

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Anderson*, 2020 NSPC 10

Date: 20200210

Docket: Dartmouth No. 8281102, 8281103, 8281104,
8281105, 8281106, 8281107, 8281108

Registry: Dartmouth

Between:

Her Majesty the Queen

v.

Rakeem Anderson

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Judge: The Honourable Judge Pamela S. William

Heard: November 4, 2019 and January 20, 2020 in Dartmouth, Nova Scotia

Written Decision: February 10, 2020

Subject: **Sentence for offences relating to the possession of a loaded restricted firearm during a routine traffic stop**

Summary:

The driver and lone occupant of a motor vehicle, was stopped at a random checkpoint at night. Police determined he was a revoked driver with a history of involvement in serious violent offences. This led to a pat down search, for officer safety concerns, and the discovery of a loaded revolver in his waist band.

Issue: What was a fit and appropriate sentence in these circumstances?

Result: A conditional sentence of 2 years less a day and 2 years' probation was imposed having regard to the case law, an Impact of Race and Culture Assessment and testimony relating to the availability of Afrocentric services in prisons, jails and the community.

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Decision	February 10, 2020
Charge:	86 (1), 90(1), 91(1), 95(2)(a), 92(1), 94(1) & 86(2) of the <i>Criminal Code of Canada</i>
Counsel:	Gail Karding and Robert Fetterly, Q.C., for the Nova Scotia Public Prosecution Service Drew Rogers, for the Defence Counsel for Mr. Anderson

By the Court:

Introduction:

[1] After trial Rakeem Anderson was found guilty of the following charges:

- Transporting a restricted weapon, that is a .22 calibre revolver in a careless manner contrary to section 86(1) of the *Criminal Code*
- Carrying a concealed weapon, that is a .22 calibre revolver, not being authorized under the *Firearms Act* to carry it concealed contrary to section 90(1) of the *Criminal Code*
- Possession of a restricted weapon, that is a .22 calibre revolver for which he did not have a registration certificate issued to him contrary to section 91(1) of the *Criminal Code*
- Possession of a loaded restricted weapon, that is a .22 calibre revolver with ammunition contrary to section 95(2)(a) of the *Criminal Code* and
- Being the occupant of a motor vehicle in which he knew there was a restricted weapon, that is a .22 calibre revolver, contrary to section 94(1) of the *Criminal Code*.

[2] All convictions result from one incident.

Factual Background:

[3] Twenty-three-year-old Rakeem Anderson, the driver and lone occupant of a motor vehicle, was stopped at a random checkpoint on 102 Highway at 10 o'clock at night. Police determined he was a revoked driver with a history of involvement in serious violent offences. This led to a pat down search, for officer safety concerns, and the discovery of a loaded revolver in his waist band.

Position of the Parties:

[4] The Crown, in recommending a two to three-year period of federal incarceration, cites specific and general deterrence as the paramount consideration. The Defense urges me to consider a conditional sentence, that is a jail term of less

than two years to be served in the community. The Crown concedes that a conditional sentence is available for offenses related to possession of a firearm but argues it is inappropriate in this case as it does not adequately address deterrence, denunciation and public safety concerns.

Purpose and Principles of Sentencing:

General

[5] Sentencing is one of the most difficult, yet crucial functions of a trial judge. On the one hand, sentencing is a very individualized and contextualized process; on the other, it also requires the balancing of societal interests and the application of law. The Supreme Court of Canada in **R. v. M. (C.A.)**, [1996] 1 SCR 500 at paras. 91 and 92 stated that the determination of a just and appropriate sentence requires the trial judge to do a careful balancing of the societal goals of sentencing against the moral blameworthiness of the offender and the gravity of the offence while at the same time taking into account the victim or victims and the needs of and current conditions in the community.

[6] I struggle however as often the principles of sentencing do not address the underlying root causes of offending. This is particularly so for marginalized segments of the public whose offending is linked to systemic racism and poverty. If I am to consider the circumstances of the offender as well as the circumstances of the offence, it is essential that I understand the reasons leading to criminal behaviors.

[7] In arriving at an appropriate sentence for Mr. Anderson, I must apply the principles and factors set out in sections 718, 718.1 and 718.2 of the *Criminal Code* but I must also gain an understanding and appreciation of the circumstances that led him to offend.

Criminal Code of Canada

[8] The overarching objectives of sentencing are to protect the public and to contribute to respect for the law and to maintain a safe society. This is to be accomplished by imposing just sanctions that have, as their goal, one or more of the following: denunciation, deterrence – both general and specific, separation of offenders from society where necessary, rehabilitation, promotion of responsibility in offenders, and acknowledgement of harm done to victims and the community.

[9] The fundamental principle of sentencing, as per s. 718.1 is that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[10] Section 718.2 requires that I consider the mitigating and aggravating factors related to the offence and the offender. I must apply the principles of parity and proportionality; that is, an offender should not be deprived of liberty, if less restrictive sanctions are appropriate in the circumstances and all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community, are considered for all offenders.

Denunciation and Deterrence

[11] Courts routinely and consistently impose federal sentences of incarceration where firearms are involved, although provincial periods of incarceration, including conditional sentences of imprisonment have been imposed in select circumstances. The range of sentencing and related caselaw will be reviewed in the paragraphs that follow.

Rehabilitation

[12] Rehabilitation remains an important objective, despite the need to emphasize denunciation and deterrence. This was confirmed by the Supreme Court of Canada in **R. v. LaCasse** [2015] SCC 64 in the context of a sentence appeal on dangerous driving causing death. Wagner, J., as he then was, writing for the majority stated:

One of the main objectives of Canadian criminal law is the rehabilitation of offenders. Rehabilitation is one of the fundamental moral values that distinguish[es] Canadian society from the societies of many other nations in the world, and it helps the courts impose sentences that are just and appropriate.

(at para. 4)

Proportionality

[13] The principle of proportionality requires that I consider the gravity of the offence and the degree of responsibility of the offender. Mr. Anderson, a young

African Nova Scotian male, has had an Impact of Race and Culture Assessment (IRCA) completed to assist the Court. This will be considered in greater detail, below.

Caselaw on Range of Sentences for Section 95 Offences

[14] The statutory provisions in the *Criminal Code* set out the maximum punishments that can be imposed and I am mindful that the mandatory minimum sentence for the section 95 offence has been struck down: **R. v. MacDonald**, 2014 NSCA 102 and **R. v. Nur**, 2015 S.C.C. 15. The circumstances of each offence and of each offender vary and so when deciding upon a sentence, I am guided by the range of sentences where the circumstances are similar. The purpose of the range is to encourage greater consistency among sentencing decisions in keeping with the parity principle in section 718 of the *Criminal Code*.

