

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Clayton Blaise Young*, 2024 NSPC 31

Date: 20240429

Docket: 8544988, 8544989
8544991, 8544993
8544994, 8544997
8544998

Registry: Wagmatcook

Between:

His Majesty the King

v.

Clayton Blaise Young

Judge: The Honourable Judge A. Peter Ross

Heard: April 23, 2024, in Wagmatcook, Nova Scotia

Decision: April 29, 2024

Charge: s. 267(a), s. 267(b), s. 88(2), s. 279(2) x 2, s. 334 (b), s. 430(4)
Criminal Code of Canada

Counsel: Keavin-Mathieu Finnerty, for the Public Prosecution Service
Tony Mozvik, K.C., for the Defense

By the Court:

[1] Clayton Blaise Young is before the court for sentencing for offences which he committed on February 7th, 2022. On his scheduled trial date, November 30th, 2022, he changed his plea to guilty to the following charges:

- Assaulting Joey Fougere with a weapon (knife) – s.267(a) – count 3 on the Information
- Assaulting and causing bodily harm to Curtis Martell – s.267(b) – count 4
- Carrying a weapon (knife) for the purpose of committing an offence – s.88(2) – count 6
- Forcibly seizing Joey Fougere – s.279(2) – count 8
- Forcibly seizing Curtis Martell – s.279(2) – count 9
- Stealing vehicle keys from Curtis Martell – s.334 – count 12
- Damaging property, a vehicle of Nova Scotia Power – s.430(4) – count 13

[2] The matter proceeded by indictment. The first five of these offences carry a maximum punishment of 10 years incarceration. All offences are parts of one continuous transaction over a relatively short span of time, and are tightly

connected both factually and legally. While Mr. Young's sentence must be informed by of the totality of circumstances, punishments should be concurrent for all offences.

[3] Mr. Young has been represented by counsel throughout the proceeding. Since plea the matter has been docketed numerous times before other judges and has been adjourned for preparation of reports and for various other reasons. There is no suggestion that Mr. Young has been dilatory in this regard.

FACTS

[4] The parties filed an agreed statement of facts from which the following summary is made.

[5] Joey Fougere and Curtis Martell, employees of Nova Scotia Power Corporation, were checking power lines in Malagawatch following an ice storm which had caused loss of power in the area. They were performing an essential public service in a marked NSPC truck. They were approached by Mr. Young. They rolled down the passenger side window, expecting a routine inquiry, when Mr. Young lunged into the cab and pulled a knife.

[6] Young held the knife to Fougere's throat. When Martell tried to drive away Young reached over and took the keys from the ignition. Then, for the next 45 to 60 minutes, he held the two victims hostage inside the truck and terrorized them.

[7] At various times he sat on top of each victim. He held the knife to Martell's face, eyes, throat and lips. He pried Martell's mouth open and put the knife inside. He 'head-butted' Martell, creating an open wound. He placed his mouth around Martell's nose and threatened to bite it off.

[8] Young's actions were both dangerous and bizarre. He licked blood from the knife. He yelled non-sensical comments at the two employees, accusing them of working for the Prime Minister, demanding that NSPC pay him 5 million dollars, etc. He demanded they call his girlfriend. When they responded to his demands and questions he called them liars and told them to shut up. He smashed the driver's side window with the butt end of the knife. The Crown's characterization was apt - Young had total control over two powerless victims; they could only hope that the situation would diffuse.

[9] Young suddenly became very calm and polite. He returned the keys. He shook the victims' hands, telling them not to say anything and to forget about the incident, as though it had never happened.

[10] The victims reported the matter to RCMP as soon as they were able to leave the area. They described Young as ‘energetic’, his pupils dilated. They assumed he was under the influence of a substance of some kind. The knife was a folding-type with an 8 inch blade.

[11] Martell received scratch marks on his neck, and an injury on his forehead from the single blow he received. There is no indication of any physical injury to Fougere but he and Martell related severe psychological after-effects, Fougere through the Crown and Martell in a formal victim impact statement.

[12] The accused and victims had no prior acquaintance.

VICTIM IMPACT STATEMENT

[13] Curtis Martell’s impact statement was written on February 16th, 2023, about a year after the events, and more than a year prior to the sentence hearing on April 23, 2024. He writes of severe and lingering psychological trauma. He says he is not the same person he was before this occurred. He missed time from work, and was left feeling overly cautious and angry. Sleeping has been difficult. Whereas he was outgoing and sociable, he has become withdrawn and remote. He has lost his appetite for work and friendship. He is plagued with thoughts of what might have happened, how much worse it might have been. Even with a good family support

system, it appears that it will take considerable time for Mr. Martell to restore a sense of normalcy in his life. He hopes the matter is not ‘swept under the rug’ by the justice system.

[14] It is reasonable to assume that the impact on Mr. Fougere is similar, and that the impact on the victims will be life-long, even if it abates over time.

