between giving sufficient weight to a guilty plea and considering the circumstances that are material to its mitigating force.

[76] In *R. v. Martineau*, 2021 ABCA 401, the Alberta Court of Appeal discussed how particular circumstances typically bear on the mitigating weight of the guilty plea, in light of the principled bases identified in *R.M*. The Court identified a guilty plea in the face of a weak Crown case as "especially mitigating": at para. 28. Noting however, that every guilty plea involves the waiver of the most fundamental right of an accused to a fair trial, *Martineau* also emphasized that guilty pleas are essential to the proper functioning of the criminal justice system. The Court cautioned against creating a disincentive for an accused to enter a guilty plea and taking responsibility for their action by negating its mitigating effect (citing: *R. v. S.L.W.*, 2018 ABCA 235 at paras. 32–34).

[77] I turn briefly to the particular role of remorse. Remorse is a mitigating factor on its own. It is also a mitigating feature of guilty pleas. As indicated in *R.M.*, generally speaking, a guilty plea is viewed as demonstrating the accused's

acknowledgment of responsibility for their conduct and as a sign of remorse. In some circumstances, such as an overwhelming Crown case, this may not be the case. In *Friesen,* where the offender's conviction was almost inevitable but he had expressed remorse, the Court observed that remorse gains significance when "it is paired with insight and signs that the offender has 'come to realize the gravity of the conduct'": at para. 165. The sentencing judge had found the offender's insight into his sexual offending was "non-existent" and the risk he posed was "frightening": at para. 165. As a result, the Court did not accept that the judge had erred in principle by failing to mention the offender's expression of remorse.

Parties' Positions

[78] Echoing the views expressed in *Martineau*, Mr. Attachie argues the judge's sentencing decision creates a strong disincentive by failing to give significant or any weight to his guilty pleas. He asserts the judge's approach sends the wrong message that making comprehensive admissions and pleading guilty is not enough to receive a discount from the sentence that would otherwise be imposed. In asserting the judge erred in principle, Mr. Attachie relies most significantly on what he identifies as the failure to consider and give effect to both parties' common submission that the guilty pleas were significantly or very mitigating given, most importantly, the frailties in the Crown's case. Mr. Attachie also suggests the judge's error in giving minimal or no weight to the guilty pleas also resulted from another error in principle, that is, considering what he found to be a lack of express remorse etc. as an aggravating factor. Ultimately though, Mr. Attachie submits the judge erred in principle by ignoring the mitigating features of the guilty pleas and the Agreed Facts, which resulted in the guilty pleas being given very little or no weight.

[79] The Crown characterizes the alleged error as confined to the judge's discretionary weighing of the guilty pleas as a relevant (mitigating) factor. Having accepted the guilty pleas were mitigating, the Crown argues, it was open to the judge to weigh them how he did. In describing that process, the Crown submits the judge placed "limited weight" on the "very late" pleas as a sign of remorse while recognizing they saved "considerable court time and effort", and finding that "aside

from the pleas" Mr. Attachie had not demonstrated any insight or remorse. The Crown emphasizes the resolution came late in the process, and timing can be a significant consideration, in terms of the degree to which a guilty plea indicates "real remorse".

[80] Before proceeding further, it is necessary to clarify the weight the judge ascribed to the guilty pleas as a mitigating factor. Neither the Crown's submissions nor the reasons on their face are clear on this point.

[81] Reading the reasons functionally and contextually, I find the judge gave minimal mitigating weight to the guilty pleas. In setting out his conclusion regarding the guilty pleas as a mitigating factor, he stated in part: "Thus, I give minimal weight to this as a sign of [Mr. Attachie's] remorse for the damage and the harm he has caused his victim, but he has saved considerable court time and effort": at para. 53 (emphasis added). Clearly, "this" means the guilty pleas. Although the judge expressly gave them minimal weight as a means of demonstrating remorse, there is no other qualifying language in the reasons regarding the guilty pleas as a mitigating factor. Further, apart from the savings in court resources, the only other circumstance he referred to was the "very late" timing of the pleas, which also aligns with giving them minimal weight.