Nova Scotia

[15] In **MacDonald**, at para. 62, the Nova Scotia Court of Appeal determined that an 18-month period of incarceration was appropriate for a first-time offender, who was gainfully employed, and likened the offence to a regulatory offence, as opposed to a “true crime”. In that case, police had been called to a noise complaint at Mr. MacDonald’s downtown condominium. Mr. MacDonald refused to turn down the music and shut the door on a lone police officer. The noise persisted and several officers arrived at Mr. MacDonald’s door. This time when he opened the door. Mr. MacDonald was holding a loaded 9 mm Beretta handgun. Not surprisingly, the Court stated in relation to firearm offenses, the principles of specific and general deterrence are imposed in the hope that, by emphasizing deterrence, we can have a safer and more peaceful society.

[16] In **R. v. Muise**, 2008 NSSC 340, Justice Beveridge imposed a 2-year sentence, along with 2 years’ probation in relation to a section 88 offence. As in the present case, the police arrested the offender at a traffic stop, and discovered a concealed loaded handgun in the car; the gun turned out to be stolen. But unlike Mr. Anderson, that offender possessed the gun in violation of both a firearms prohibition and probation order and had a prior record that included three section 88 convictions. The 2-year prison term was a joint recommendation following a guilty plea. For reasons unknown, there was no section 95 offense although the facts would clearly support that charge.

[17] In **R. v. Halpenny**, 2018 NSSC 30 the Supreme Court, at para. 27 acknowledged that the range of sentences for s. 95(1) offences is broad and can be anywhere from a conditional sentence: **R. v. Haus**, 2016 BCPC 11; to eight years' incarceration: **R. v. Kift**, 2014 ONCJ 625. "Such a range demonstrates that no two cases are alike, and much is dependent on the circumstances of the offence and those of the offender." In **Halpenny**, the Supreme Court imposed a 30 month sentence for the possession of loaded handguns, body armor and police paraphernalia located in a locked outbuilding as they posed "a real, immediate and extreme danger to the public and anyone in the presence of those weapons": para. 42.

[18] In **R. v. Fraser**, 2019 NSSC 368, a 4-year, nine-month sentence was imposed on a young African Nova Scotian who possessed a loaded 9 mm semi-automatic firearm and 62 grams of cocaine. He had 51 prior convictions including 8 *Conditional Drug and Substances Act* convictions for trafficking, three firearms offences within five years and 34 breaches of court orders. He was also subject to two firearm prohibition orders at the time.

[19] In **R. v. Holland**, 2017 NSSC 148, a joint recommendation of five years was accepted for an offender who pleaded guilty to possessing cocaine for the purpose of trafficking and for a section 95 firearm offence. He had a positive presentence report, but also had a record of two prior convictions for firearms related offences and two prior convictions for possession for the purpose of trafficking contrary to the *Control Drugs and Substances Act*.

Ontario

[20] In **R v. Nur**, 2013 ONCA 677, the offender was 21 years old with no prior record of criminal activity. He was acting in a threatening manner outside of a youth centre. He fled once police arrived. The police caught him and arrested him, finding in the process, a prohibited firearm with an oversized ammunition clip. The Ontario Court of Appeal agreed that the range of sentences in this type of case would be from two years less a day, up to three years.

[21] In **R. v. Hassan**, 2017 ONSC 4570, the Superior Court imposed a conditional sentence of imprisonment of two years less a day on an offender who was in a vehicle with a restricted firearm. Despite the fact he was on pre-trial release at the time, for a prior offence, he was youthful, had a highly supportive family and had taken "exemplary steps to rehabilitate himself". In accepting that

denunciation and deterrence are the overriding sentencing objectives in these sorts of cases, the trial judge at para. 72 questioned whether it was necessary to impose a period of imprisonment as the “only route to achieving those objectives”, citing **R. v. Proulx**, [2000] 1 S.C.R. 61 which held that conditional sentences can achieve objectives of deterrence and denunciation.

British Columbia

[22] In **R. v. Holt**, 2015 BCCA 302 the Court of Appeal increased an eighteen-month sentence to 30 months. In that case the police stopped Mr. Holt’s truck for motor vehicle infractions, arrested him for possession of drugs, searched his truck incidental to arrest, and found a backpack containing a loaded .22 calibre revolver and a box with 43 cartridges of ammunition. Mr. Holt, a 66-year-old “virtual first offender” was convicted of unauthorized possession of a loaded restricted firearm and sentenced to 18 months’ imprisonment. He was a heavy drug user, he did not always report to probation services as directed, he failed to appear for his sentencing hearing and was subsequently picked up on a bench warrant. Mr. Holt was described as “living on the margins of society” having “very limited, if any, connections in the community and little, if any, insight into the need to address his drug use” (paras. 7-12).

[23] In **R. v. Padda**, a 30-month term of imprisonment was imposed on an offender who felt the need to arm himself for protection at his restaurant. Over the course of 35 minutes, he entered the kitchen, intoxicated by alcohol and cocaine, pointed the loaded handgun at female employees and struck and pushed one of them while holding the handgun.

[24] In **R. v. Sellars**, 2018 BCCA 195, the suspended sentence was replaced by a conditional sentence of imprisonment of two years less a day in circumstances where the accused possessed a loaded restricted firearm in a car. Because of his efforts to deal with substance abuse and his efforts to dissociate himself from the gangster lifestyle, he no longer posed a risk to the public and specific deterrence was no longer an issue.

Newfoundland and Labrador

[25] In **R. v. Squires** 2017 CanLII 17175 NLPC the Court, in considering the totality principle, imposed an eighteen-month sentence for a section 95 offence and six months consecutive for possession of a firearm while subject to a prohibition

order. Three years probation was to follow. The 32-year old accused, who had a lengthy criminal record, was in a vehicle, with a firearm, outside a community centre.

Manitoba

[26] In **R. v. Kennedy**, 2016 MBCA 5, the Court of Appeal imposed a global sentence of three years. Police arrested the accused outside his trailer for breaching a court-ordered condition not to have contact with his neighbour. In doing a routine pat-down search police found two loaded handguns in his pockets, in “ready to fire position”. Eight more firearms were found in the accused’s residence – three of which were loaded along with 12 magazines and 200 rounds of ammunition.

Saskatchewan

[27] In **R. v. Charles**, 2014 SKPC 189 Mr. Charles, a 28-year-old, was sentenced to three years’ incarceration for being the occupant of a motor vehicle in which he knew there was a firearm, possession a loaded firearm and possession of cocaine. In that case, Mr. Charles was wanted on three outstanding warrants from Ontario in relation to an incident involving firearms and was arrested driving a motor vehicle in Saskatchewan, where he lived and played football. He was, at the time of sentencing, a productive law-abiding citizen with a five-year old daughter. He had no criminal record. The loaded handgun being found with the cocaine was aggravating.

