

**PROVINCIAL COURT OF NOVA SCOTIA**

**Citation:** *R v. Burns*, 2020 NSPC 48

**Date:** 20201124  
**Docket:** 8404361  
**Registry:** Halifax

**Between:**

Her Majesty The Queen

v.

Tara Marie Burns

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**DECISION ON SENTENCE**

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<b>Judge:</b>	The Honourable Judge Elizabeth Buckle,
<b>Heard:</b>	November 6, 2020, in Halifax, Nova Scotia
<b>Decision</b>	November 24, 2020
<b>Charge:</b>	<i>Criminal Code</i> 320.14(2)
<b>Counsel:</b>	Kristyn Stevens, for the Crown Trevor McGuigan, for the Defence

**By the Court:**

**Introduction**

[1] Tara Burns is before the Court for sentencing on one count of operating a motor vehicle with a blood alcohol level in excess of the legal limit and causing bodily harm to Jeff Bilby and Michelle Manship, contrary to section 320.14(2) of the *Criminal Code*, R.S.C., 1985, c. C-46.

[2] The Crown elected to proceed by summary conviction and Ms. Burns pleaded guilty.

[3] I now have to determine a fit and proper sentence for her.

[4] The Crown seeks a custodial sentence of four to six months and a two year driving prohibition. The Defence agrees that a two year driving prohibition is appropriate but seeks a noncustodial sentence. In the alternative, the Defence asks that Ms. Burns be permitted to serve any custodial sentence in the community under a conditional sentence order.

**Circumstances of the Offence**

[5] On October 20, 2019, Ms. Burns consumed alcohol after work. She then attempted to drive home. At approximately 10:30 p.m. on the Bedford Highway, her vehicle crossed the centre line and she struck an oncoming vehicle. That vehicle was occupied by two people.

[6] Police arrived shortly after. Ms. Burns was sitting on the curb. She admitted being the driver and that she had consumed alcohol. She failed the roadside screening test. She was taken to the police station where she was assessed by EHS and, once cleared, took the breathalyzer test resulting in two readings of 100 mg %.

[7] No formal victim impact statements were filed. However, the impacts of the offence on the victims were described in both the Defence brief and by the Crown during submissions. One of the victims suffered soft tissue injuries which required physiotherapy, headaches and ongoing psychological effects. The other victim's injuries were more serious. He suffered a fractured sternum which required him to be hospitalized for more than a month, bruises, temporary hearing loss and tinnitus.

He has also experienced psychological, emotional and financial impacts and setbacks in treatment for a pre-existing health condition.

### **Ms. Burns' Circumstances**

[8] Information about Ms. Burns came from a pre-sentence report, comments of her counsel and letters of support from her employer and friends.

[9] She is 32 years old and has no criminal record. She was raised in a stable home. She had a good childhood and was not exposed to abuse, neglect or substance abuse.

[10] Prior to the offence she did not suffer from any physical or mental health issues. She had some minor muscular injuries from the accident, but those have improved. After the offence, she has experienced depression and anxiety. She sought treatment for those and has completed a "Driving While Impaired" Program offered by the Province. She has no history of substance abuse and continues to consume alcohol socially on the weekends.

[11] She completed high school and a program with the Nova Scotia Community College. She is currently employed in her field and hopes to take education to obtain further credentials. She advised her employer of the offence. He spoke to the author of the PSR and provided a letter to the Court. He described her as a good person and an excellent worker with strong work habits and a sense of responsibility.

[12] She also continues to have the support of her family and friends. She has been living with her parents since the offence, her parents accompanied her to court and her father spoke to the author of the PSR. He advised that she had struggled in a number of areas after the offence but seems to be getting back on track. He recognizes that there must be consequences for her actions and felt that the sentencing would be an important step toward some form of closure. Her long-time friend was also interviewed by the author of the PSR and provided a letter of support to the Court. She described Ms. Burns as kind, intelligent, humble and caring.