[82] I recognize the judge could have implicitly given weight to additional circumstances of the pleas. This is not my view of his silence regarding circumstances that would strengthen the mitigating force of the guilty pleas, including most significantly, the parties' submissions regarding the uncertain or fragile Crown case. As I have indicated, the judge acknowledged the thrust of the submission during the hearing itself. But it would make little sense to conclude the judge implicitly accepted the shared view of the parties regarding the significant risks for the Crown in proceeding to trial, when what he did say in his reasons points in the other direction. The same logic applies to other unmentioned circumstances, namely that the "very late" guilty pleas resulted from resolution discussions before the start of the trial that involved the victim, and spared him and Ms. Ludwig, both

vulnerable witnesses, the difficult experience of testifying in court. Interpreting the judge's view of the pleas as deserving little credit also accords with the emphasis in the reasons on the harm to the victim, the seriousness of the Offences and the aggravating circumstances.

[83] Having concluded the judge gave minimal weight to the guilty pleas as a mitigating factor, it is also my view that he erred in principle by engaging in an unreasonable weighing of the pleas as a mitigating factor resulting from an erroneous approach to some of the circumstances of the pleas.

[84] I begin by agreeing with the Court in *Martineau* that a guilty plea in the face of a weak Crown case is, or at least most often will be, especially mitigating. The reason for this strikes me as obvious. Clearly the import of the waiver of the constitutional right to a fair trial and the normative force of the acknowledgement of responsibility for the admitted conduct reflected by a guilty plea are significantly enhanced where the prospect of a criminal conviction is reduced.

[85] On my interpretation of the reasons, in giving the guilty pleas minimal mitigating weight, the judge considered and weighed the "very late" timing of the guilty pleas, the saved court resources and their much-reduced reflection of remorse and acknowledgment of responsibility. Regarding this last circumstance, the judge also emphasized his findings that Mr. Attachie had not demonstrated or expressed any remorse and acknowledgment. At the same time, the judge did not give weight to the other circumstances I have identified: the parties' common submission and shared view of the Crown case; the pre-trial resolution as it relates to the timing of the pleas; or sparing vulnerable witnesses from testifying.

[86] I see the error in principle as grounded in the judge's apparent refusal to accept or consider the first of the other circumstances — the parties' common submission about the particular strength of the guilty pleas as a mitigating factor, rooted in the precarious state of the Crown's case. I say this for a number of reasons. A fragile Crown's case is a fundamentally important circumstance of the pleas, if not the most fundamentally important. Again, the parties described the

Crown's case as factually complex, dependent on vulnerable, unreliable witnesses, and there had been essentially no police investigation into the victim's allegations apart from the taking of the statements captured by the Agreed Facts.

[87] Further, the parties' common submission and shared view were just that and the result of pre-trial resolution discussions. In *R. v. Anthony-Cook*, 2016 SCC 43, the Court unanimously established a stringent threshold for rejecting a joint submission on sentence, recognizing the essential role of resolution discussions and Crown and defence counsel as well placed to arrive at a joint submission that serves the interests of both the public and the accused (para. 44). Justice Moldaver further explained:

> [44] … As a rule, they will be highly knowledgeable about the circumstances of the offender and the offence and the strengths and weaknesses of their respective positions. The Crown is charged with representing the community's interest in seeing that justice is done (*R. v. Power*, [1994] 1 S.C.R. 601, at p. 616). Defence counsel is required to act in the accused's best interests, which includes ensuring that the accused's plea is voluntary and informed (see, for example, Law Society of British Columbia, *Code of Professional Conduct for British Columbia* (online), rule 5.1-8). And both counsel are bound professionally and ethically not to mislead the court (*ibid.*, rule 2.1-2(c)). In short, they are entirely capable of arriving at resolutions that are fair and consistent with the public interest (Martin Committee Report, at p. 287).

[88] Justice Moldaver also opined the greater the benefits obtained by the Crown, and the more concessions made by the accused, the more likely it is that the trial judge should accept the joint submission, even though it may appear to be unduly lenient: at para. 53. In providing guidance to trial judges, he stipulated that where a judge is not satisfied with the proposed joint sentence, fundamental fairness dictates that counsel are to be notified of the concerns and invited to provide further submissions including about the possibility of allowing the withdrawal of the plea: at para. 58.