Aggravating and Mitigating Factors

[28] A sentence should be increased or decreased to reflect aggravating and mitigating circumstances. It is very concerning whenever a person conceals a loaded handgun in their waistband while operating a motor vehicle. However, the fact that the gun was loaded is not an aggravating factor as it was an element of the section 95 offense: **R. v. Holt** 2015 BCSC 462 at para. 16. Yet, the potential for violence and physical harm arising from the possession of a loaded handgun is an aggravating factor and is to be given significant weight.

[29] Mr. Anderson is a young African Nova Scotian with a dated record consisting of eight convictions as a youth including two assaults with a weapon and a charge of possession of a weapon when he was 15 years old. Mr. Anderson

has one conviction as an adult, Break, Enter and Theft that occurred six years ago. He received a 2-year federal sentence of incarceration.

[30] The loaded firearm was found as a result of a routine traffic stop. Mr. Anderson was not otherwise engaged in criminal activity at the time. I accept that having a loaded gun for defensive purposes is a “true crime” as set out in **Nur**. But there are *true crimes* and then there are *really true crimes*. Then there are crimes that courts consider more regulatory in nature like **MacDonald**, even though it involved the accused pointing a loaded handgun at police. It is important to therefore consider the context.

[31] This is not a case involving the trafficking of drugs where a handgun is possessed or used for protection or otherwise as was the case in **Fraser, Holland, Holt** and **Charles**.

[32] Nor is this a case where the accused had multiple firearms as in the cases of **Halpenny** and **Kennedy**.

[33] Nor is it a case where the accused was impaired as in **Holt** and **Padda**. Mr. Anderson was sober, polite, respectful and cooperative throughout his involvement with police.

[34] The facts in this case are more in keeping with **Muise** (two-year sentence) and **Nur** (range of two years less a day to three years).

[35] The Crown places considerable emphasis on Mr. Anderson’s criminal record and suggests he was not living a pro-social lifestyle given his 71 criminal contacts including a connection to a homicide and an attempt homicide. The Crown also cites his apparent lack of rehabilitative efforts. According to the Crown, Mr. Anderson has been presented with opportunities and society should not be “held responsible or hostage” for his unfortunate life circumstances. For those reasons, the Crown advocates the need to impose a sentence that emphasizes deterrence and denunciation and protects the public; that is a two to three-year period of federal incarceration.

[36] I caution myself to exercise extreme care when assessing these submissions. Mr. Anderson has no convictions or outstanding charges, other than those mentioned. His 71 police contacts must be considered in light of what we have come to learn about the history of street checks in the Halifax area. More will be said about this later. The issues are very complex and nuanced, as made apparent

by the Impact of Race and Culture Assessment (IRCA) and the follow up evidence I heard. In my view it is very important to consider both the systemic and background factors impacting Mr. Anderson's involvement with police and more generally.

[37] The Courts have widely accepted that there is an overrepresentation of Black persons in custody in Canada as a result of systemic forms of discrimination. Given the individualized nature of sentencing, Courts must take into consideration the historical and social context for the lived experiences of Black Canadians: **R. v. Jamal Jackson**, 2018 ONSC 2525, at paras. 82, 85, 87, 97, and 105-113.

[38] It is important to consider the impact that environment has in shaping peoples' choices. That is why it is vital to consider the contents of the IRCA in arriving at a fit and appropriate sentence.

Impact of Race and Culture Assessment (IRCA)

The Role and Significance of the IRCA

[39] I have the benefit of an Impact of Race and Culture Assessment (IRCA) completed by Natalie Hodgson and Robert Wright. Ms. Hodgson is an African Nova Scotian School Counsellor employed by the Halifax Regional Center for Education and a former classroom teacher with a Bachelor of Arts in Sociology and Criminology as well as a Bachelor of Education and Master of Education in Lifelong Learning. She also earned a second Master of Education in Counselling as part of an Afrocentric cohort to address the needs of our African Nova Scotian learners. Mr. Wright is a clinical, child and family, forensic specialist with Undergraduate and Graduate degrees in Social Work and Sociology. He has worked with children, youth and families and served as a correctional mental health worker at the Special Housing Unit of the Washington State Penitentiary. He is also an African Nova Scotian who has spent much time studying and working on issues affecting African Nova Scotians and is *the pioneer* of IRCA, having completed the first in **R. v. 'X'** 2014 NSPC 95. Trauma is one of his specialties. The relative backgrounds, education and experience of these writers suggest they are well placed to provide such an assessment for the Court and that in fact IRCAs provide a higher clinical component than do *Gladue* reports.

[40] Mr. Wright helped put things in context -- Nova Scotia is the home of Black Canada. African Canadian communities are primarily located in Nova Scotia and

Toronto. Much of the systemic and racial discrimination experienced by Canada's Indigenous communities, is also present in the Black community.

[41] IRCA's play a vital role in understanding the role systemic racism has on the day-to-day lives of African Nova Scotians. As noted by Campbell J. in **R. v. Gabriel** 2017 NSSC 90 at para 49:

The Cultural Assessment in this case does not have the same constitutional implications as a *Gladue* report. But that doesn't mean it isn't vitally important. It is a historical fact and present reality that African Nova Scotians were and continue to be discriminated against. As the criminal justice system must take into account the overrepresentation of Aboriginal people in custody, it must also take into account the effects of discrimination on members of the African Nova Scotian community.

[42] And I agree with the sentiments expressed by Campbell J. that an IRCA is "both a fascinating and challenging document" in that the information it provides urges us, as judges, to think deeply about the issues and consider what is just.

[43] I echo his comments at paras. 57, 90-92:

[57] Sentencing judges struggle to understand the context of the crime and person being sentenced. To do that judges rely on our own common sense and understanding of human nature. Sometimes that isn't enough. Our common sense and our understanding of human nature are products of our own background and experiences. An individual judge's common sense and understanding of human nature may offer little insight into the actions of a young African Nova Scotian male. The Cultural Impact Assessment serves as a reminder of the fallibility of some assumptions based on an entirely different life experience.

...

[90] It [IRCA] does not provide a justification for a lighter sentence. Like a *Gladue* report it might prompt the consideration of restorative justice options where those are appropriate. It doesn't position the offender as [a] helpless victim of historical circumstances.

[91] It does serve to disrupt some comfortable certainties. It prompts a judge to struggle with difficult questions for which there may not really be entirely clear answers. The offender is an individual capable of exercising his free will in making decisions about his life. At the same time and like everyone else, his world view is shaped to some extent by his experiences in the community of which he is a part. There is a tension between those things and the Cultural Assessment serves as a reminder of that tension. The Cultural Assessment is a reminder that moral judgments are always complicated.

The Context and Evolution of Marginalization

[44] The report before me speaks to how the impact of growing up as a biracial African Nova Scotian in North End Halifax contributed to Mr. Anderson's pathway to criminality. And as Mr. Wright puts it, 'to understand the element of criminality, we need to understand it in the context and evolution of marginalization over time.

