PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Scott*, 2021 NSPC 42

Date: 20210825
Docket: 8378280
Registry: Shelburne

Between:

Her Majesty the Queen

v.

Edward Charles Scott

Restriction on Publication: *Criminal Code* s. 486.4
By court order made under subsection 486.4(1) of the *Criminal Code*, information that may identify the person described in this decision as the complainant [and/or witness] may not be published, broadcasted or transmitted in any manner.

Judge:	The Honourable Judge James H. Burrill
Heard:	August 25, 2021, in Shelburne, Nova Scotia
Decision	August 25, 2021
Written Decision:	November 4, 2021
Counsel:	Saara Wilson, for the Crown Jamie Vacon, for the Defendant

Order restricting publication — sexual offences

486.4 (1) Subject to subsection (2), the presiding judge or justice may make an order directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way, in proceedings in respect of

(a) any of the following offences:

(i) an offence under section 151, 152, 153, 153.1, 155, 160, 162, 163.1, 170, 171, 171.1, 172, 172.1, 172.2, 173, 213, 271, 272, 273, 279.01, 279.011, 279.02, 279.03, 280, 281, 286.1, 286.2, 286.3, 346 or 347, or

(ii) any offence under this Act, as it read from time to time before the day on which this subparagraph comes into force, if the conduct alleged would be an offence referred to in subparagraph (i) if it occurred on or after that day; or

(b) two or more offences being dealt with in the same proceeding, at least one of which is an offence referred to in paragraph (a).

Mandatory order on application

(2) In proceedings in respect of the offences referred to in paragraph (1)(a) or (b), the presiding judge or justice shall

(a) at the first reasonable opportunity, inform any witness under the age of eighteen years and the victim of the right to make an application for the order; and

(b) on application made by the victim, the prosecutor or any such witness, make the order.

Victim under 18 — other offences

(2.1) Subject to subsection (2.2), in proceedings in respect of an offence other than an offence referred to in subsection (1), if the victim is under the age of 18 years, the presiding judge or justice may make an order directing that any information that could identify the victim shall not be published in any document or broadcast or transmitted in any way.

Mandatory order on application

(2.2) In proceedings in respect of an offence other than an offence referred to in subsection (1), if the victim is under the age of 18 years, the presiding judge or justice shall

(a) as soon as feasible, inform the victim of their right to make an application for the order; and

(b) on application of the victim or the prosecutor, make the order.

Child pornography

(3) In proceedings in respect of an offence under section 163.1, a judge or justice shall make an order directing that any information that could identify a witness who is under the age of eighteen years, or any person who is the subject of a representation, written material or a recording that constitutes child pornography within the meaning of that section, shall not be published in any document or broadcast or transmitted in any way.

Limitation

(4) An order made under this section does not apply in respect of the disclosure of information in the course of the administration of justice when it is not the purpose of the disclosure to make the information known in the community.

By the Court:

[1] Mr. Scott is before the Court today having pled guilty to two charges that on or about the 15th day of August, 2019, at or near Shelburne, he did commit a sexual assault on two young men. I'm advised that given their age, I was given actually a year of birth. They were either 13 or 14 at the time of the offences, being JM and DM. In relation to those boys, they were twins and there is a ban on the publication of any information that would tend to identify them.

[2] The facts of the case are relatively straightforward. It was on that date that Mr. Scott had gone to the convenience store known as Maria's Convenience Store on King Street in Shelburne. Video surveillance indicated that he arrived there at 2:38 p.m. He bought some lottery tickets and remained in what's generally known as the coffee area of the convenience store.

[3] JM came into the store and left at 3:15 but came back with his twin brother DM at 3:34. Ultimately, both boys left the store with Edward Scott at 4:03. They walked east on King Street ended up on what's known as the Shelburne trail, the old railway track bed in Shelburne where they walked some distance.

[4] It's indicated in the facts from a combination of the boys' statements to the police that they had gone to the convenience store to buy some pop. Inside, they saw Mr. Scott who asked them to go for a walk. He gave his name as Eddie Smith but told them to call him "Ebbie". Mr. Scott also mentioned that his birthday was coming up. We know from the presentence report that his actual birthday is September the 2nd and he will, actually next week, have a birthday. And by my calculations, he'll be 75.