[13] She has taken full responsibility for the offence and has consistently exhibited remorse. She advised the author of the PSR that she was aware of the victims' injuries, had struggled through reading their statements and felt she had a good sense of the impact the offence had on them. She later provided a letter of apology. In it, she accepted responsibility, acknowledged the harm she's caused and asked for forgiveness. She said that she thinks about the victims every day. She was emotional

throughout the sentencing hearing and when given an opportunity to address the Court, she again accepted full responsibility. Her empathy and compassion for the victims is confirmed by her employer and friend, who both report that she is remorseful.

## **Application of Sentencing Principles**

### General

[14] In sentencing Ms. Burns, I have to apply the objectives and principles set out in 718 to 718.2 of the *Criminal Code*. The best means of addressing these principles and attaining the ultimate objective of sentencing will always depend on the unique circumstances of the case. Because of that, it has been consistently recognized that sentencing is a delicate and inherently individualized process (*R. v. LaCasse*, 2015 SCC 64 at para. 1; and, *R. v. M. (C.A.)*, [1996] 1 S.C.R. 500, at paras. 91-92).

### Objectives of Sentencing

[15] The purpose of sentencing is to protect the public and contribute to respect for the law and the maintenance of a safe society. Section 718 instructs that this purpose is to be accomplished by imposing just sanctions that have one or more of the following objectives: denunciation; general and specific deterrence; separation from society where necessary; rehabilitation of the offender; promotion of responsibility in offenders; and acknowledgment of the harm done to victims and to the community.

### Denunciation and Deterrence

[16] The Defence acknowledges that the emphasis in sentencing for this offence must be on denunciation and general deterrence.

[17] Denunciation is how a sentence communicates society's condemnation of conduct. A denunciatory sentence has been described as “a symbolic, collective statement that the offender's conduct should be punished for encroaching on our society's basic code of values as enshrined within our substantive criminal law.” (*M. (C.A., supra.*, at para. 81).

[18] The need for denunciation of drunk driving has been repeatedly addressed by the Nova Scotia Court of Appeal. In *R. v. Cromwell*, 2005 NSCA 137, the Court

described it as a crime of “distressing proportions” that wreaks carnage and causes “significant social loss” (at para. 27). The Court went on to say:

29 The sentence must provide a clear message to the public that drinking and driving is a crime, not simply an error in judgment. Those who would maim or kill by driving their vehicles while impaired are as harmful to public safety as are other violent offenders. The proliferation of this crime and the risk that it will be seen by society as less socially abhorrent than other crimes heightens the need for a sentence in which both general deterrence and denunciation are prominent features.

[19] The goal of general deterrence is to discourage others from committing similar offences.

[20] In *R. v. Proulx*, 2000 SCC 5, the Supreme Court of Canada spoke about the efficacy of general deterrence for driving offences:

...dangerous driving and impaired driving may be offences for which harsh sentences plausibly provide general deterrence. These crimes are often committed by otherwise law-abiding persons, with good employment records and families. Arguably, such persons are the ones most likely to be deterred by the threat of severe penalties.” (para. 129, internal citations omitted).

[21] In cases where denunciation and general deterrence must be emphasized, custody will often be the only option and in some cases only actual incarceration will suffice (*Lacasse, supra.*, at para. 6; and, *Proulx, supra.*, at paras. 102 – 107). However, incarceration is not the only way the criminal justice system contributes to these objectives. Pre-sentence or extra-judicial consequences can be significant and meaningful. Probationary terms with a primary goal of assisting in rehabilitation or restorative justice, like curfews or community service, can also have a collateral punitive benefit (See: *R. v. George* (1992), 112 N.S.R. (2d) 183 (C.A.); *R. v. Martin*, 1996 NSCA 207; *R. v. R.T.M.* (1996), 1996 NSCA 156; and, *R. v. Voong*, 2015 BCCA 285). Conditional sentences with punitive conditions and the constant threat of incarceration are capable of providing significant denunciation and deterrence (*Proulx, supra.*, at paras. 22, 41 and 102 – 107).