[89] While I do not suggest the parties' common submission with respect to the guilty pleas as a mitigating factor is the same as a joint proposed sentence, in my view, the basis for recognizing and adhering to joint submissions apply here. Crown

counsel and defence counsel were just as well poised to know about the circumstances of the Offences and the strengths and weakness of their respective cases, in making the fairly detailed submissions they did regarding the weight to be given to Mr. Attachie's guilty pleas and their view of the Crown's case. While the judge was not obligated to accept those submissions, he was obligated to give them careful consideration and, if not to provide counsel with notice that he disagreed before imposing the sentences, then to at the very least explain why he disagreed. His reasons do not reveal an explanation.

[90] Nor can I discern one from a review of the record. Although Ms. Ludwig and the victim were present in court and available to testify, the parties' submissions regarding their credibility and reliability accounted for that circumstance. Further, the Crown had a particular concern about how cooperative the victim would be in giving evidence. This concern accords with aspects of the Agreed Facts and his victim impact statement. Those documents indicate the victim did not want the Offences reported to police and the harm he experienced from threats and harassment after the Offences related to being labelled a rat and "coming forward to the Court".

[91] Absent any explanation or a discernable basis for concluding the judge could have properly considered and rejected the parties' view of the Crown's case, which they submitted made the pleas significantly mitigating, I conclude his decision to give minimal weight to the guilty pleas was unreasonable.

[92] I am reinforced in my view by the Agreed Facts that accompanied the guilty pleas and was a feature of the parties' common submission. Admissions may be mitigating on their own for the same reasons as a guilty plea — they save court resources and spare witnesses from being required to testify. Here the admissions extended beyond the facts necessary to make out the elements of the Offences. Consequently, not only did Mr. Attachie plead guilty to charges he may very well have been acquitted of, he admitted to significant aggravating factors in addition to the facts necessary to establish the Offences.

[93] This also leads me to conclude that the judge's approach to the question of remorse and acknowledgment of responsibility was tainted by the error in principle. Recognizing his findings about what Mr. Attachie failed to demonstrate or express have not been impugned as a factual error, my point is a different one. In assigning limited weight to the guilty pleas, again the judge considered only the "very late" timing of the guilty pleas and the savings in court resources as well as their much reduced reflection of remorse and acknowledgement of responsibility, which flowed from his findings. He did not consider or accept the common submission that the guilty pleas, and the particularly consequential Agreed Facts that accompanied them, should be seen as significantly mitigating in light of the vulnerable Crown case. Because the judge did not consider this important context, his analysis failed to account for the remorse and acknowledgement of responsibility inherent in Mr. Attachie's guilty pleas. In other words, the unreasonable weighing of the guilty pleas as a mitigating factor included an erroneous consideration of the remorse and acknowledgment of responsibility reflected by the pleas themselves.

[94] Having determined the judge erred in principle, the question becomes whether the error(s) had an impact on the sentence.

[95] While the reasons do not indicate how the judge arrived at the length of the sentences he imposed for the Offences, many things are clear: the objectives of denunciation and deterrence were given primacy because the Offences were violent and violated the safety and security of the victim's home; significant aggravating circumstances were found and considered; and the role of the *Gladue* factors in reducing Mr. Attachie's moral blameworthiness was limited. While the effect of significantly mitigating guilty pleas in reducing the sentence imposed could be less in these circumstances, I am satisfied that giving minimal weight to the pleas impacted the effective sentence.

What is a fit sentence?

[96] Given my conclusion, it is necessary for this Court to determine a fit sentence based on our own analysis: *Friesen* at para. 27. In doing so we apply the principles

of sentencing afresh, deferring to the judge's findings of fact or identification of aggravating or mitigating factors, untainted by the error in principle: *Friesen* at para. 28.

[97] The parties made very brief submissions regarding an appropriate sentence in the event a material error in principle was found. Mr. Attachie simply proposed the sentence of 13 to 19 months in prison (less credit for time served) or an additional six to 12 months sought by Crown counsel at the sentencing hearing. The Crown defended the original sentence.

[98] While it is unnecessary to review all of the objectives and principles of sentencing, two interrelated aspects of the legal framework warrant some discussion: moral blameworthiness or culpability — the second component of proportionality — and *Gladue* principles or factors.

Proportionality and *Gladue* principles

[99] The fundamental principle of sentencing, proportionality, requires a sentence that is proportionate to the gravity of the offence and the degree of responsibility of the offender: s. 718.1 of the *Criminal Code*.