[5] So he told them that his birthday was coming up. They continued down that trail, down the walking path, until they turned off the trail, entering into the woods. And they walked until they came to a clearing. At some point, DM gave Mr. Scott $20 after he was told that it was his birthday. On the walk, Mr. Scott had asked DM to hold his hand, which he did. When they were at a clearing, Mr. Scott asked both boys to lay down, but they refused.

[6] At that point, or at one point there, he hugged and touched JM’s buttocks, approximately three times and, afterwards, started to rub his own penis through his pants. In his statement, JM also said that Mr. Scott whispered in his ear, “I love you”. He then attempted to hug DM before he pulled away.

[7] DM felt Mr. Scott touch his buttocks, although he did not grab it as such. DM asked him what he was doing and he made up an excuse. According to DM's report, Mr. Scott asked them to meet again at the convenience store later that night. DM made up a story about having to go to Halifax and, ultimately, the three parted ways with the boys returning home and telling their mother what happened.

[8] The Crown's review of the facts came as a result of the forensic sexual behaviour report. Those facts are consistent with what the Crown reviewed except that the Crown had indicated in the report that they walked off the trail between two certain streets, but nothing much turns on that. With regard to DM, the Crown's allegation is that Mr. Scott attempted to hug DM but he pulled away, and felt a brief touching of the buttocks.

[9] The accused was interviewed and he confirmed that he had spoken to the youths and ultimately, did acknowledge with some prompting ,some inappropriate behaviour. And that is confirmed in the forensic sexual behaviour report, as well.

[10] These matters were proceeded with by way of a summary conviction and the Crown relies on the mandatory minimum penalty set out in the *Criminal Code* of six months for each of the offences. By virtue of the provisions of the *Criminal Code*, because there are two victims, if the Court imposes the mandatory minimum

they have to be consecutive and the period of custody ultimately sought is one year. The Defence has challenged the mandatory minimum and seeks an order by this Court that the mandatory minimum is unconstitutional and seeks that an appropriate sentence be imposed.

[11] With respect to an analysis of the mandatory minimum and whether there is a violation of Section 12 of the *Charter*, the Court is guided by the Supreme Court of Canada's decision in *The Queen v. Nur*, 2015 SCC 15. That case involved a challenge to mandatory minimum firearms legislation. But, in that decision, the Court sets out a two-step analysis that the Court must determine.

[12] First, the Court must determine what constitutes a proportionate sentence for the offence, having regard to the objectives and principles of sentencing in the *Criminal Code*. And then the Court must ask whether the mandatory minimum requires the judge to impose a sentence that is grossly disproportionate to a fit and proper sentence.

[13] In this case, the Court can review reasonable hypotheticals; however, the Court should not bother doing that, essentially, if it doesn't need to. If, for example, the Court reviews this and decides that an appropriate sentence is a year-plus in jail, the Court need not review reasonable hypotheticals nor do anything

further with regard to the argument but simply impose what it considers to be a fit and proper sentence.

[14] In *Nur* it's clear that the Supreme Court of Canada has set a high bar for what constitutes cruel and unusual punishment under Section 12 of the *Charter*. A sentence attacked on this ground, as I said, must be grossly disproportionate to the punishment that is appropriate having regard to the nature of the offence and the circumstances of the offender.

[15] In *R. v. Smith*, [1987] 1 SCR 1045, Lamer J. explained at 1072 of that decision that the test of gross disproportionality is aimed at punishments that are more than merely excessive. He added, "We should be careful not to stigmatize every disproportionate or excessive sentence as having been a constitutional violation ..."

[16] With regard to mandatory minimum sentences, *Nur* says, at paragraph 44,

> [44] Mandatory minimum sentences, by their very nature, have the potential to depart from the principle of proportionality in sentencing. They emphasize denunciation, general deterrence, and retribution at the expense of what is a fit sentence for the gravity of the offence and the blameworthiness of the offender, and the harm caused by the crime. They function as a blunt instrument that may deprive courts of the ability to tailor proportionate sentences at the lower end of a sentencing range. They may, in extreme cases, impose unjust sentences because they shift the focus from the offender during the sentencing process in a way that violates the principle of proportionality. They modify the general process of sentencing which relies on a review of all relevant factors in order to reach a

> proportionate result. They affect the outcome of the sentence by changing the normal judicial process of sentencing.