[22] The Crown argues that, given the seriousness of the offence, only actual incarceration can properly denounce the conduct and deter others. The Defence argues that, in this case, the combination of extra-judicial consequences, an elevated fine, driving prohibition and a probation order that includes community service can adequately address these objectives. He submits that the hypothetical member of the public to whom general deterrence is aimed should be a fully informed member

of the public who is aware not only of the sentence imposed by the Court but also of all the consequences on the offender.

[23] He submits that the consequences here have been significant. Ms. Burns' mental health has suffered, not only because of her empathy and compassion for the victims, but also because the reality that she committed this offence has shaken her view of herself as a law abiding person who would never harm anyone. She has lived with the knowledge that jail is a real possibility. She is ashamed and feels she let her family down. She will have to bear the consequences of a criminal record, including stigma and barriers to travel, employment and volunteer work. There has been and will continue to be a financial impact. Her insurance premiums will go up and there is a risk that her insurer will seek a judgement against her. She will be prohibited by this Court from operating a motor vehicle and has been advised that her driver's licence will be suspended for five years and she will be required to have an ignition interlock device for two years.

[24] The goal of specific deterrence is to discourage Ms. Burns from committing further offences. The Crown argues that specific deterrence is a concern here because Ms. Burns has continued to consume alcohol. In the PSR, she reports consuming wine on weekends with her family. The Defence argues that there is no evidence that Ms. Burns is addicted to alcohol or that responsible social drinking is a risk factor for her. He argues that her absence of a previous criminal record and compliance with release conditions demonstrates that she is generally a law abiding person and any need to deter her from drinking and driving has been accomplished through the consequence she has already experienced. When given the opportunity to address the Court, she repeated that she would never do this again.

### Rehabilitation

[25] Rehabilitation continues to be a relevant objective even in cases requiring that denunciation and deterrence be emphasized (*LaCasse, supra.*, at para. 4).

[26] Ms. Burns is educated, employed and has good support from family and friends. She has already taken a program addressing impaired driving and has sought treatment for mental health issues resulting from the offence. In my view, she is an excellent candidate for rehabilitation. She has demonstrated a willingness to seek help, has identified a future career goal and appears to have the ability to obtain it. As I have said, there is no evidence that she has an alcohol addiction. She made a very bad decision while she was impaired. That is not, in and of itself, evidence of an addiction. Neither she nor the people who are close to her think she has a problem

with alcohol and, other than this offence, there is nothing in her background or current circumstances that would suggest she does. However, in my experience, people who are suffering from addiction are not good at recognizing or accepting it and can be very good at hiding it. A responsible rehabilitation plan is vital to long-term protection of the public. In this case, that would focus on education about the harms and dangers of drinking and driving, but would have to also include assessment by a professional to determine whether Ms. Burns has an unhealthy relationship with alcohol.

### Proportionality

[27] Section 718.1 says that the fundamental principle of sentencing is that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. It requires that a sentence not be more severe than what is just and appropriate given the seriousness of the offence and the moral blameworthiness of the offender. It also requires that the sentence be severe enough to condemn the offender's actions and hold her responsible for what she has done (*Lacasse, supra.*, at para. 12; and, *R. v. Nasogaluak*, 2010 SCC 6, at para. 42).

[28] My proportionality analysis must include an assessment of both the general seriousness of the offence and Ms. Burns' level of moral culpability. There is no question that this is a very serious offence. This is reflected in the comments of the Court of Appeal in *Cromwell, supra.* Without detracting from that, I do have to examine Ms. Burns' specific offending behaviour and its consequences to assess her specific culpability. She chose to drink and drive. Given the education surrounding drinking and driving, it is impossible to imagine that she did not know how dangerous that was. She is solely responsible for that decision and her moral blameworthiness for it is high. It is lessened somewhat by the fact that that she was not grossly impaired and her breathalyser readings were relatively low compared to some cases. Her decision had significant consequences to the two victims. She also bears the responsibility for that. However, her conduct following the decision to drive lessens her moral culpability as compared to some other cases. There is no evidence that she was speeding, she remained at the scene following the collision and immediately admitted that she had been driving. She pleaded guilty at a relatively early opportunity, has consistently shown empathy for the victims and exhibited genuine remorse.

