**53PROVINCIAL COURT OF NOVA SCOTIA**
**Citation:** *R v. Boutilier*, 2020 NSPC 53

**Date:** 2020-12-04
**Docket:** 8442522, 8442523, 8442529, 8442530
**Registry:** Halifax

**Between:**

Her Majesty the Queen

v.

Craig Boutilier

# SENTENCING DECISION

| | |
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| **Judge:** | The Honourable Judge Amy Sakalauskas |
| **Heard:** | November 26 and 30th 2020, in Halifax, Nova Scotia |
| **Decision** | Oral: December 4, 2020<br>Written: January 18, 2021 |
| **Charge:** | Sections 348(1)(a) and 145(5) of the Criminal Code (x2) |
| **Counsel:** | Samantha Allen, for the Crown<br>Sarah White, for the Defence |

**By the Court:**

## Introduction

[1] Mr. Boutilier pleaded guilty to two residential break and enters, indictable offences that carry a maximum sentence of life in prison. These are serious offences committed by a man with a lengthy record that has escalated in recent years. Mr. Boutilier is no stranger to jail or the Courts, but his offending behavior has been relentless. He is addicted to crack. He is intellectually disabled.

[2] Crack is an impossible addiction for many and for Mr. Boutilier, as his lawyer stated, it has ruined any sense of a normal life that he may have had. Mr. Boutilier falls through the gaps in our social services and finds himself repeatedly caught in the ever-present and often unforgiving net of the criminal justice system. Mr. Boutilier challenges us to consider whether we are simply a legal system or truly a justice system. This situation challenges our system, and other community systems, to think about how we interact with Mr. Boutilier and others like him.

[3] The Crown sought two years in custody on each offence, consecutive, totaling four years in custody. The defence suggested time served (6 months and 7.5 months, concurrent, on each break and enter), followed by Probation with

electronic monitoring. A Conditional Sentence Order is not an available option, and if it were, the Crown would be opposed. The Crown argued that there is no option here but to separate Mr. Boutilier from society.

[4] Mr. Boutilier was been in custody since April 2, 2020. He was sentenced on several breach files on June 22, 2020, for which he received time served. On these matters, he has 165 straight remand days to December 4, 2020, and at 1.5 credit that is 248 days.

[5] On December 4, 2020, I advised counsel that I was sentencing Mr. Boutilier to 8 months on each break and enter, concurrent to each other, and a concurrent 30 days on each associated breach. That is time served. He will be on probation for 24 months upon his release. I am giving 1.5 credit for his time on remand.

[6] I was told that Mr. Boutilier was on the verge of losing his home. He had an eviction notice but had arrangements to deal with the arrears and his landlord was holding his space. This hearing was brought before me on an urgent basis. The defence proposal was dependent on him having a stable residence, as it involved electronic monitoring. While I would have preferred to have been able to provide my complete reasons at that time, the time-sensitive nature of this matter coupled with other pressing matters prevented that. As such, these are my reasons.

**Facts of the Offences**

[7] Mr. Boutilier pleaded guilty to:

(a) March 29, 2020 – s. 348(1)(a), s. 145(5) – Mr. MacNeil was home alone in his apartment. He encountered Mr. Boutilier in his living room. There was a key in the front door that did not belong to Mr. MacNeil, but Mr. Boutilier says it did not belong to him. His lawyers questioned whether a roommate left it there. In any event, Mr. Boutilier entered and when encountered by Mr. MacNeil, told him he was there for maintenance. The occupant said he did not ask for maintenance, and Mr. Boutilier said he had been on the streets for 21 days and repeatedly asked "for $20 or something". Mr. MacNeil asked Mr. Boutilier to leave and walked him to the door. Mr. Boutilier left. The homeowner realized Mr. Boutilier had been trying to take gaming equipment. After police dusted that equipment for prints, they found a match to Mr. Boutilier. He was on both Probation and an Undertaking at the time (with house arrest).