[45] According to Mr. Wright, prior to the Prohibition Era, the use and trafficking of substances was a White ethnic criminal enterprise. Prohibition pushed it underground into the urban ghettos after emancipation. There was systematic recruitment of Blacks by White importers to sell substances at street level. The sub-culture intensified in the 1970's and 1980's as unskilled labour jobs, often held by Blacks decreased by 40%. Over the last 30 years there has been "more of a pull to that lifestyle" given lack of employment, education and systemic racism. There has been increasing pressure placed on young Black men to engage in the drug trade which has become more dangerous and competitive, often involving the possession and use of firearms. Even those (family and friends) affiliated with persons involved in crime, feel the dangerousness of it. "Young Black men are dramatically overrepresented on both ends of the gun", according to Mr. Wright. The socio-cultural reality is that individuals get stuck in those circumstances and don't need a large pathology. And according to him, unfortunately, individuals who are policing, adjudicating, incarcerating, rehabilitating, reintegrating these "folk" are "dramatically ignorant" of this reality.

Rakeem Anderson's Experience

[46] Rakeem Anderson is an African Nova Scotian with parental roots in Hammonds Plains and the lower socio-economic community of Uniacke Square, in Halifax.

[47] The report provides an understanding of how Mr. Anderson's African Nova Scotian heritage and experiences of systemic racism in the Nova Scotia Justice, Education and Mental Health and Addictions systems have affected his involvement in the criminal justice system.

Themes

The African Nova Scotian experience and its influence on Rakeem Anderson

[48] Mr. Wright reminds us that Black people represent the only ethnic group in North America whose immigration was completely involuntary, having experienced “a rather desperate social circumstance”. Enslavement and oppression meant that all stabilizing elements of their culture, including language and family structure were compromised, resulting in traumas which continue to plague Black communities to this day.

[49] Following emancipation, Mr. Wright explains that things got better for some, but much worse for others. Migration, from segregated and largely rural subsistent economic communities (whose strength was grounded in the multigenerational family unit and the Black church) to urban areas, provided educational and entrepreneurial opportunities for some but for many led to urban poverty and ghetto living, described above. Not surprisingly, it was in this urban ghetto that the strong link between African North Americans and crime was established.

Residential Instability in Impoverished Neighbourhoods

[50] The neighbourhood of Uniacke Square, in Halifax, surrounded by its poverty and crime, and lack of productive opportunities, is where Rakeem Anderson spent most of his childhood. He experienced several periods of housing instability, including one when child protection services got involved. His father, originally from a rural Black community in Hammonds Plains, suffered from alcoholism. Mr. Anderson’s parents separated when he was quite young, and he and his siblings moved between his parents’ homes.

[51] Much has been written about the social forces that are at the root causes of crime. Ms. Hodgson notes that Uniacke Square, lacking in both services and resources, has a large population of extremely low socio-economic and impoverished people. Mr. Anderson grew up in sub-standard housing plagued by mold, structural deficiencies, drafty windows, plumbing issues and pest and insect infestations.

Lack of Educational and Employment Opportunities

[52] Historically many African Nova Scotians, like other groups from the working class, were employed in labor and domestic work, having little if any formal education. As time went on, the need for education to enter the economy increased. Unfortunately, schools were less-welcoming places for African Nova

Scotians – Black students were not well integrated or supported. School settings promoted “White Excellence” and were places of “White Authority”.

[53] According to Ms. Hodgson, referencing the Black Learners Advisory Committee, (BLAC Report 1994):

Being educated in a Eurocentric system, has impacted ANS learners with a feeling of being left out and isolated from curriculum, books, materials and classroom lessons. This along with lower expectations from teachers, underrepresentation of Black educators, and institutional racism, all contribute to negative schooling experiences and poor academic achievement.

[54] Sadly, 25 years later, not much has changed according to Ms. Hodgson. African Nova Scotians are disproportionately represented in lower academic classes including resource and modified programs and are overrepresented on Individual Program Plans (IPPs) which limit future career possibilities because of barriers in accessing post-secondary education. Mr. Anderson was put on an IPP in Grade two and his highest attainment of education is a grade six IPP. He found school difficult and most of his behaviours were in response to his inability to understand the work. This lack of education and training “has crippled his ability and desire to pursue career possibilities”.

[55] Although Mr. Anderson has held several temporary jobs, he has not, according to his friend and employer, Mohammed Sabra, “taken full advantage of work availability, and doesn’t recognize his potential in the workforce”. Mr. Sabra is willing to give Mr. Anderson full time employment and assist him with transitioning to be a productive member of society – but Mr. Anderson must have that desire.

[56] Ms. Hodgson says that Mr. Anderson’s experience with the education system has been ‘both disastrous and volatile’. In addition to the systemic impact noted above, Mr. Anderson has mental health issues which have affected his ability to learn – Attention Deficit Hyperactivity Disorder (ADHD), Oppositional Defiant Disorder (ODD) and Obsessive-Compulsive Disorder (OCD).

[57] The IRCA outlines Mr. Anderson’s social history and concludes that his is a story of a young Black male that ‘the system has failed on all fronts’:

Rakeem was thrown into the world as a young adult lacking the skills and knowledge to thrive and survive; no resources, supports or interventions, without

therapy for trauma and loss, and a very low elementary level education. This is a recipe for disaster.

[58] Ms. Hodgson notes however there are now Afrocentric learning opportunities available through the Black Educators Association (BEA) where Black learners “learn about themselves by themselves” -- seeing themselves as learners with an Afrocentric focus on Black Excellence. Literary interventions are available through the BEA’s Continuing Adult Education Program (CAEP). The program is divided into terms but is continuously accepting people. Mr. Anderson has expressed an interest in this regard.

Particular Patterns of African Nova Scotian Violence

[59] Ms. Hodgson states that gun presence is accepted as a cultural norm in North End Halifax. According to her:

Many black males arm themselves with guns, not because they have plans to harm someone, but rather they feel the need to protect themselves *in case*. This *in case* mentally derives from affiliations with community members that have already been killed, have existing “beefs” or conflicts with peers that may result in violence.

[60] She says that this phenomenon is directly linked to Mr. Anderson and his possession of a loaded handgun. As she rightly points out, he was not arrested during criminal activity; he was the subject of a traffic stop.

[61] Ms. Hodgson urges me to look at Mr. Anderson’s social position and the causal factors that led him to arm himself to begin with. In particular, she cites his “sense of paranoia” since his friend Tyler McInnis was murdered. He is fearful someone may target him by association, thereby feeling the need to arm himself *just in case*. As she put it, “Everyone knows everyone; Everyone knows where you live and what you drive. Avoidance is not an option”. It takes time to steer oneself in another direction – it’s a process and the Afrocentric programs help in this regard, according to Ms. Hodgson. In her discussions with Mr. Anderson she confirmed that he wants to continue his education and has made some contacts in this regard although she was not able to provide specifics.