[15] The matter is made more serious by virtue of there being multiple victims, whose families have also been impacted by Mr. Young’s violent actions.

“JUSTICE COUNCIL” RECOMMENDATION

[16] In accordance with an established practice in this court, Mr. Louis Joe Bernard of Waycobah read into the record a brief set of recommendations. It appears Mr. Bernard is a member of a justice council formed from elders in local First Nations communities, which council had been asked to submit a report prior to sentencing. Recommendations included a psychiatric assessment (which has already been done under s.672), ongoing drug counselling, and a prohibition from carrying weapons as a precondition to returning to live in Eskasoni.

STATEMENT OF THE ACCUSED

[17] At his sentencing, Mr. Young made a statement to the court. He made it in Mi'qmaq. As translated, I heard him say that the statement “came from his heart and from his mind”. He expressed sorrow for what occurred, and wished he could “take it back”. He said “I feel for them the way they felt”. He said he did not want to be abusive and was trying his best to be a better person. He wished the victims were present in court so that he could apologize to them directly, but also said he would avoid any contact with them in future. He realizes he should be “happy with my life”, that he has “learned a lesson” and hereafter will never wrong others again, but “will be at peace”.

[18] From his statement, heard in the context of the background reports, I make the following observations:

- He demonstrated respect for feelings of victims and an understanding of the impact of his actions on them.
- He showed empathy for the emotional trauma they experienced.
- He seemed sincere in his desire to avoid any such behavior in future, to be a better person.
- He regarded his actions as a wrong to himself, not just to the victims.

GLADUE REPORT / FACTORS

[19] Mr. Young's mother is non-indigenous, his father a member of Eskasoni First Nation.

[20] Mr. Young grew up in Eskasoni. He currently resides in Malagawatch, Cape Breton, on land owned by the Young family. The history and significance of Malagawatch is explained in the report.

[21] His mother currently resides in Alberta; he does not have a close relationship with her.

[22] The accused's grandparents worked in a sawmill in Eskasoni but in the early 1950's migrated to Boston to live and work. They put their children, including the accused's father, in the Shubenacadie residential school. He had a difficult time there and still has flashbacks of traumatic events.

[23] The accused's father left Eskasoni in his 20's to work in Halifax, where he met the accused's mother. He kept two jobs. He eventually moved back to Eskasoni and got a house on the Reserve. In time he and his wife divorced and she moved to Bridgewater, NS with the accused, who was 16. He says he could not even get a summer job there because he was a "native". Feeling isolated and out-of-place, he moved back to Eskasoni to live with his father.

[24] The accused's father was a severe alcoholic. The father also claims that mental health disorders run in the family with various members having suffered from bi-polar disorder, anxiety, depression, etc. He says the accused struggled with his mental health as a youth, and that he was placed in hospital for psychiatric treatment.

[25] The accused went to Riverview High School, off the Reserve, near Sydney. Evidently he experienced racism there, which even led to physical altercations.

[26] The accused describes a difficult and abusive childhood in an unstructured household filled with drinking and fighting. He says they were poor, that he could not join many of the activities which his peers enjoyed. Around this time his sister Ashley died in a house fire. This seems to have accentuated a downward spiral. As noted above, his mother left the home in Eskasoni but the accused ultimately decided to return and stay there, citing his connection to the community and his loyalty to his father.

[27] During this period the accused sought refuge in his grandmother and at the family cabin at Malagawatch. He was very self-sufficient and was able to sustain himself there by cutting wood to burn and 'living off the land'.

[28] Mr. Young's father put him in hospital when he was a youth because he was struggling with his mental health. He says he was forcibly medicated, and worried he might be on medication and institutionalized for the rest of his life. He credits one Vincent Stevens for taking him out of a rehab program – “he took me home to the rez”. He says his mental health was relatively stable from that point until, later in adulthood, difficulties in his marriage led to separation and his move to Malagawatch as a form of self-isolation.

[29] Mr. Young was a young adult when the Donald Marshall decision affirmed the right of indigenous people to earn a moderate livelihood in the fishery. The accused had been working on fishing boats in Arichat and Digby. He began as a deckhand and worked up through various ranks until he became captain of a boat. He studied and learned the industry. He has established himself as one of the primary breadwinners of the Eskasoni fishery.

[30] The accused was married for 22 years; he fathered 2 boys and 2 girls. The family lived in Eskasoni. In court he said that he and his partner were not formally married. This relationship broke down because they were apart much of the time and “the love was gone.” He now claims to have a good relationship with his ex-partner and children. One of the sons now works with him.

[31] Five years ago the accused met his current wife, Hailey. They are building a dwelling (doing much of the work themselves) in Malagawatch. She works at a pharmacy in We'koqma'q. She describes the accused in glowing terms, explaining how he has taken her in and shown her about his culture. She describes his generosity, his willingness to help others, his integrity. The report corroborates this, saying he has volunteered "countless hours" helping members of his community.