(b) April 1, 2020 - s. 348(1)(a), s. 145(5) – Two young men, roommates, heard a noise downstairs in their apartment. They went down and Mr. Boutilier had locked himself inside their bathroom. He told them he

> needed to use the washroom and had knocked, but there was no answer. They knocked on the bathroom door and coaxed him out, and Mr. Boutilier left via the back door. They realized he had taken gaming equipment. They went after him, took him to the ground, and detained him until police arrived. The gaming equipment was in his backpack. At the time, he was on an Undertaking with house arrest.

**Mr. Boutilier's Circumstances**

[8] I am familiar with Mr. Boutilier. I have sentenced him in recent years. I have seen him come through cells seeking release, and I was the judge who bail denied him on these charges. I would confidently say that nearly every judge in this Courthouse has encountered Mr. Boutilier in their Courtroom over the years, indeed over the decades.

[9] I have a Pre-Sentence Report that was prepared for an earlier sentencing for Mr. Boutilier in January 2020. It is 5 pages in length, including the covering and intro page. The substantive report is 2.5 pages. It tells me very little about Mr. Boutilier but notes that he was in a special education program when he attended school, he receives a disability pension from Income Assistance, and has a long-standing struggle with addictions. He was victimized as a child. He has been using

crack cocaine for 30 years. To the best of my knowledge, Mr. Boutilier is a 50-year-old cisgender Caucasian man.

[10] Mr. Boutilier has a lengthy criminal record, approximately 315 prior convictions over the past 30 years. There are 156 failure to comply/breach offences. There are 126 possession or theft under $5000. Shoplifting and breaching accounts for 90% of Mr. Boutilier's record. The 8 break and enters on his record happened in 1991 (two counts, sentence of 70 days, 18 months Probation), 1992 (3 years Probation), 2003 (three counts, 2 years custody, 9 months custody, and 6 months custody, consecutive), 2007 (32 months custody), and 2011 (20 months custody). Mr. Boutilier has not had an easy relationship with the police. He has 11 convictions for resisting or assaulting an officer. But overall, Mr. Boutilier's record is not one of violence.

[11] The Crown pointed out that the bulk of Mr. Boutilier's convictions have been in the past 2 years. This is the record of a man with a severe addiction. Not including these offences, Mr. Boutilier has had 76 convictions in 2019 to date. To the Crown Attorney's point, that is about 25% of his total convictions over these past 3 decades. Mr. Boutilier has managed to stay in the community enough recently to keep a residence, consolidating petty matters and pleading out when appearing in cells. 49 of those recent convictions are for failure to

comply/breaches, 23 are for thefts under. That is 95%. The remaining 4 offences are for 3 counts of resisting or obstructing a peace officer and 1 for being unlawfully in a dwelling.

[12] We see addicted people offending to support their habit constantly in our Courts. In Mr. Boutilier's case, this is not just about an addiction. Mr. Boutilier's ability to understand his addiction and overcome it, and to abide by conditions of this Court and keep from re-offending, is significantly compromised because of his intellectual disability.

[13] I provided my decision on the International Day for Persons with Disabilities. The theme for this year is "Not All Disabilities are Visible", meant to foster awareness that not all disabilities, such as those of Mr. Boutilier, are apparent. I have the benefit of a Neuropsychological Assessment completed by Dr. Robert McInerney, dated November 23, 2020. Dr. McInerney testified as an expert at the sentencing hearing. His report and his testimony serve as stark reminders that appearances can be deceiving, and assumptions can be dangerous.

[14] Dr. McInerney reviewed all of Mr. Boutilier's records with the Nova Scotia Health Authority, met with Mr. Boutilier for the assessment, and spoke with Mr. Boutilier's mother. Mr. Boutilier's general intelligence is "very very low". An

intellectual disability is diagnosed when a person has an IQ below 70. An average IQ is about 100. Mr. Boutilier's IQ is 50. He is impaired in most areas of intellectual functioning including processing speed, attention, learning and memory, and executive functioning. Mr. Boutilier struggled on most activities during his assessment, even those that young children would be able to complete. There were no validity concerns with his test results. On tests that provide an age equivalent, Mr. Boutilier's results were in the 5-10-year-old equivalent range, depending on the test. Mr. Boutilier is slow to process information, his attention span is short. He goes from thing to thing. He likely only captures small amounts of information at once and is impulsive and erratic. When something springs up, he acts on it without a full ability to weigh options or consider alternatives. Mr. Boutilier was born this way. As Dr. McInerney explained, he was born different than usual and developed on his own trajectory.