[62] Mr. Wright describes how violence manifests itself differently in various cultural settings. In the Black community people have a relational core value orientation that results in much of the violence in the community developing from

“relational breaches and grudges” rather than as a part of a criminal business transaction.

[63] Kinship and large extended family bonds are a vital aspect of the African Nova Scotian culture and community. As such, Mr. Wright reminds us that “each tragic loss of an African Nova Scotian life to violence is felt as a deep personal loss throughout a wide network of extended families and throughout the entire affected community”. And when the violence is *Black on Black* “it inevitably involves overlapping social and/or family ties between victim and perpetrator”. Although this results in many consequences, Mr. Wright points to two that have a significant impact:

First, the African Nova Scotian community senses each loss as tragic and deep and the losses mobilize a sentiment of outrage and community disruption that could arguably be suggested to be out of step with the actual number of such losses; and secondly, among those African Nova Scotians who are engaged in criminal activities the loss is not simply about business but it is personal and family. In the case of Mr. Anderson, the homicide of many of his friends to street violence has created significant loss and has resulted in much trauma for him.

Racial Profiling, North End Culture and No Hope:

[64] It is fair to say that systemic racism, mistrust of authority and frequent police presence plagues North End Halifax. According to the Wortley Report, 2019, people of African descent are six times more likely to be stopped by police than people of European descent and 30% of all Black males in Halifax have been arrested for a crime at some point in their lives, as compared to 6.8% of the white male population.

[65] And according to the IRCA, “with the North End culture, there comes a normalized lack of achievement”:

When you grow up surrounded by a large percentage of the population coming from lower socio-economic backgrounds; receiving social assistance, unemployed, earning minimum wage, dropping out of high school, or [resorting] to criminal activity for income, then you can easily fall into that pattern.

[66] Given Mr. Anderson’s *have-not* childhood experiences, including educational history, it is not surprising that his employment history is poor, having had but a few *under the table* temporary jobs. This lack of access to productive measures, positive role models, networking, and educational opportunities

influenced his capacity to succeed and his choices with criminality, according to Ms. Hodgson.

Trauma and Loss

[67] Mr. Wright, in his testimony, spoke of the intergenerational trauma suffered by members of the Black community and ascribes to the theory of “Post Traumatic Slave Syndrome” developed by Joy DeGruy. This theory explains the causes of many of the adaptive survival behaviours in Black communities throughout the U.S. and beyond. It is a condition that exists because of multigenerational oppression of Africans and their descendants resulting from centuries of chattel slavery where they were considered inherently and genetically inferior to Whites. This history of slavery, systemic racism, marginalization in housing and employment, ill-treatment in the schools and over-policing, means that Blacks have lived in an environment under constant threat and chronic trauma.

[68] Mr. Wright also reminds us that trauma shows up differently in different people. Traditionally in the White community trauma presents as depression and anxiety and is readily treatable. In the Indigenous community it is seen as spiritual sickness and chronic sadness with high rates of suicide. Trauma manifests inwardly causing self harm.

[69] In the Black community, trauma presents as Post Traumatic Slave Syndrome characterized by negative self-esteem issues along with feelings of hopelessness. There is an increased startle response and a perceived propensity for violence, all the while being under a “pervasive sense of threat”. This is most acute when authority figures confront Blacks. There is also an internalized racism creating an aversion to ones own cultural group, customs and heritage.

[70] Disrupted residences, lost opportunities in education and losses of loved ones has had a traumatic effect on Mr. Anderson. This does not excuse, condone or justify him having a loaded revolver in his waist band. But cultural orientation needs to be part of his therapy and his rehabilitation must be informed by his history of trauma, according to Mr. Wright.

[71] Mr. Anderson’s dad died when he was eight years old, losing his only Black role model. He was very close to his father who suffered from a chronic illness and was an addict. Without his father, he spent less time in Hammonds Plains, which disrupted his community attachment. For a substantial period, Mr. Anderson had recurring nightmares but was not receptive to counselling. He had no positive

means of working through that loss says Mr. Wright and he followed a path of hopelessness.

[72] Mr. Anderson has also lost four friends as a result of violence. After his fourth friend was murdered, his fear for his own safety increased. As a member of the ‘mainstream’ community, I cannot begin to imagine how terrifying this must have been.

[73] Mr. Wright reminds us that it is also well known that African Nova Scotians do not seek mental health support – it is seen as taboo or a sign of weakness. Furthermore, services tend to be inaccessible – they are not offered in the Black community. Rather African Nova Scotians look to family, community and faith rather than professionals to assist with personal challenges– often having mistrust and assumptions about not being able to relate to a counsellor they assume will be White.

[74] When asked about what culturally appropriate services are available to African Nova Scotians experiencing trauma, Mr. Wright was candid – “there is no fully formed system able to holistically respond to immediate need but there is *a network of opportunity* for services” that a cohort of Black counsellors are beginning to develop. Chief among them are the following:

- Nova Scotia Brotherhood to address African - Nova Scotian health with Mario Rolle as the Health Navigator
- 902 Man Up – a network of Black men who are community volunteers. They provide Peer and Afrocentric mentoring.
- IMOVe - In My Own Voice Association – which uses the arts as a conduit for narrative therapy to raise cultural self awareness, self esteem and healing.
- The Peoples Counselling Clinic established by Mr. Wright which has some limited opportunities for counselling, free of charge.

[75] When asked about services available in the prison system, Mr. Wright said only now are people starting to recognize the need to respond to incarcerated Blacks in a unique manner – the system is much further ahead with Indigenous programming. And according to him, the provincial system is even further behind – programming is nonexistent.

[76] When asked how we ensure that Mr. Anderson does not reoffend tomorrow, Mr. Wright says we increase those chances by jailing him. But if the question is how we ensure or improve his chances of becoming a safe and productive member of the community, then jail lessens those chances. In the words of Mr. Wright: “Do we send him [Mr. Anderson] to a system we know will fail him or do we try a community option?”

[77] Mr. Wright maintains that services can be “cobbled together” for individuals such as Mr. Anderson but there is a high onus on the individual to take the opportunity seriously and attach oneself to the services offered.

[78] Much of the information related to programming in correctional facilities was confirmed by Jude Clyde who has been employed by Correctional Services Canada for many years. He has worked in dynamic security at Springhill Institution, as a correctional officer and as a parole officer in the community. He reminded us that there are three to four times more Blacks than Whites incarcerated and though there are supports for mainstream and Indigenous offenders, there are none for African Canadians. There is nothing at CSC Atlantic that is Afrocentric – no specific interventions inside or while on parole. Mr. Clyde added there has been no strategic planning. Funding has been sporadic and there is no dedicated staffing or resources. In prison Mr. Anderson will not have a supervisor who understands his cultural needs; nor will he have access to a psychologist with culturally relevant training. He opined that in order to have successful reintegration in the community, work needs to be done while the person is still in custody.