[100] As explained in *R. v. Ipeelee*, 2012 SCC 13:

> [37] … Proportionality is the *sine qua non* of a just sanction. First, the principle ensures that a sentence reflects the gravity of the offence. This is closely tied to the objective of denunciation. It promotes justice for victims and ensures public confidence in the justice system.
>
> …
>
> Second, the principle of proportionality ensures that a sentence does not exceed what is appropriate, given the moral blameworthiness of the offender. In this sense, the principle serves a limiting or restraining function and ensures justice for the offender. …

[101] *Gladue* principles flow from s. 718.2(e) of the *Criminal Code*. The provision requires sentencing judges to consider alternatives to imprisonment that are reasonable in the circumstances for all offenders, while paying "particular attention to the circumstances of aboriginal offenders" because those circumstances are

"unique and different from those of non-aboriginal offenders": *R. v. Gladue*, [1999] 1 S.C.R. 688, 1999 CanLII 679 at para. 37.

[102] In *Gladue* and *Ipeelee*, the Supreme Court of Canada made it clear that s. 718.2(e) is remedial and intended to deal with the crisis of over-representation of Indigenous offenders in the criminal justice system. The Court recognized that crisis is driven by the alienation, poverty, substance abuse, lower educational attainment, lower rates of employment and prejudice experienced by Indigenous people, resulting from Canada's colonial history and post-colonial assimilationist policies: *Gladue* at para. 65; *Ipeelee* at paras. 60, 77. In sentencing Indigenous offenders, the judge must consider two factors:

> 1. The unique systemic or background factors that may have played a part in bringing the particular Indigenous offender before the courts; and
> 2. The types of sentencing procedures and sanctions that may be appropriate for the offender in the circumstances given their particular Indigenous heritage or connection.

See *Gladue* at para. 66; *Ipeelee* at para. 59.

[103] The application of s. 718.2(e) and *Gladue* principles may result in a finding of reduced moral blameworthiness, as well as a greater emphasis on rehabilitation and restoration and the imposition of an alternative or reduced sentence: *R. v. Kehoe*, 2023 BCCA 2 at paras. 65–73.

[104] In this case, the judge concluded Mr. Attachie's moral blameworthiness was mitigated *to some degree* by his "significant and relevant" *Gladue* factors, but those factors did not play as a significant a role because the circumstances of the Offences were serious and violent, citing *R. v. Wells*, 2000 SCC 10 at paras. 34–42.

[105] *Gladue* and *Wells* indicated the more violent and serious the offence, the more likely it is as a practical matter that the appropriate sentence or term of imprisonment for an Indigenous and a non-Indigenous offender will not differ, given the goals of denunciation and deterrence are accorded increasing significance: see *Wells* at para. 42.

[106] In *Ipeelee*, however, the Court identified the "irregular and uncertain" application of *Gladue* principles to sentencing decisions for serious or violent offences as one of two errors in the post-*Gladue* jurisprudence that had "significantly curtailed the scope and potential remedial impact" of s. 718.2(e): at paras. 80, 84–87.

[107] *Ipeelee* also explained the relationship between *Gladue* factors and a finding of reduced moral culpability:

> [73] …systemic and background factors may bear on the culpability of the offender, to the extent they shed light on his or her level of moral blameworthiness. … Many Aboriginal offenders find themselves in situations of social and economic deprivation … the reality is their constrained circumstances may diminish their moral culpability. As Greckol J. of the Alberta Court of Queen's Bench stated, at para. 60 of R. v. Skani, 2002 ABQB 1097, 331 A.R. 50, …. "[f]ew mortals could withstand such a childhood and youth without becoming seriously troubled". Failing to take these circumstances into account wold violate the fundamental principle of sentencing – that the sentence must be proportionate to the gravity of the offence *and the degree of responsibility of the offender* …
>
> [Internal references and aspects of the discussion omitted, italics in the original.]

[108] As Justice DeWitt-Van Oosten recently observed in *R. v. Davidson*, 2025 BCCA 111, *Gladue* factors necessarily form part of the offender's personal circumstances and are consequently relevant to the assessment of moral culpability: at para. 76. This is so, whether the offence is serious and violent or not.

[109] In assessing Mr. Attachie's moral culpability or degree of responsibility for the Offences, I bear in mind the relevant aggravating factors related to the Offences identified by the judge. Again, he found Mr. Attachie planned the Offences and knew that using an imitation firearm would cause increased fear in the victim, being subject to lifetime firearms bans at the time.