[15] With a lot of repetition, Mr. Boutilier has a relative strength in his memory, but this takes time and patience from those he encounters. Mr. Boutilier's physical presentation would not alert those he encounters to his deficits. With his memory strength he can repeat things back at times, but this does not translate into actual understanding. He may appear evasive or dishonest, or even argumentative, when this is not what he is intending.

[16] Mr. Boutilier has a home. He has rented a room by way of his Income Assistance with a Trustee paying directly to his landlord. It is well known that this city is in a housing crisis, exacerbated by the current pandemic. Mr. Boutilier's rent was not paid because he was incarcerated. He has been served with an eviction notice, but his lawyer is in ongoing contact with his landlord and believes the arrears can be addressed. The landlord is holding Mr. Boutilier's place for him. Mr. Boutilier speaks of the fear of losing his home.

[17] Mr. Boutilier has a decades long addiction to crack cocaine. Even if he could access supports in the community for his disabilities by conquering the waiting lists, his addiction greatly complicates his ability to benefit from those supports and may make him ineligible for some. To further make the situation untenable, his ability to stop using crack is tremendously impacted by his disability. Mr. Boutilier is not an easy fit for services and supports. And he needs a lot of them. He is less able to deal with life stressors. He is less likely to have the skills needed to seek out and navigate social supports. He is less able to receive successful treatment. He is going to need a lot of help, and Dr. McInerney did not downplay this reality. Nor did Mr. Boutilier. Drugs are his biggest issue. He needs a home and structure. Ideally, he would have more services and supports than he has been able to access to date. Unstructured time for him is not expected to be helpful. Ideally, he would

have a social worker to help him navigate all of this. Drawing on writings related to people with Fetal Alcohol Spectrum Disorder ("FASD"), Dr. McInerney likened Mr. Boutilier's need for assistance with the idea of having an "external brain" for assistance, reminders, and cues to manage his behaviors.

[18] It is difficult to get services for those with intellectual disabilities when they are using crack cocaine. It is difficult to get services to stop using crack cocaine that address the needs of people with intellectual disabilities. For example, Mr. Boutilier has applied to Alcare Place and a letter from the Executive Director is in evidence and reads: "Given Mr. Boutilier's special needs and his cognitive functioning issues, it is unlikely that Alcare would be a suitable place for him. His needs are likely too complex and would fall outside of our abilities to provide him with the appropriate supports required to manage his issues". As Dr. McInerney said, without the services he needs, Mr. Boutilier will be living this "pattern of crime and time, over and over". The question I ask myself is whether that means jail is the only option for him.

[19] Mr. Boutilier appeared sincere in his desire to have a different, better life. He is remorseful. He wrote letters to Dr. McInerney, the victims of the break and enters, the Crown, and to me. He acknowledges his actions fueled by addiction and recognizes that he is living a life he wants to change. Mr. Boutilier has a family

that loves him. They want to support him despite the difficulties he has caused in his relationships over the years. Mr. Boutilier loves his family and wants to show them and others that he can do better. He is connected with the John Howard Society and a letter in evidence before me indicates that  can access supports through the Transition Support Program, to help him bridge the gap between jail and community. Notably, the Disability Support Program is in the community and provides important supports, but Mr. Boutilier is only eligible to begin the referral process if released back into the community. Of course, he will face quite a waitlist.

[20] Mr. Boutilier has never had a trial, He has always pleaded guilty and accepted responsibility. He said, “You take responsibility for your actions”. Mr. Boutilier told the Court he is getting too old for this and he wants change. As he said, he does not want to put his family through hell. He said, “Jail is hard. Nobody understands what I go through in jail”.

**Sentencing Principles**

[21] The purpose and principles of sentencing are in s. 718, s. 718.1, and s. 718.2 of the *Criminal Code*. The fundamental purpose of sentencing is to protect society and to contribute to respect for the law and maintenance of a peaceful society.