[79] As an African Nova Scotian, Mr. Clyde says he has created opportunities to work with fellow African Nova Scotians, despite there being a lack of programming or funding. He worked on the 2017 African Canadian Reintegration Project that did a review of services and programs. He worked with Senator Wanda Thomas Bernard on ethno-cultural offending with a view to creating case management supports for African Canadian offenders. He is aware of some Afrocentric interventions in the community – such as the Adult Learning Program with Afrocentric curriculum at the Nova Scotia Community College, Akerley Campus in Dartmouth. There is also the Empowerment Academy to provide skills in the trades including certification and upgrading. He added that many parole officers have no knowledge of such culturally responsive resources.

[80] Sobaz Benjamin also testified at the sentencing hearing. He is a Black film maker who has a passion for raising cultural self esteem in African Nova Scotians.

He established IMOVe in 2007 and uses film as a problem-solving tool; based on narrative therapy, the camera is projected inward and uses a person's story as a means of healing. Mr. Benjamin helps participants identify their most important life events during a timeline and assists them in "connecting the dots for their narrative". He explained that people often get stuck – *I can only be what I have always been* – and he challenges that thinking by helping them redefine their identities by seeing themselves through video. He has worked with both youth and adults in custody, but again, funding has been sporadic. He has also worked with the Limitless Program offered by the Nova Scotia Community College (NSCC) and has worked with NSCAD (The Nova Scotia College of Art and Design). Mr. Benjamin sees his work as *a calling* and he has been a mentor to young African Nova Scotian males. He is prepared to mentor Mr. Anderson.

A Fit, Proper and Just Sentence

[81] Given my review of the case law, I conclude that the appropriate range of sentence in these circumstances is two years less a day to three years incarceration. And given the factual similarities with **Muise**, I am persuaded that a sentence on the lower end of that range is appropriate. Afrocentric programming is not available in either the federal or provincial system but a sentence of two years less a day, would at least place Mr. Anderson close to community where family and some culturally appropriate services exist. For that reason, I impose a sentence of two years less a day.

[82] I am urged by the Defense to consider the imposition of a conditional sentence of imprisonment where Mr. Anderson can serve his sentence in the community under conditions. An analysis of the conditional sentencing regime and the case law is required.

Conditional Sentences of Imprisonment

[83] The relevant provision is found in section 742.1 of the Criminal Code:

742.1 If a person is convicted of an offence and the court imposes a sentence of imprisonment of less than two years, the court may, for the purpose of supervising the offender's behaviour in the community, order that the offender serve the sentence in the community, subject to the conditions imposed under section 742.3, if

- (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;
- (c) the offence is not an offence, prosecuted by way of indictment, for which the maximum term of imprisonment is 14 years or life;
- (d) the offence is not a terrorism offence, or a criminal organization offence, prosecuted by way of indictment, for which the maximum term of imprisonment is 10 years or more;
- (e) the offence is not an offence, prosecuted by way of indictment, for which the maximum term of imprisonment is 10 years, that
 - (i) resulted in bodily harm,
 - (ii) involved the import, export, trafficking or production of drugs, or
 - (iii) involved the use of a weapon; and...

...

Firearm, etc., prohibitions

742.2 (1) Before imposing a conditional sentence under section 742.1, the court shall consider whether section 109 or 110 is applicable.

Marginal note: Application of section 109 or 110

(2) For greater certainty, a condition of a conditional sentence order referred to in paragraph 742.3(2)(b) does not affect the operation of section 109 or 110.

[84] Conditional sentences have been an option for judges since 1996. The Supreme Court of Canada provided guidance in **Proulx**, at para. 127:

Bill C-41 in general and the conditional sentence in particular were enacted both to reduce reliance on incarceration as a sanction and to increase the use of principles of restorative justice in sentencing.

A conditional sentence should be distinguished from probationary measures. Probation is primarily a rehabilitative sentencing tool. By contrast, Parliament intended conditional sentences to include both punitive and rehabilitative aspects. Therefore, conditional sentences should generally include punitive conditions that are restrictive of the offender's liberty. Conditions such as house arrest should be the norm, not the exception.

... In a preliminary determination, the sentencing judge should reject a penitentiary term and probationary measures as inappropriate. Having determined that the appropriate range of sentence is a term of imprisonment of less than two years, the judge should then consider whether it is appropriate for the offender to serve his or her sentence in the community.

... A conditional sentence need not be of equivalent duration to the sentence of incarceration that would otherwise have been imposed. The sole requirement is that the duration and conditions of a conditional sentence make for a just and appropriate sentence.

The requirement in s.742.1(b) that the judge be satisfied that the safety of the community would not be endangered by the offender serving his or her sentence in the community is a condition precedent to the imposition of a conditional sentence, and not the primary consideration in determining whether a conditional sentence is appropriate. In making this determination, the judge should consider the risk posed by the specific offender, not the broader risk of whether the imposition of a conditional sentence would endanger the safety of the community by providing insufficient general deterrence or undermining general respect for the law. Two factors should be taken into account: (1) the risk of the offender re-offending; and (2) the gravity of the damage that could ensue in the event of re-offence. A consideration of the risk posed by the offender should include the risk of any criminal activity, and not be limited solely to the risk of physical or psychological harm to individuals.

Once the prerequisite of s.742.1 are satisfied, the judge should give serious consideration to the possibility of a conditional sentence in all cases by examining whether a conditional sentence is consistent with the fundamental purpose and principles of sentencing set out in ss.718 to 718.2. This follows from Parliament's clear message to the judiciary to reduce the use of incarceration as a sanction.

A conditional sentence can provide significant denunciation and deterrence.

As a general matter, the more serious the offence, the longer and more onerous the conditional sentence should be. There may be some circumstances, however, where the need for denunciation or deterrence is so pressing that incarceration will be the only suitable way in which to express society's condemnation of the offender's conduct or to deter similar conduct in the future.

Generally, a conditional sentence will be better than incarceration at achieving the restorative objectives of rehabilitation, reparations to the victim and the community, and promotion of a sense of responsibility in the offender and acknowledgment of the harm done to the victim and the community.

Where a combination of both punitive and restorative objectives may be achieved, a conditional sentence will likely be more appropriate than incarceration. Where objectives such as denunciation and deterrence are particularly pressing, incarceration will generally be the preferable sanction... A conditional sentence may be imposed even where there are aggravating circumstances, although the need for denunciation and deterrence will increase in these circumstances.