### Aggravating and Mitigating Factors

[29] Section 718.2 requires that I consider the aggravating and mitigating factors relating to the offence and the offender.

[30] In summary, I view the aggravating and mitigating factors to be as follows:

Aggravating Factors

- Nature and consequences of the injuries to the victims.

Mitigating factors:

- Immediate and ongoing acceptance of responsibility, including a relatively early guilty plea;
- Empathy and compassion for the victims and ongoing remorse which I accept as genuine;
- Absence of prior criminal record;
- Post-offence efforts to obtain education relating to impaired driving; and,
- Education, employment and community support which will assist rehabilitation;

[31] There is also the absence of aggravating factors which are sometimes present. There were no signs of gross impairment or risky driving other than alcohol, the readings were not high and she did not leave the scene.

Conditional Sentence

[32] If I decide that a sentence of imprisonment is required, the Defence asks that Ms. Burns be permitted to serve her sentence in the community under conditions, pursuant to s. 742.1. That provision includes technical and substantive pre-conditions. The technical pre-conditions are not a bar to a conditional sentence in this case: any custodial sentence would be less than two years; there is no mandatory minimum term of imprisonment; and, the maximum available sentence is two years. The substantive pre-conditions require that I be satisfied that allowing Ms. Burns to serve her sentence in the community would not endanger its safety and would be consistent with the fundamental purpose and principles of sentencing.



[33] In *R. v. Proulx, supra.*, at paras. 69 – 76, the Court identified factors that should be taken into account in assessing safety of the community. These were summarized by the Nova Scotia Court of Appeal in *Cromwell, supra.*, at para. 38:

- the risk of the offender re-offending;
- the gravity of the damage in the event of re-offence;
- whether the offender has previously complied with court orders;
- whether the offender has a criminal record that suggests that [she/he] will not abide by the conditional sentence;
- the nature of the offence;
- the relevant circumstances of the offence, which can put in issue prior and subsequent incidents;
- the degree of participation of the accused;
- the relationship of the accused with the victim;
- the profile of the accused, that is, his [or her] occupation, lifestyle, criminal record, family situation, mental state;
- his [or her] conduct following the commission of the offence;
- the danger which the interim release of the accused represents for the community, notably that part of the community affected by the matter.

[34] Once a risk has been identified, I must ask whether conditions can be crafted that would reduce the risk to an acceptable level (*Cromwell*, at para. 39).

[35] The Crown argues that Ms. Burns' continuing consumption of alcohol is a factor in assessing the risk to the community and that a conditional sentence order would not be consistent with the principles and purposes of sentencing, specifically denunciation and general deterrence. The Defence disputes that responsible social drinking puts the community at risk and argues that, in all the circumstances, a conditional sentence can provide the necessary denunciation and deterrence.

[36] I accept that the gravity of damage if Ms. Burns re-offended would be high, however, I would put her risk of re-offending as very low. She has no criminal

record and has complied with terms of release. Her current lifestyle is not risky. She works, lives with her parents, and has taken counselling for the mental health challenges caused by the offence. There is no evidence that she is addicted to alcohol. She has continued to drink socially, but the real risk to the community is not drinking in and of itself. It is drinking and driving. I recognize that there is a theoretical risk that she would again make the decision to drive while drinking. That risk has already been mitigated by the tremendous consequences this offence has had on Ms. Burns and by the education that she has taken in the area of impaired driving. Any further risk could be addressed through conditions in a conditional sentence order and a driving prohibition.