[17] So it's clear that Parliament does have the ability to utilize minimum sentences so long as they don't violate Section 12 of the *Charter*. Minimum sentences have been upheld as constitutional in certain cases such as criminal negligence causing death with a firearm, impaired driving offences, or murder.

[18] In an analysis of what an appropriate range is for the offences that Mr. Scott is convicted, it's clear that this Court must view that appropriate range now through the lens of the Supreme Court of Canada's decision in *R. v. Friesen,* 2020 SCC 9, which the Crown has referred to extensively in these proceedings.

[19] The bottom line from that decision is that sentences for crimes of sexual offences against children are clearly violent crimes that wrongfully exploit children's vulnerability and cause profound harm to children, families, and communities. And as they say in the decision, sentences for these crimes must increase. Courts must impose sentences that are proportional to the gravity of sexual offences against children and the degree of responsibility of the offender as informed by Parliament's sentencing initiatives and by society's deepened understanding of the wrongfulness and harmfulness of sexual violence against children and the sentences must accurately reflect the wrongfulness of sexual

violence against children and the far-reaching and ongoing harm that it causes children, families, and society at large.

[20] The Court in that case makes some strong statements about how sentencing must change and how Courts must be, I almost want to say, hypervigilant in protecting the rights of children and protecting children from the wrongful exploitation and harm. That is the overarching objective of the legislative scheme of sexual offences against children.

[21] The Court directs sentencing courts to acknowledge the increase in maximum sentences that have been imposed by Parliament and certainly there needs to be a heightened awareness by sentencing judges of that fact of increased maximum sentences.

[22] The emphasis in sentencing requires Courts to focus their attention on emotional and psychological harm to children and not simply physical harm. And sexual violence against children, no matter how minor, can cause serious emotional and psychological harm to children that may be more pervasive and permanent in its effect rather than physical harm. And often we don't know, as *Friesen* indicates, what that harm will be. In this case we don't have any victim impact statements, but the fact of harm can be assumed by the court in a case such as this.

[23] So the Court needs to consider an appropriate sentence in this case through the lens of *Friesen*. And as the Court says at paragraph 91:

> [91] These comments should not be taken as a direction to disregard relevant factors that may reduce the offender's moral culpability. The proportionality principle requires that the punishment imposed be just and appropriate and nothing more. First, as a sexual assault, then sexual interference, are broadly defined offences that embrace a wide spectrum of conduct, the offender's conduct will be less morally blameworthy in some cases than in others. Second, the personal circumstances of offenders can have a mitigating effect. For instance, offenders who suffer from mental disabilities that impose serious cognitive limitations will likely have a reduced moral culpability.

[24] And the Court needs to consider that, as well. It's clear that *Friesen* directs that Courts take essentially, not a new approach, but directs the appropriate approach that Courts take in the sentencing of sexual offenders against children.

[25] The case still directs courts to consider the appropriate principles of sentencing. And in cases of sexual violence against children, it is clear that deterrence, both specific and general, is to be given primary consideration. And the fact that the offences are committed against children is a deemed aggravating factor.

[26] In s. 718 through s. 718.2 of the *Criminal Code*, there are a number of purposes and principles and objectives of sentencing that all need to be considered. I won't review them in great detail here now other than to note that for sexual

offences and the interplay between s. 718 and the case law, it is clear, as I've said, that deterrence is a primary objective of the sentencing.

[27] Section 718.01 says that when a Court imposes a sentence for an offence that involves the abuse of a person under 18, it is to give primary consideration to the objectives of denunciation and deterrence of such conduct. So it makes it explicit in that section.

[28] Nevertheless, the fundamental principle of sentencing is to impose a sentence that is proportionate to the gravity of the offence and the degree of responsibility of the offender, which is often called the moral culpability of the offender. And as we'll see, that that is informed by, to some extent, the personal circumstances of Mr. Scott.

[29] The principles of s. 718.2 of the *Criminal Code* are all applicable in this case. I'll not review them in specific detail except to say that after considering deemed aggravating circumstances, and both mitigating and aggravating features of sentencing, a sentence should generally be similar to sentences imposed on similar offenders for similar offences in similar circumstances, that consecutive sentences when imposed, and that must be imposed in this case, are combined, they shouldn't be unduly long or harsh.

[30] And an offender should not be deprived of liberty if less restrictive sanctions may be 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 the community should be considered for all offenders, with particular attention to Aboriginal offenders. Mr. Scott identifies as Aboriginal and African Nova Scotian in this case. The latter issue is informed by the decision of our Court of Appeal in *R. v. Anderson*, 2021 NSCA 62, which this Court considers as well.