[85] Several years ago, then Chief Justice Michael MacDonald delivered a paper on "*The Conditional Sentence Option*" May 2003, Updated August 2013 which provides a useful summary of the thinking at the time:

Several years ago, Canada's Parliament identified two concerns with our justice system as it applies to sentencing:

- a. our perceived over reliance on institutional incarceration, and
- b. the need to look beyond the offender in ways that also address the needs of victims and the community generally (commonly referred to as "restorative justice").

Parliament responded with legislation addressing both concerns. It passed a series of Criminal Code amendments establishing general sentencing principles and other complementary initiatives. These can now be found in sections 718 of the Criminal Code.

[86] In citing **R. v. Gladue** 1 S.C.R. 688 at paragraph 43, Chief Justice MacDonald noted the Supreme Court considered the restorative justice issue as follows:

- Clearly, s. 718 is, in part, a restatement of the basic sentencing aims, which are listed in paras. (a) through (d). What are new, though, are paras. (e) and (f), which along with para. (d) focus upon the restorative goals of repairing the harms suffered by individual victims and by the community as a whole, promoting a sense of responsibility and an acknowledgment of the harm caused on the part of the offender, and attempting to rehabilitate or heal the offender.
- One of the main complementary initiatives passed in 1996 is the community (conditional) sentence. In certain circumstances, it gives judges the discretion to have an offender serve his or her sentence in the community as opposed to "behind bars". This provision is designed to address both the perceived problem of overincarceration and the need to promote restorative justice.

[87] Indeed, **Gladue**, at para. 57 states overincarceration is more than a "perceived problem". As Cory and Iacobucci JJ. held:

Thus, it may be seen that although imprisonment is intended to serve the traditional sentencing goals of separation, deterrence, denunciation, and rehabilitation, there is widespread consensus that imprisonment has not been successful in achieving some of these goals. Overincarceration is a long-standing problem that has been many times publicly acknowledged but never addressed in a systematic manner by Parliament. In recent years, compared to other countries, sentences of imprisonment in Canada have increased at an alarming rate. The 1996 sentencing reforms embodied in Part XXIII, and s. 718.2(e) in particular,

must be understood as a reaction to the overuse of prison as a sanction, and must accordingly be given appropriate force as remedial provisions. [Emphasis added.]

Restorative justice is concerned with the restoration of the parties that are affected by the commission of an offence. Crime generally affects at least three parties: the victim, the community, and the offender. A restorative justice approach seeks to remedy the adverse effects of crime in a manner that addresses the needs of all parties involved. This is accomplished, in part, through the rehabilitation of the offender, reparations to the victim and to the community, and the promotion of a sense of responsibility in the offender and acknowledgment of the harm done to victims and to the community.

Analysis:

[88] Clearly, as a responsive modern society, we must identify and address root causes of offending, if we hope to reduce crime. Sadly, sentences that solely or primarily emphasize deterrence and denunciation have not made our communities safer places to in which to live. Punishment does not change behaviour when the actions are rooted in marginalization, discrimination and poverty. Incarceration is to be a last resort; restraint must be exercised, where appropriate. Having said that, offenders who pose a real risk to public safety must be separated from society.

[89] As noted above, crime affects at least three parties: the victim, the community and the offender. In the case of possession of loaded handguns, the victim is the community at large – particularly the Black community. I ask myself how might a restorative justice approach attempt to remedy the adverse effects of illegal possession of loaded firearms in the community – addressing the needs of all involved?

[90] As with any restorative approach it starts with accountability and reparation for harms done. Accountability and deterrence are two very distinct concepts. Accountability is about *doing* – an obligation on the offender to be responsible for his/her actions by doing something to make things better. Deterrence is about *receiving* – a punishment imposed on an offender intended to change future behaviour. The first requires active participation while the latter involves passive acceptance.

[91] Deterrence assumes that offenders weigh the pros and cons of a certain course of action and make rational choices. It also assumes that people can freely choose their actions and behaviours -- as opposed to their offending being driven by socio-economic factors such as poverty, limited education, mental health and addiction issues and systemic discrimination and marginalization.

[92] Those of us who work in the Criminal Justice System know only too well that many times there is a causal connection between socio-economic factors and crime. Deterrence and denunciation do not address these factors. Our prisons and our jails are full of these marginalized individuals, for whom there are few resources to address the root causes of their offending. And the costs associated with incarceration – both human and fiscal – are substantial. It costs well over \$100,000 per year per inmate in many prisons and jails, leaving little for Afrocentric planning and reintegration, for example.

[93] Accountability demands that the offender take responsibility for their crime and is actively involved in a course of action to *right the wrong* and become a productive member of society. Accountability is difficult – some would say more difficult than serving a jail term. It requires a willingness to be supervised and supported to address one's shortcomings and be held accountable for reparation of harm and for their own rehabilitation. This takes much hard work and dedication.

[94] Regardless of the sentence imposed on Mr. Anderson, it will likely do little to deter others in similar circumstances. The socio-economic forces at play are so powerful and are firmly entrenched in systemic racism and marginalization.

[95] So, should the justice system continue to emphasize deterrence and denunciation by imposing stricter sentences on all offenses involving the possession of handguns or should it, on a case by case basis, employ a restorative yet denunciatory community option for those who are ready to make the necessary change? Harkening back to the words of Mr. Wright: Do I impose a period of incarceration that I know will not achieve the purpose and principles of sentencing or do I take a calculated risk management approach and create the opportunity for meaningful change?

[96] The Crown concedes that most of the pre-conditions for the imposition of a conditional sentence are met – save for the risk of danger to the community. I therefore focus my attention on whether I am satisfied that serving the sentence in the community will not endanger the safety of the community and will still be consistent with the fundamental purpose and principles of sentencing set out in sections 718 to 718.2 of the *Criminal Code*.

[97] The principles set out in **Proulx** are most instructive. As a condition precedent, I must be satisfied that the community is not endangered by Mr. Anderson serving his sentence in the community. I must consider the risk posed by this specific offender, not the broader risk of insufficient emphasis being placed on

general deterrence or undermining general respect for the law. The two factors I am to consider are: (1) the risk of Mr. Anderson reoffending; and (2) the gravity of the damage that could ensue in the event of a re-offence. The risk posed by Mr. Anderson should include the risk of any criminal activity.

[98] Mr. Anderson is described as a good-hearted young Black male and father of four young children, with whom he spends a lot of time. He clearly love them very much but struggles with the resources needed to adequately parent.

[99] Mr. Anderson's work history is sporadic, again not surprising given his limited education. He is however described by his former employer, Mohammed Sabra, as a reliable and hard-working employee who doesn't realize his potential.