[37] As I said when I addressed denunciation and deterrence, Courts have recognized that a properly crafted conditional sentence is capable of providing denunciation and deterrence. However, it is more lenient than a jail term of the same duration and there are circumstances where only actual incarceration could achieve these objectives (*Proulx, supra.*, paras. 22, 41, & 104 – 107).

#### Parity / Range of Sentences

[38] Section 718.2 also requires me to consider the principle of parity which says that, within reason, similar offenders who commit similar offences should receive similar sentences. Ultimately, each sentence has to reflect the unique circumstances of the specific offence and specific offender. However, respect for the principle of parity is encouraged by situating a given case within the range of sentences generally imposed for a given offence. This promotes consistency, fairness and rationality in sentencing.

[39] Ms. Burns has no previous convictions and the Crown proceeded by summary conviction, so the current theoretical minimum sentence is a fine of \$1,000 and the maximum is a custodial sentence of two years and a three year driving prohibition (ss. 320.2(a) & (c) and 320.24(4) & (5)(c)). The range for a given offence is not that theoretical minimum to maximum but is narrowed by the context of the offence and the circumstances of the offender (*Cromwell, supra.*).

[40] To assist in identifying the appropriate range for this offence, the Crown referenced *R. v. Cromwell (supra.)*, *R. v. Kerrivan* [2015], 375 Nfld. & P.E.I.R. 151 (PC), and *R. v. George*, 2016 NSCA 88. The Defence has provided *R. v. Beals*, 2019 NSPC 68, and *R. v. Boudreau*, 2019 NSPC 69. In addition, I have reviewed *R. v. Martin, supra*, *R. v. Hamilton*, 2008 NSSC 217, and, *R. v. Davison*, 2006 NSPC 73. All of these cases involve sentencing for alcohol related driving offences where

bodily harm was caused. These cases are helpful but it is important to recognize that the sentencing parameters for this offence have changed over time, most significantly, a conditional sentence order has not always been an available option.

[41] In *Cromwell, supra*, the accused also pleaded guilty to breach of a Recognizance. The trial judge rejected a joint recommendation for a conditional sentence and imposed an actual jail sentence totalling five months plus probation for the two offences. That sentence was upheld on appeal. Ms. Cromwell had no criminal record. However, there were a number of aggravating factors. The injuries were serious, she was speeding before the collision, she was warned to slow down and did not, she left the scene of the accident, upon arrest she showed no remorse and did not ask about the status of the victims, she had a serious alcohol addiction which had not been addressed, had breached her recognizance by drinking, and had delayed the proceedings by failing to appear for trial. The Court of Appeal noted that a conditional sentence for this type of offence could be a fit sentence “for offenders with an exemplary background, where the offence is uncharacteristic and where there is virtually no continuing risk that the offender will re-offend.” (at para. 63). However, the Court concluded that it was not an appropriate sentence in the circumstances because it would not adequately protect the public: there was a risk Ms. Cromwell would not comply with the conditions; if she breached, the gravity of the consequences would be high; and, she did not appreciate the consequences of her actions. The Court also concluded that the proposed order was not tailored to fit the circumstances because it did not adequately deal with her need for treatment and was not sufficiently punitive because it did not include house arrest or an explanation for why house arrest was not required.

[42] In *Kerrivan, supra*, the offender was sentenced to a custodial sentence of 6 months. A conditional sentence was not available at that time. The offender had no prior record, had relatively low readings, had pleaded guilty, was remorseful and was low risk to re-offend. The Court found it aggravating that on the night of the offence, he had agreed to be the designated driver and concluded that neither a fine with probation nor an intermittent sentence would address the principles of deterrence and denunciation.