Sentences should attempt to do one or more the following: denunciation, deterrence, separation from society where necessary, rehabilitation, reparations to victims/community, promote a sense of responsibility and acknowledge harm done to victims/community. The fundamental principle of sentencing is proportionality, that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. I must consider aggravating and mitigating factors, try to ensure parity, that a sentence should be like sentences imposed for similar offences and similar offenders in similar circumstances, and always remember that an offender should not be deprived of liberty if less restrictive sanctions may be appropriate in the circumstances. I must consider all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims' community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

[22] *R. v. Nasogaluak*, 2010 SCC 6 reminds us that a sentence must not exceed what is just and appropriate, given the moral blameworthiness of the offender and the gravity of the offence. Judges are to take an individualized approach and use their broad discretion to formulate an appropriate sentence. Each case is different, and the sentencing objectives are applied with different weight considering these particulars.

**Aggravating and Mitigating Factors**

[23] It is mitigating that Mr. Boutilier pleaded guilty and shows remorse for his actions. Mr. Boutilier's lengthy and related criminal record is aggravating, as is that he was on more than one set of conditions at the time of these offences. Also, the offences were very close in time and both homes were occupied, although it was not a situation with violence used or threatened.

**Range of Sentence**

[24] It is generally accepted that people who commit residential break and enters can expect a federal period of incarceration. The Crown relies on *R. v. Zong* [1986] NSJ No. 207; *R. v. MacAllister*, 2008 NSCA 203; *R. v. Adams*, 2010 NSCA 42, and *R. v. Bernard*, 2014 NSSC 463, in its submissions focusing on the 3-year benchmark. The Defence pointed to *R v. Smith*, 2019 NSPC 60, in which Judge Buckle notes that long-standing benchmark, but adds, at paragraph 44, that "A review of subsequent decisions demonstrates how circumstances have caused judges to move up or down from that benchmark". Judge Buckle then notes precedents for non-custodial sentences or short jail sentences.

[25] The range of sentence for the failures to comply is wide, and encompasses fines, suspended sentences, and short periods of custody. Mr. Boutilier has been

routinely receiving custodial sentences for breaches and failures to comply, up to 30 days.

**Analysis**

[26] The Crown acknowledges that jail has not deterred Mr. Boutilier, however argues it is the only option. Mr. Boutilier struggles and ideally would have a more supportive living situation, but he knows his actions were wrong. The Crown argues deterrence and denunciation still have a place, even with Mr. Boutilier's acknowledged reduced moral culpability. I agree.

[27] The primary focus of the Crown position is the stated need to separate Mr. Boutilier from society. The Crown argued that if released, he would be right back at the Court facing more offences. Although the Crown noted it was not attempting to substitute jail for social services, the need to protect the public was presented as high. In that regard, the Crown provided *R. v. Ryan*, 2017 NSCA 32. Mr. Ryan was 55-year-old man with a long-standing addiction to crack cocaine. He stole relentlessly to buy drugs. He was sentenced to 22 months in custody, which was upheld on appeal. The Court of Appeal noted:

> [23] In sentencing, Courts have a number of tools which they use in an attempt to protect society from would-be offenders. The best way to protect society is to deter and/or rehabilitate offenders. A rehabilitated offender will, of course, have no additional victims. Except for the most serious crimes, jail sentenced are rarely

> imposed on young or first time offenders. Courts use other tools whenever possible to rehabilitate or deter offenders. For example, the appellants had at one time been enrolled in rehab programs as part of a sentence imposed.
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> [24] A review of the appellant's corrections history shows a progression in terms of more severe penalties. There must, however, come a point at which a court is satisfied that rehabilitation and deterrence is not working. Once the courts are satisfied an offender cannot be rehabilitated or deterred, courts then are forced to looks for other ways to protect the public. Specific deterrence and rehabilitation always remain a part of the toolbox. In this case, the appellant's record and the evidence suggests that the prospects of rehabilitation and deterrence without incarceration are minimal. Previous attempts to protect victims have failed.
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> [25] I have already referred to the fact that these are not run-of-the-mill shoplifting charges.