[31] The Crown submits that the range of appropriate sentence in this case is a range of five months, generally, to four years for sexual assaults on minors involving touching over the clothes and/or a single incident. And that, while they acknowledge that this offence is at the low end of the scale, they suggest that the difference between five months and four months is not so great that it could be described as grossly disproportionate.

[32] In this case, the facts reveal a situation of an offence where the actual physical assault on the individual victims could be described as low end. The touching was brief. It was disturbingly preceded by a walk of some distance where during the walk Mr. Scott clearly had designs on having sexual contact with these

two boys that he had essentially just met. They had been nice to him. They bought him coffee and had given him $20 supposedly for his birthday.

[33] I have had the benefit of a presentence report and a forensic sexual behaviour program detailed report and risk assessment prepared by Dr. Michelle St Amand-Johnson, a registered psychologist. First of all, the presentence report indicates that Mr. Scott has struggled cognitively throughout his life. He has been described as having significant cognitive difficulties that contributed to his leaving school at a young age. It's unclear as to whether he had achieved grade three or grade four education. He is unable to functionally read or write, has lived with family members. But remarkably, to a degree, had been able to hold employment at the Shelburne Hospital for some 28 years which is a source of, appropriately, some pride for the accused. And that is to be noted.

[34] Mr. Scott will, as I've said already, turn 75 next week. He currently resides with his brother Gerald Scott, who is here with him today and has been through each and every court appearance. He manages his affairs through a power of attorney, but his income is derived from Old Age Pension, Canada Pension, and pension from his previous employment. He's always lived with family members.

[35] His general practitioner provided information to the presentence report writer and informed the writer that Mr. Scott has struggled all his life with a significant intellectual impairment and, more recently, has developed a cognitive impairment that is considered to be moderate to severe in nature which appears to have worsened over the last several years. The doctor noted that Mr. Scott is functionally illiterate and that he completed several cognitive tests and Mr. Scott scored very poorly on these tests, which indicated moderate to severe cognitive impairment.

[36] In discussing his actions with the probation officer, he accepted responsibility for his actions but did state that they approached him, that is the boys. During the interview, he appeared to demonstrate regret by saying, “Something told me not to do it and I should have walked away”. And it's clear that he should have listened to those feelings that he had.

[37] With regard to the circumstances of the comprehensive forensic sexual behaviour presentence assessment, a risk assessment was done. Mr. Scott's baseline risk for recidivism is in the average range. And the summary and prognosis section of the report includes comments that would suggest that his cognitive function may have caused him to misinterpret the cues that he was receiving from the interaction that he was having with these young boys.

[38] It is concerning that these sexual advances toward the two boys in the community who were unknown or scarcely known to him occurred in the manner that it did and it informs the actual risk in this circumstance.

[39] As I conduct an analysis of the appropriate range, I need to consider the many cases that have been provided to me by the Crown. I also have considered *R. v. Kirby,* 2020 ONCJ 33, a case from the Ontario Court of Justice, a decision of Judge Brian Green, where he found s. 271(1)(b), the summary conviction provisions, unconstitutional in a case where a man who was in a residence and had touched the buttocks of a girl that he did not know-- I'm not going to say in similar circumstances to this. He was sentenced, after the Court concluded that a non-custodial sentence was appropriate, to 30 days served by pre-trial detention and a suspended sentence and three years of probation that followed.

[40] In that case, the Court recognized that a Court with statutory authority cannot render the provision of the *Criminal Code* unlawful or unconstitutional but can impose an appropriate sentence depending on its determination.

[41] The Court also needs to consider the Nova Scotia Court of Appeal decision from 2018; *R. v. Hood*, 2018 NSCA 18. In that case, the Court declared a similar offence, a s. 151 offence proceeded with by way of indictment, unconstitutional.

In that case the Court considered, in holding the provisions unconstitutional, reasonable hypotheticals that the Court considered appropriate.