[110] In my view, Mr. Attachie's significant *Gladue* factors substantially attenuated what otherwise would have been a high degree of moral culpability, given his intention and knowledge. Throughout his upbringing, Mr. Attachie was victimized by all forms of abuse, perpetually exposed to violence and substance abuse, harmed

by many other traumas and profound losses as well as poverty, ongoing instability and a lack of education, resulting in long term, very serious and life-threatening substance misuse and mental health issues. Emblematic of the systemic and background factors that drive the ongoing crisis of Indigenous offenders' over-representation in the criminal justice system, it is clear to me that Mr. Attachie's personal circumstances played a significant role in his offending and bringing him before the court.

Denunciation, deterrence and rehabilitation

[111] While I agree with the judge that denunciation and deterrence are the primary sentencing objectives here given the violence involved in committing the Offences and the violation of the sanctity and security of the victim's home, the proportionality principle serves the restraining or limiting function discussed in *Ipeelee*, as a result of Mr. Attachie's reduced moral culpability. For this reason and given my view of his significantly mitigating guilty pleas, I would also give substantial effect to the objective of rehabilitation. The guilty pleas, given the fragile Crown case and the Agreed Facts, necessarily conveyed meaningful remorse and acknowledgment of responsibility for the Offences. Further, it could not be clearer that Mr. Attachie needs effective treatment and support to address and overcome the sources of his criminal conduct, which in turn would protect his community and the public. Defence counsel's submissions regarding his initiative in applying to a residential treatment program at the time of the sentencing hearing, demonstrated he had taken a positive and necessary first step towards putting himself on that path.

Sentencing Cases

[112] Turning to parity, only the Crown provided sentencing cases dealing with s. 85(2) and other indictable offence convictions: *R. v. Patterson*, 2023 BCCA 386 (31 months' imprisonment); *R. v. Lesko*, 2022 BCSC 2276 (seven years' imprisonment); *R. v. Khudhair*, 2023 BCSC 1175 (five years' imprisonment); *R. v. Campbell*, 2023 BCSC 753 (22 months' imprisonment plus two-year probationary term); and *R. v. Pelly*, 2023 BCPC 7 (two years' imprisonment).

[113] In all but *Patterson* the offences were committed in a “home invasion”. *R. v. A.J.C.; R. v. Joseph*, 2004 BCCA 268 underscored that determining a sentencing range for “home invasion” cases is difficult due to the number and variety of offences which may be involved: at para. 37. There being no single offence of “home invasion”, the Court referred to the term as a “shorthand expression for a combination of offences involving a breaking and entering with intent to commit theft or robbery … and frequently involving an assault on one or more occupants”: at para. 37, quoting *R. v. Bernier*, 2003 BCCA 134 at paras. 81–82.

[114] In addition to a s. 85(2) conviction, the other convictions in *Lesko* were robbery, breaking and entering a dwelling house and unlawful confinement; in *Khudhair*, robbery; in *Campbell*, assault causing bodily harm; and in *Pelly*, robbery and breaking and entering a dwelling house.

[115] Both robbery and breaking and entering a dwelling house are subject to maximum sentences of life in prison, and unlawful confinement carries a maximum sentence of ten years. As an indictable offence, assault has a maximum sentence of five years.

[116] The maximum sentence for forcible entry, the indictable offence committed here, is far lower, at two years’ imprisonment. This difference makes the Crown’s “home invasion” cases, in terms of the total sentence imposed, of limited assistance. The sentences for the s. 85(2) convictions are relevant however. In each case, except for *Khudhair*, which did not identify a separate sentence for the s. 85(2) offence, one-year prison sentences were imposed.

[117] In *Patterson*, where an imitation firearm was used to rob a Subway restaurant, the original 12-month prison sentence for the s. 85(2) offence was reduced to eight months on appeal. The mandatory minimum of one year in prison had been repealed after the sentence was imposed and this Court found the circumstances of the offence were less violent than those in *Khudhair*, *Campbell* and *Pelly*, where the s. 85(2) offences also occurred in the home of the victim(s).

[118] In this case, although the circumstances of the Offences were also less violent, and the forcible entry offence much less serious than the underlying indictable offences in those cases, Mr. Attachie was subject to a lifetime firearms prohibition and a probation order that prohibited him from possessing weapons.