[28] The defence pointed me to *R. v. Harris*, 2002 BCPC 33 ("*Harris*"), where Judge Carlie Trueman of the Provincial Court of British Columbia noted the following when sentencing a man with FASD for a residential break and enter:

> [128] I do not believe that Canadians will think it a "just sanction" that a man who is cognitively challenged should be incarcerated on the principle that his jail sentence would denounce criminal conduct generally. I do not believe they would find it a "just sanction", on principle, to jail him to deter others. I do not believe that, on the facts of this case, they would think he should be separated from society to keep them safe. I believe that the Canadian public would think exactly like Judge Turpel Lafond did in *W.D.* "what social policy is served by the use of the hard penal machinery of the criminal justice system to deal with the [most] chronically disabled [youth] of our society?". With respect, the only social policy served by jails seems to be expediency. It does not fulfill the requirements as set down by Parliament or the Supreme Court of Canada.
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> [129] Taking into account what Canadians would consider a "just sanction" is part of the determination of whether the fundamental purpose of sentencing has been met. It forms part of "respect for the law and the maintenance of a just, peaceful and safe society".

[29] I agree that separation where necessary for the protection of society is key to this sentencing. The "where necessary" piece of that analysis forces a difficult consideration of rehabilitation. I balance those two differently than the Crown.

[30] The Crown submitted that rehabilitation cannot be given a lot of weight, as it has not worked for the past 30 years. I ask myself: Is it that rehabilitation has not worked, or rather that we have not gone about it correctly? From what I see before me, we (including myself) have tried to fit Mr. Boutilier, a unique individual, into the fortified structure of our sentencing regime. Mr. Boutilier exposes the gaps in the foundation of that structure. His sentence must have consequences that send a clear message that his behaviors were unlawful and unacceptable, while encouraging Mr. Boutilier to improve his circumstances so it does not happen again. As his record shows, jail followed by conditions that he is more than likely going to breach is not the way to accomplish this.

[31] Judge Trueman's concluding comments in *Harris* recognize this difficulty:

> [166] In sentencing Harris, I consider that sentences must be effective to be just. The huge expense that is incurred by courts, day after day, can only be justified by the belief that something constructive has been done. In many cases, that is not true.
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> [167] The cognitively challenged are before our courts in unknown numbers. We prosecute them again and again and again. We sentence them again and again and again. We imprison them again and again and again. They commit crimes again and again and again. We wonder why they do not change. The wonder of it all is that we do not change.

> [168] It appears that the school system, the medical system, and the criminal legal system have failed Jeffrey Harris. We probably know part of the reason for that failure now. It is time to change how we respond to Harris, for his benefit and for ours.

[32] Residential break and enters have long been considered by Courts, and society, as an extreme violation of privacy. They instill fear in victims. They can lead to spontaneous violence, for both homeowners and offenders. The seriousness of this offence must be balanced with Mr. Boutilier's (reduced) moral culpability for the offences to achieve a just sentence with the application of our sentencing laws.

[33] Our sentencing laws requires judges to truly craft a sentence that is responsive to each unique person before the Court. Many people like Mr. Boutilier do not have the benefit of the assessment information before the Court in this sentencing hearing. Indeed, given the low ended nature of most of his previous offences, neither did he. He simply pleaded guilty and served shorter jail sentences. The money and time it takes to accomplish such an assessment was not available until his recent, more serious, charges. I am thankful to have that information to inform this decision.

[34] Following conditions while on release, in many ways, is more difficult for Mr. Boutilier than is spending time in jail. Mr. Boutilier must face meaningful consequences for his actions. In addition, this sentence has more potential to

promote rehabilitation and change his history of using drugs and offending. During the sentencing hearing, I ordered that Mr. Boutilier be assessed for the possibility of enhanced electronic monitoring by way of an ankle bracelet. He has been assessed as suitable for that device, which was the defence suggestion. With electronic monitoring as a constant remainder and incentive, the need for him to change will be enforced. This will serve to protect the public from him reoffending, to remind him that he must work to stop offending, and hopefully, he will be able to find supports to assist him in this.