[43] In *George, supra*, the sentencing judge imposed a non-custodial sentence which was varied on appeal to a four-month custodial sentence. The offender was youthful, entered an early guilty plea, had remained on the scene of the accident, was cooperative with police and expressed concern for the victim who was his girlfriend. He had a previous unrelated record. The sentencing judge had been

impressed with his remorse and rehabilitative efforts. However, the appeal court found he had been misled about the rehabilitation. The offender had in fact been drinking the night before his sentencing and had twice stolen liquor in the previous week.

[44] In *Beals, supra*, the offender was sentenced to a 90-day intermittent sentence. A conditional sentence was not available. The offender had a dated, unrelated record, was employed, volunteered in the community, was remorseful, had completed the Impaired Driving Program and was in a stable supportive relationship. The offence was aggravated by the fact that it occurred during rush hour on a busy street and his readings were more than twice the legal limit.

[45] In *Hamilton, supra*, the Court accepted a joint recommendation for a six-month conditional sentence, a one year probation and two year driving prohibition. The offender's vehicle crossed the centre line and struck three vehicles, causing one passenger to go into labour prematurely and have to be airlifted to hospital. His readings were almost three times the legal limit. He had no prior criminal record, was employed and had good community support.

[46] In *Davison, supra*, the offender was sentenced to an 18-month conditional sentence, with 12 months being served under house arrest, six months' probation and a five year driving prohibition. He had driven at night without lights, crossed the centre line of the highway and collided head on with oncoming traffic. He was youthful, had no prior criminal record and the offence was described as, "out of character" for him. He showed remorse and apologized to his victim. The victim suffered significant injuries.

[47] In *Boudreau, supra*, the offender was sentenced to pay a fine of \$2000, probation for two years and a two year driving prohibition. His readings were more than twice the legal limit. Mr. Boudreau and his passenger were both injured. Mr. Boudreau was very youthful, had no previous record, exhibited remorse and had done well during the three years between the offence and sentencing date.

[48] In *Martin, supra*, a somewhat dated case, the Court of Appeal upheld a non-custodial sentence. The offender had no prior record, was youthful and had good prospects for rehabilitation.

[49] Non-custodial sentences have also been imposed in other provinces. Many of these cases were referenced by Judge Atwood in *Boudreau, supra*, at para. 36.

[50] Based on my review of the authorities, non-custodial sentences for this offence are not common. Where they are imposed, the circumstances generally involve an offender who pleads guilty, is remorseful, has limited or no prior record, has good prospects for rehabilitation, some unique feature such as youth, aboriginal status or mental health challenges, and an absence of aggravating features. Non-custodial sentences have also been more common when a conditional sentence was not available, so the only alternative was actual custody.

### Restraint and Totality

[51] Finally, I have to consider the principle of restraint contained within s. 718.2. Restraint, in general, requires that the punishment should be the least that would be appropriate in the circumstances. More specifically, it requires that I consider all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community.

### **Conclusion**

[52] I have concluded that a fit and proper sentence for Ms. Burns is a conditional sentence order, a period of probation and a driving prohibition. In the circumstances of this case, a non-custodial disposition would not be consistent with the principles of sentencing, specifically the objectives of general deterrence and denunciation, and the principle of parity. Ms. Burns is a first offender with tremendous prospects for rehabilitation who has demonstrated true empathy and remorse. However, unlike the offenders in *Boudreau* and *Martin*, at 32 years old, she is not a youthful offender. She also does not possess any of the unique features present in many of the cases where non-custodial sentences were imposed in other jurisdictions.

[53] I am satisfied that allowing her to serve her sentence in the community would not endanger its safety. As I have said, the circumstances have provided significant specific deterrence. Any risk of re-offence will be further mitigated by the fact that for a significant period of time she will be prohibited from driving, have her driving privileges suspended and will be required to have an ignition lock system in any vehicle she operates. Any remaining risk, can be addressed through conditions in the conditional sentence order requiring her to be assessed to determine whether she in fact harbours any unhealthy attitudes toward alcohol and to take counselling if she does. Finally, she will be prohibited from consuming alcohol while serving the sentence. Not because I believe responsible drinking is a danger, but because this is

a custodial sentence, albeit one served in the community, and consumption of alcohol is not consistent with that.