[42] At paragraph 149, after they had discussed the facts, the Court said,

> [149] Against this backdrop and as we will explain, we are of the view that the one year minimums fail constitutional muster for all three offences. In fact, one need only consider reasonable variations to Ms. Hood's circumstances to affirm this conclusion.
>
> [150] For example, consider a first-year high school teacher in her late 20s with no criminal record. She suffers the same mental health challenges as Ms. Hood. One evening she texts her 15-year-old student ostensibly to inquire about a school assignment. Feeling manic, she directs the conversation from casual to sexual. They agree to meet that same evening in a private location where they fondle each other. That was their one and only sexual encounter. Consider further a guilty plea coupled with the teacher's sincere remorse.
>
> [151] This scenario covers the elements for the (a) sexual interference and (b) luring (under 16) offences. If we were to consider instead a 17-year-old student, the (a) sexual exploitation and (b) luring offences would be covered.

[43] Although they don't say it, I would add that it would also cover a sexual assault offence, that is their reasonable hypothetical; a sexual assault offence for a person under the age of 16, as well, with the agreed fondling.

[44] Importantly, without reviewing what they say in the interim, at paragraph 154 the Court says:

> [154] Turning to step one, it is unlikely that any of these hypothetical crimes would even draw jail time. Instead, based on our judicial experience, we would expect to see a suspended sentence with a term of probation with strict conditions or, at most, a brief period of incarceration and probation with strict conditions. Therefore, by comparison, a one-year term would be grossly disproportionate and would represent cruel and unusual punishment. In other words, it would outrage our standards of decency and be abhorrent and intolerable.

[45] So even though the *Hood* decision deals with a different section of the *Criminal Code* and deals with the indictable mandatory minimum of one year, it's significant, in my view, that the hypothetical found in paragraph 150 of the case is a circumstance where one could say that the facts in that case, because of the breach of trust between a teacher and a student, would be more elevated on a scale of seriousness than the offences that I have before the Court involving Mr. Scott. And in that case, in that scenario, our Court of Appeal said that based on their judicial experience it is unlikely that that hypothetical would even draw jail time.

[46] In this case, I have concluded that an appropriate range of penalty for Mr. Scott is not something that would approach five months, as the Crown has suggested at the low end on each of the two charges, but because of the circumstances of the offence specifically and his diminished moral culpability, because of his cognitive deficits, and his deteriorating mental condition, I find that an appropriate range of penalty for each of these crimes could be considered as low as a suspended sentence or a brief period of incarceration plus probation.

[47] I have concluded, after careful consideration of *Friesen*, of *Hood*, and of the *Kirby* decision of Judge Green, that the mandatory minimum of six months under 271(1)(b) of the *Criminal Code* is representative of cruel and unusual punishment

and would be grossly disproportionate and it would, to use the words in the *Hood* decision, outrage our standards of decency and be abhorrent and intolerable.

[48] I'm mindful that those comments of our Court of Appeal were made pre-*Friesen* and I do not wish, in making my decision, to in any way diminish the seriousness of crimes involving the sexual abuse of children. And make no mistake, Mr. Scott, you are convicted of sexually abusing two children. I know that you have expressed the view that they seemed receptive to you. But at that age, receptive or not -- and I'm satisfied that in no way were they --, it is a crime to touch those boys in a sexual way. And it is, to use the words of Justice Derrick from last week, a true crime if there is any gradient that should be spoken of.

[49] I considered all the factors and I've arrived at what I consider to be an appropriate sentence. I note that originally the Defence had suggested a conditional sentence of six months and I'm satisfied from the *Proulx* decision that a conditional sentence can provide a level of deterrence, both general and specific, in appropriate cases. And I have considered that a period of custody is appropriate, with appropriate conditions. I am also satisfied that it can be managed in the community.

[50] On each of the offences before the Court there will be a three-month sentence of imprisonment to be served in the community, consecutive, for a total of a six-month conditional sentence order which will be served under the following conditions.

[51] For a period of six months, sir, you'll keep the peace and be of good behaviour. That means obey the law. Appear before the Court when required to do so by the Court. Report to a supervisor at the probation office here in Shelburne before 4:30 p.m. today and report thereafter as directed by your supervisor or someone acting in his or her stead.

[52] You'll remain in the Province of Nova Scotia unless written permission to go outside the province is obtained from the Court or supervisor. And you'll notify promptly the Court or supervisor in advance of any change of name or address, and promptly notify the Court or supervisor of any change of employment or occupation.