[35] There will no doubt be hiccups, as Mr. Boutilier's lawyer acknowledged. He may very well breach. While not ideal, the system can absorb this learning curve provided risk to the public is managed. When weighing the interests at play, it is still preferable to have Mr. Boutilier working toward rehabilitation in the community on appropriate conditions. Jail is only a band-aid that does not help with rehabilitation and we are looking for something that sticks longer in these exceptional circumstances. If we do not do it now, we will find ourselves in the same position later. Jail has minimal deterrent impact in this case. Courts may not be willing to try this approach indefinitely, but I find it is the fit and appropriate response at this juncture.

[36] The liberty restrictions as conditions of Mr. Boutilier's probation are not meant to be punitive in nature, but rather will be in place as a cornerstone of his rehabilitation, and therefore, the protection of the public. Mr. Boutilier needs to be supported in his reintegration in the community more than what the usual terms of probation would afford. He needs a lot of structure, reinforcement, and encouragement. As the British Columbia Court of Appeal observed in *R. v. Walsh*, 2018 BCCA 222:

> [37] While it is true that a probation order interferes with an offenders liberty to some extent, I see no error in the sentencing judge's consideration of a probation order as a tool to assist in the rehabilitation of Mr. Walsh and, correspondingly, as a tool to assist in the protection of society.
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> [38] As held in *R. v. Bourque*, 2013 BCCA 447 (B.C. C.A.) at paras. 26 — 28:
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> [26] While probation is primarily considered as an important tool for rehabilitation, the legislation is also designed to protect the public while the offender is in the community. What is prohibited is the imposition of a term of probation for a primarily punitive purpose. See *R. v. Proulx*, 2000 SCC 5, [2000] 1 S.C.R. 61at paras. 31-34; *R. v. Shoker*, 2006 SCC 44, [2006] 2 S.C.R. 399at paras. 10, 13; *R. v. Badyal*, 2011 BCCA 211at para. 3.

[37] A sentencing judge has broad discretion to craft terms of probation. As noted by the Supreme Court of Canada in *R.* v. *Shoker*, 2006 SCC 44:

> 13 Before discussing the issue that arises in this case, I wish to make a few general comments about the power to impose optional conditions under s. 732.1(3). The residual power under s. 732.1(3)(h) speaks of "other reasonable conditions" imposed "for protecting society and for facilitating the offender's successful reintegration into the community". Such language is instructive, not only in respect of conditions crafted under this residual power, but in respect of

> the optional conditions listed under s. 732.1(3): before a condition can be imposed, it must be "reasonable" in the circumstances and must be ordered for the purpose of protecting society and facilitating the particular offender's successful reintegration into the community. Reasonable conditions will generally be linked to the particular offence but need not be. What is required is a nexus between the offender, the protection of the community and his reintegration into the community. See, for example, *R. v. K. (E.P.)* (2000), 150 C.C.C. (3d) 311 (Alta. C.A.), and *R. v. Traverse* (2006), 205 C.C.C. (3d) 33 (Man. C.A.), where appellate courts have upheld conditions requiring abstinence from alcohol or drugs even though these played no part in the commission of the offence for which the offender was sentenced. On the other hand, conditions of probation imposed to punish rather than rehabilitate the offender have been struck out: *R. v. Ziatas* (1973), 13 C.C.C. (2d) 287 (Ont. C.A.); *R. v. Caja* (1977), 36 C.C.C. (2d) 401 (Ont. C.A.); *R. v. Lavender* (1981), 59 C.C.C. (2d) 551 (B.C. C.A.); *R. v. L.* (1986), 50 C.R. (3d) 398 (Alta. C.A.). In contrast, punitive conditions may be imposed pursuant to s. 742.3(2)(f) as part of a conditional sentence: Proulx, at para. 34.
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> 14 The residual power to craft individualized conditions of probation is very broad. It constitutes an important sentencing tool. The purpose and principles of sentencing set out in ss. 718 to 718.2 of the *Criminal Code* make it clear that sentencing is an individualized process that must take into account both the circumstances of the offence and of the offender. It would be impossible for Parliament to spell out every possible condition of probation that can meet these sentence objectives. The sentencing judge is well placed to craft conditions that are tailored to the particular offender to assist in his rehabilitation and protect society…

Mr. Boutilier will be appearing before me regularly for status updates on his situation. At least at first, this will be weekly. This will draw an easier path for the terms of probation to be varied to be response to Mr. Boutilier's circumstances, if appropriate.