Conclusion

[119] Weighing all of these considerations and circumstances, I conclude consecutive sentences of 12 months in prison for use of an imitation firearm and ten months in prison for forcible entry, less credit for time served, followed by a probationary term of 12 months with the conditions agreed to by the parties, is a fit sentence. Commensurate with the gravity of the Offences and the moral blameworthiness of Mr. Attachie in committing them, a global sentence of 22 months in prison and a probation order with conditions that reduce the risk of harm and provide for counselling and treatment including residential treatment, is proportionate. The sentence continues to give adequate effect to the primary objectives of denunciation and deterrence while recognizing the importance of rehabilitation, in a context that includes significant *Gladue* factors. It also considers and weighs the aggravating and mitigating circumstances untainted by the error(s) in principle, including the very significantly mitigating guilty pleas. The probationary term and its conditions will promote Mr. Attachie's rehabilitation by requiring his participation in counselling and treatment of his substance misuse with a view to dealing with the impact and trauma of the underlying *Gladue* factors.

[120] Accordingly, I would grant leave to Mr. Attachie to appeal the sentence and allow the appeal. After sentencing afresh, I would impose consecutive sentences of 12 months in prison for use of an imitation firearm and ten months in prison for forcible entry, for a global sentence of 22 months' imprisonment (less credit for time served), followed by a 12-month probation order with the agreed upon conditions, which are attached as Appendix A. The sentence will start on the date of Mr. Attachie's original sentence, July 30, 2024, and as I have indicated, credit will be given for the pre-trial custody of 242 days as found by the judge.

"The Honourable Justice Fleming"

I AGREE:

"The Honourable Mr. Justice Abrioux"

I AGREE:

"The Honourable Madam Justice Horsman"

Appendix A

Adrian James Attachie, you must comply with the probation order for a term of 12 months. The conditions are:

1. You must keep the peace and be of good behaviour.
2. You must appear before the court when required to do so by the court.
3. You must notify the court or your probation officer in advance of any change of name or address and promptly notify the court or the officer of any change in employment or occupation.
4. You must have no contact or communication directly or indirectly with [redacted name], [redacted name] or [redacted name].
5. You must not go to or be within 100 metres of any place where [redacted name], [redacted name] or [redacted name] lives, works, attends school, worships, or happens to be. If you see any of them, you must leave their presence immediately without any words or gestures.
6. You must report by telephone to a probation officer at [redacted telephone number] within two business days of your release from custody. After that, you must report as directed by your probation officer.
7. When first reporting to a probation officer, you must provide them with the address or location where you live and regularly sleep and your phone number if you have one. You must not change them without notifying your probation officer in writing at least three days before making the change.
8. You must attend, participate in and complete any intake, assessment, counselling, or education program as directed by your probation officer. This may include counselling or programming for:
    a) Alcohol or substance use.
    b) Mental health.
    c) Anger management.
    d) Violence prevention.
9. Having consented in court at your sentencing hearing and through counsel, you must attend, participate in and complete any intake, assessment, program, treatment, or a full-time live-in treatment program as directed by your probation officer. This may include programming or treatment for:
    a) Alcohol or substance use.

10. You must not possess directly or indirectly any weapon as defined by the *Criminal Code,* including:
    a) Firearms and ammunition.
    b) Crossbows, prohibited or restricted weapons or devices, or explosive substances.
    c) Anything used, designed to be used, or intended for use in causing death or injury to any person, or to threaten or intimidate any person.
    d) Any imitation firearms or weapons, including any compressed air guns, BB or pellet guns.
    e) Any related authorizations, license and registration certificates, and you must not apply for any of these.
11. You must not be in any place where any other person keeps or stores any firearms, crossbows, prohibited weapons, restricted weapons, prohibited devices, ammunition or explosive substances.
12. If you possess any of the items prohibited by this order, you must immediately provide a peace officer at the RCMP detachment located at [redacted address], with a copy of this order and arrange to go with the officer to the location(s) where all the items are and surrender them to the officer.
13. You must not possess any knife, or any other sharp-bladed instrument used, designed to be used, or intended to be used to cut things, except:
    a) You can possess a knife when preparing and eating food.
    b) You can possess these items inside the place where you live and regularly sleep.
    c) For the purposes of lawful employment, while at or going directly to and from your place of lawful employment. If asked, you must provide your probation officer with the details of your location and hours of employment.