[54] I am also satisfied in all the circumstances, including the injuries suffered by the victims, that a conditional sentence with punitive conditions adequately addresses the objectives of denunciation and general deterrence. To reflect the reality that a conditional sentence is less punitive than actual incarceration, the conditional sentence will be longer than the custodial sentence sought by the Crown.

[55] I am also satisfied a conditional sentence is within the range for similar offenders and similar offences. In this regard I am influenced by the decisions in *Davison* and *Hamilton* which are both similar to the facts before me.

[56] Therefore, Ms. Burns will serve a period of imprisonment of 12 months in the community under the following conditions:

- Keep the peace and be of good behaviour;
- Appear before the Court when required to do so by the Court;
- Remain within Nova Scotia unless permission is granted by the Court to leave the province;
- Report to a Supervisor in Halifax within two working days and thereafter as directed by your supervisor;
- Notify the supervisor in advance of any change of name or address, and promptly notify the supervisor of any change of employment or occupation;
- Not possess or consume alcohol or any other intoxicating substances;
- Not possess or consume a controlled substance as defined in the *Controlled Drugs and Substances Act* except in accordance with a physician's prescription or a legal authorization;
- Attend for, participate in and successfully complete an assessment for substance abuse and any counselling, treatment or program recommended in that assessment;

- Attend for, participate in and successfully complete any other assessment, counselling, treatment or program directed by your supervisor;
- Sign any consents required by service providers so her supervisor can get updates or reports of her participation and progress;
- Abide by house arrest for the first nine months of this Order;
- The only exceptions to the house arrest are as follows:
  - When at regularly scheduled employment which her supervisor is aware of in advance and travelling to and from that employment by the most direct route;
  - When attending a counselling appointment, a treatment program or a meeting of Alcoholics Anonymous or Narcotics Anonymous, at the direction of or with the permission of her supervisor, and travelling to and from by the most direct route;
  - When dealing with a medical emergency or medical appointment involving you or a member of her immediate family and travelling to and from by the most direct route;
  - When attending court at a scheduled appearance or under subpoena and travelling to and from by the most direct route;
  - When attending a scheduled appointment with her lawyer or supervisor and travelling to and from by the most direct route;
  - When attending a regularly scheduled religious service and travelling to and from by the most direct route;
  - With written approval of her supervisor given in advance;
  - For a period of 4 consecutive hours each week, approved in advance by her supervisor for the purpose of attending to personal needs; and,
- Prove compliance with the house arrest condition by presenting herself at the door of her residence or answering the telephone should her

supervisor or other authorized person attend or call to check on compliance; and,

- Provide her supervisor with a valid phone number for a land line.

[57] That will be followed by 12 months probation with the following conditions:

- Keep the peace and be of good behaviour;
- Appear before the Court when required to do so by the Court;
- Notify the Probation Officer in advance of any change of name or address or telephone number, and promptly notify the supervisor of any change of employment or occupation;
- Report to a Probation Officer in Halifax within two days of the expiration of the conditional sentence and thereafter as directed by her probation officer;
- Not possess or consume a controlled substance as defined in the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, except in accordance with a physician's prescription or a legal authorization;
- Attend for, participate in and successfully complete an assessment for substance abuse and any counselling, treatment or program recommended in that assessment;
- Attend for, participate in and successfully complete any other assessment, counselling, treatment or program directed by her probation officer; and,
- Sign any consents required by service providers so her probation officer can get updates or reports as to her participation and progress.

[58] In addition, Ms. Burns will be prohibited under s. 320.24 from operating a motor vehicle on any street, road, highway or other public place anywhere in Canada for a period of two years. I have not been asked by the Crown to place any restrictions on her ability to register in an alcohol ignition interlock program, so I will not do so.

Elizabeth Buckle, JPC