**Sentence**

[38] I have shown restraint and considered totality. These offences were a quick escalation for Mr. Boutilier over a few short days, both similar in their simplicity, and they will be served concurrently. As noted above, I am sentencing Mr. Boutilier to eight months for each break and enter and 30 days for each failure to comply, all concurrent. This will be followed by 24 months of probation. That is time served.

[39] The Terms of the 24 month Probation Order (on all offences) are:

- Keep the peace and be of good behavior. Do not do anything that will get you in trouble with the police.
- Attend Court when required to do so by the Court.
- Notify the Court of Probation Officer in advance of any changes of name or address, and promptly notify the Court or the Probation Officer of any changes of employment or occupation. This means that you must tell your Probation Officer if you go to live somewhere else, change your name or change jobs.
- Come to Court every Tuesday at 1:30 p.m., to provide updates to the Court on your progress while on probation. If you cannot attend in person, you can provide updates to the Court in writing, through your lawyer, or

your probation officer, which will also be copied to the Crown Attorney involved with this matter.

- Provide your Probation Officer with a copy of the Neuropsychological Report prepared by Dr. Robert McInerney, dated November 23, 2020. It is important that your Probation Officer know that you have been assessed as being intellectually disabled and as having a global IQ of 50, and will require support and services in the community to address your broad deficits and your addictions issues. It may require those involved with you to show patience and understanding with how you present to them and how you live with your conditions.

- You must wear an enhanced electronic monitoring bracelet with a GPS tracker which will be used to electronically supervise you by a Probation Officer. You must be fitted with this device before you are released from custody. You must always wear it.

- Report to a Probation Officer by end of day on Monday, December 7, 2020, and after that keep your appointments with your Probation Officer to the best of your ability.

- Provide your Probation Officer with your cell phone number when you obtain a cell phone.

- Attend for services to address your addiction issues, as directed by your Probation Officer.

- Ask your Probation Officer to contact the Nova Scotia Disability Support Program and the Halifax Association for Community Living to inquire into services, support, and programs that are available to you.

- Attend for any assessment, counselling, or program as directed by your Probation Officer.

- For the first six months of your Probation Order, you will be on "house arrest". You must always remain in your residence for this time, starting at 8:00 p.m. today (December 3, 2020) and ending on June 3, 2021 at 10:00 p.m. Exceptions include:

    - When dealing with a medical emergency or attending a medical appointment for yourself, traveling by a direct route.

    - When attending a scheduled appointment with your Probation Officer, your lawyer, traveling by direct route.

    - When attending Court at a scheduled appearance, or under subpoena.

- For not more than 4 hours a week, at a time agreed by your Probation Officer, to run errands. This can be done in two, two hour, periods, to make it easier for you to plan for attending to your personal needs.
- When attending for services or supports in the community that your probation officer knows about in advance and has approved for you to attend.
- When in the company of your lawyer, Sarah White, at any time [as has been requested by Ms. White].

- For the next six months of your Probation Order, you will be on a curfew, from June 3, 2021 until December 3, 2021. You must be in your residence from 10:00 p.m. to 8:00 a.m. every day, 7 days a week, unless dealing with a medical emergency or attending a medical appointment for yourself, traveling by a direct route, or when in the company of Sarah White at any time.

- Prove compliance with your house arrest/curfew condition by presenting yourself at the entrance of your residence should your supervisor or a peace officer attend there to check compliance.

[40] The Victim Surcharges are waived for reasons of undue hardship, as per s. 737(2.1)(a) of the *Criminal Code*.

Amy Sakalauskas, JPC