[53] You will not associate with or be in the company of any individual under the age of 16 years unless you are accompanied by a responsible adult who is aware of your convictions for this offence. And you will abide by a curfew and be in your residence each and every day of the six-month period between the hours of 10 p.m.

and 6 a.m. the following morning. That's to add somewhat of a punitive aspect to the sentence.

[54] I'm not going to impose house arrest as such because I know that, from the sexual behaviour assessment, he had been previously involved with the Lions Club and they don't know whether COVID restrictions allow that to now be revived, but that seems to be a prosocial type activity that he could benefit from. And I wouldn't want him to be under house arrest and not be able to deal with that. And, to some extent, the house arrest seems to be something that could adversely affect his what appears to be a cognitive decline.

[55] It is recommended, and I'm going to impose the following conditions, as well. This is specifically recommended by the assessor in the forensic sexual behaviour assessment report: you are to have no sexual talk with strangers or people that you do not know well. You'll have no sexual talk or request from anyone who is or looks like they may be a child or a teenager, even if you know that person well. And you are not to hug or hold hands with anyone who is not a family member or is a person that you are dating, if that person is, I'm going to add, if that person is under the age of 18 years. And you are not to loiter or people watch in places where there are children present.

[56] It's suggested, as well, that, in order to give him some guidance that if, Mr. Scott, if at any time you are worried or have a question about staying safe or wonder what's going on, you should ask someone in your support network such as your brother or your sister-in-law. And you're going to have a sentence supervisor who is a probation officer, as well. You should ask those persons.

[57] The conditional sentence order will be followed by a three-year term of probation. The three-year term of probation will require him to keep the peace and be of good behaviour, appear before the Court when required to do so by the Court and notify the Court or probation officer in advance of any change of name or address and promptly notify the Court or probation officer of any change of employment or occupation.

[58] He will report to a probation officer in Shelburne within two days of expiration of his sentence of imprisonment, which is the conditional sentence order, and thereafter as directed. During the term of the probation order, he will be subject to the same conditions that are in the conditional sentence order about no contact with people under 16 and the other no-contact/no-loitering provisions that I just indicated that are in the conditional sentence order. I'm not going to include an additional counseling clause. It seems that the appropriateness of that is discussed in the report, as well.

[59] There will be a DNA order requiring that he provide to the sheriffs a sample of bodily substance, suitable for forensic DNA analysis such that his DNA profile can be obtained and maintained at the National Databank in accordance with the federal legislation. And, Mr. Vacon, if you could explain his obligation to him in that regard.

[60] There will be a requirement for a Sex Offender Information Registry Act order for his lifetime requiring appropriate reporting. And again, Mr. Vacon, if you could take some extra steps to make sure he understands his obligations in that regard.

[61] And there will be, to provide absolute clarity, a s. 161 order as well for a period of ten years prohibiting him from attending a public park or public swimming area where persons under the age of 16 years are present or can reasonably be expected to be present, or a daycare, school ground, playground, or community centre.

[62] And he will not have any contact nor communicate by any means with a person who is under the age of 16 years unless the offender does so in the presence of a responsible adult who is aware of his conviction for this offence. I believe, in

these circumstances, those are the only appropriate provisions of s. 161 that need be applied.

[63] Mr. Scott, the Crown had asked me to impose the mandatory minimum sentence for these offences that are set out in the *Criminal Code* by Parliament and they asked me to send you to jail for a year today. That would be locked up in a jail, going in the van with the sheriffs to the correctional centre where you'd stay for a year. I found that, in the circumstances of this specific case, that that would constitute cruel and unusual punishment and be grossly disproportionate. And, instead, I have ordered that you be required to be subject to a conditional sentence order with certain conditions, which is a period of custody served in the community.

[64] You'll be going home with your brother today but there are certain conditions that will be explained to you that you have to follow. If you don't follow those conditions, if you go to Maria's today and start talking to boys under 16, the police are going to come arrest you and you're likely going to go directly to jail. And for a period of three years after that six months, you're going to have to report to a probation officer here in Shelburne, as they direct.

[65] So that's the sentence of this Court. Make darn sure, Mr. Scott, that any type of this behaviour does not repeat itself because now, with the presence of these convictions on your record, if something like this should happen again it would be hard not to send you to jail to send a clear message to you that this type of behaviour cannot be tolerated.

[66] In addition, there will be no contact, either direct or indirect with JM and DM during the term of conditional sentence order and this is also a term of the probation order as well.

Burrill, J. H., JPC