[100] Rakeem Anderson has perpetrated no real violence in his adult life. According to the IRAC assessment, as a youth he threw a chair at a teacher and was charged with assault with a weapon. On another occasion he brought a knife to school out of fear of being harmed by older, more violent students. His break and enter charge occurred when he was 18 and according to the report, was "in keeping with the deprivation described in the report". Given what we know about Mr. Anderson's experience with the educational system, it is perhaps not surprising that he encountered issues at school leading to criminal charges. That does not excuse his behaviour but does place it in valuable context.

[101] There has not been any further offending. Mr. Anderson has abided by the conditions of his Recognizance which has been in place since November 5, 2018 – over 15 months. Included in that order are conditions to live at a specific residence in Halifax, follow a daily curfew from 10 p.m. to 6 a.m. and be subject to curfew compliance checks by police. He is not to possess a firearm, crossbow, prohibited or restricted weapon, prohibited device, ammunition or explosive substance.

[102] Mr. Anderson has not engaged in rehabilitative efforts to address education or employment deficits. One might conclude that Mr. Anderson is not interested in improving his life circumstances. But the issue is more complicated than that – as evidenced by the IRAC assessment and testimony of several African Nova Scotian professionals. Lifelong trauma has left Mr. Anderson with a sense of hopelessness and a lack of self worth. His mother put it well in the Pre-sentence Report, "Rakeem is giving up on himself because he believes he's going to jail".

[103] Mr. Anderson needs Afrocentric therapy interventions and an African Nova Scotia male mentor/role model. He needs substantial literacy and vocational interventions that are offered to African Nova Scotians specifically.

[104] I have spent many hours deliberating and agonizing over the determination of a fit and appropriate sentence for this offender and this offence. Sadly, both the federal and provincial systems of incarceration have failed to address the needs of African Nova Scotians. Perhaps it is time to look to community to help address those needs for offenders like Mr. Anderson, who I find does not pose a substantial risk to public safety.

[105] Unlike the cases of **R. v. X**, **R v. Jackson**, and **R v. Gabriel**, which involved serious personal injury or death or drug trafficking, I can consider the lower end of the appropriate range of sentencing. This also means that I have the option of considering a conditional sentence. Do I impose a sentence of incarceration that I know will not help or do I impose a jail term in the community, affording the opportunity to blend principles of deterrence, denunciation with restorative options of accountability and reparation?

[106] Mr. Anderson has the opportunity, with the assistance of his community, to be held accountable, to be rehabilitated and to give back. I believe that he is at a place in his life where he is ready to take full advantage of the opportunities that come with serving a substantial jail term in the community under stringent conditions. He has proven his ability to follow court ordered conditions for well over a year.

[107] As a result, I sentence Mr. Anderson to a jail term of two years less a day to be served in the community to be followed by two years probation. The conditions of the conditional sentence order are as follows:

Statutory Conditions:

- Mr. Anderson, you are to keep the peace and be of good behaviour;
- You are to appear before the Court when required to do so by the Court;
- You are to report to a supervisor within two working days and thereafter as required;

- You are to remain within the Province of Nova Scotia unless prior written permission is given by the Court or your supervisor; and
- You are to notify the Court or your supervisor of any change in name, address or employment.

Optional Conditions

- You are to live at 2694 Swaine Street, Halifax, NS unless the Court gives you permission to live elsewhere;
- You are to continue to provide ongoing support and care for your children;
- You are to attend Afrocentric therapy interventions or other counselling or treatment, preferably from an African Nova Scotian practitioner to address the significant trauma in your life;
- You are to attend literacy and education interventions with an Afrocentric focus as well as a reading assessment;
- You are to seek out mentorship with 902 Man Up, IMOVe or both within 30 days;
- You are not to own, possess or carry a weapon;
- You are to perform 50 hours of community service in the African Nova Scotian community, arranged with your supervisor by February 9, 2022.
- House Arrest:

From today, February 10, 2020 until 11:59 p.m. on October 9, 2020 you will be subject to house arrest with the following exceptions:

- When dealing with a medical emergency or medical appointment involving you, a member of your household or any of your children.
- When attending Afrocentric therapy interventions or any other treatment or counselling program which your supervisor knows about in advance.
- When attending literacy and education interventions, including any reading assessment which your supervisor knows about in advance.
- When at regularly scheduled employment.

- When receiving mentorship which your supervisor knows about in advance.
- When attending Court at a scheduled appearance or under subpoena.
- When attending an appointment with your supervisor.
- When you are performing community service in the African Nova Scotian community which your supervisor knows about in advance.
- With the prior written approval of your supervisor.
- When attending to personal needs for three hours per week, which your supervisor knows about in advance – all travel to and from the destination by a direct route.
- You will come to the entrance of your home should police or your supervisor attend to ensure you are following your house arrest.
- Curfew:

From October 10, 2020 until 11:59 p.m. June 9, 2020 you will be subject to a curfew from 9 p.m. until 6 a.m. the following day, seven days a week with the following exceptions:

- When dealing with a medical emergency or medical appointment involving you, a member of your household or any of your children;
- When attending Afrocentric therapy interventions or any other treatment or counselling program which your supervisor knows about in advance;
- When attending literacy and education interventions, including any reading assessment which your supervisor knows about in advance.
- When at regularly scheduled employment.
- When receiving mentorship which your supervisor knows about in advance.
- When you are performing community service in the African Nova Scotian community which your supervisor knows about in advance, all travel to and from the destination by a direct route.
- With the prior written approval of your supervisor.

- You will come to the entrance of your home should police or your probation officer attend to ensure you are following your curfew.

[108] Upon completion of the Conditional Sentence Order on February 9, 2022 you will be subject to two years probation. In addition to the statutory conditions you will follow these conditions:

- You are to report to a Probation Officer as and when directed.
- You are to attend Afrocentric therapy interventions or other counselling or treatment, preferably from an African Nova Scotian practitioner to address the significant trauma in your life.
- You are to attend literacy and education interventions with an Afrocentric focus as well as a reading assessment;
- You are to seek out mentorship with 902 Man Up, IMOVe.
- You are not to own, possess or carry a weapon.
- You are to perform 150 hours of community service in the African Nova Scotian community, arranged with your supervisor to be completed by February 9, 2024.

Ancillary Orders

[109] In addition, there will be the following ancillary orders:

- A firearms prohibition for a period of 10 years, made pursuant to section 109 of the *Criminal Code*;
- An order to forfeit the firearm seized in this case, pursuant to section 491 of the *Criminal Code*;
- A secondary DNA order pursuant to section 487.04 of the *Criminal Code*.

[110] I direct that Mr. Anderson report back to the Court monthly to begin with, the first report back to be Monday March 9, 2020 at 1:30 p.m..

[111] I direct that Correctional Services provide a written update to me on the progress of Mr. Anderson in the interim.

[112] I recommend that Mr. Anderson be supervised by an African Nova Scotian Conditional Sentence Supervisor and followed by an African Nova Scotian Probation Officer.

Pamela Williams, JPC