[32] The accused says he has been an avid fisher and hunter all his life. His first language is Mi'qmaq; he has greater difficulty expressing himself in English. He describes having to live in Malagawatch as a type of banishment from his home community of Eskasoni, even though he has a deep connection to Malagawatch and intends to live there for the time being. Presently he has spoken with "leaders in his community" who are supportive if he would like to move back to the Eskasoni Reserve, keeping the newer dwelling in Malagawatch as a place for the Young family to enjoy special occasions. He hopes to build his permanent family home in Eskasoni.

[33] The accused says he was exposed to violence growing up, and to forms of mental abuse. He had close friends who committed suicide. He found his sister's boyfriend hanging from a tree. He has also had other family and friends die from

overdose and suicide. He also suffered bullying because of having alopecia, a lack of body hair.

[34] The accused's father says that other fishermen were jealous and suspicious of Mr. Young, who proved so successful at fishing that he was accused of stealing from the traps of others. The accused takes enormous pride in his fishing, his emphasis on safety, and the quality of his product. He says he is "one of the elite fishermen", who caught nearly half the quota allocated to his Reserve. He says he is highly respected now, "because they depend on me to put it on the table". He has taken numerous fishing-related courses.

[35] Mr. Young seems never to have had an alcohol problem. Nor has he abused hard drugs. He has, however, regularly consumed cannabis, though not during the fishing season. It seems he was prescribed medication for mental illness when younger but was eventually told that he did not need it, that he had been misdiagnosed.

[36] In regard to the incident itself, Mr. Young says he 'blacked out'. He says when police told him what he had done he thought they were lying to him. He explains that he had just injured his ankle but the hospital brushed off his complaints and told him to stretch it. He believed he had broken his ankle even

though the doctor told him it was just a sprain. He says he was “over a 10” in pain, and that Advil wasn’t dealing with it. He says he had not been eating or sleeping well at the time, because of worry about his family. He reports losing 40 pounds of his normal weight. He also says he was under considerable stress, partly from the isolation caused by the covid pandemic, from financial pressures, and from troubles between him and his partner at home. A few hours before the events in question he found a bottle of liquid THC in the house and drank what was left in it, thinking it would help with the physical pain and the mental distress.

[37] Mr. Young says that he was surprised to find the NSPC truck there, on a private road, and that there was a history of non-indigenous hunters trespassing on his property. (As an aside, I note that this sounds suspiciously like an after-the-fact rationalization for his actions.)

[38] After the incident, while in hospital for a mental health assessment, it was discovered that he did indeed have a broken ankle.

[39] Despite there being no clear picture of substance abuse, the accused told the Gladue writer that he is now sober, and says that he understands how important sobriety is for his mental wellbeing. He intends to resume cultural practices and “get his spirit back.”

[40] Mr. Young's actions are described as "out of character"

PRE-SENTENCE REPORT

[41] The presentence report visits many of the same concerns found in the Gladue report. The accused reports a difficult and unsettled childhood, an alcoholic and physically abusive father, his mother leaving the home when he was 13, the death of his sister in a house fire, etc. He none the less displays a forgiveness and understanding of his father's behavior given that his father was a residential school survivor. He says his is proud of his father for having quit drinking and "becoming a different person." His mother did not stay in contact with him; he rarely sees her. His current partner speaks well of him. She acknowledges that while they have argued, he has never displayed violence towards her.

[42] The PSR also mirrors many of the positive aspects of the Gladue report – Mr. Young's long work history, his success in the fishing industry, modest alcohol and drug use, a physically active lifestyle, a willingness to help others and participation in traditional pastimes and practices. The accused expressed remorse for his actions and a hope that his victims might forgive him.

S.672 ASSESSMENT

[43] Mr. Young was remanded for a psychiatric assessment on February 10th, 2022, three days after the events in question. Interviews were conducted in Mi'qmaq. Doctors noted that he “had suffered an injury to his foot some days prior to the alleged offences . . . and had difficulties ambulating”. X-rays revealed broken bones in his foot.

[44] The social history found in earlier medical records is consistent with the Gladue report in describing a dysfunctional family environment, an alcoholic and abusive father, dislocation from the home and feelings of isolation.

[45] The accused has a limited but significant psychiatric history. On his first such hospital visit he claimed suicidal thoughts, as noted above. On a second admission in 2000 he displayed elevated mood and delusional behavior. He was discharged on suspicion of paranoid psychosis and cannabis abuse.

[46] Mr. Young was briefly admitted to hospital in 2002, having been brought there by RCMP for assessment because of “strange behavior.” Patient discharge records note a history of “drug-induced psychosis.” A further admission later that year noted risk-taking behavior and odd conduct such as “rolling in the grass like a dog.” A family history of mental disorder is noted. He was assessed as having unspecified psychosis exacerbated by substance abuse.

[47] Mr. Young's wife, Hailey, told doctors her husband had been deteriorating in recent months. A normally quiet man, he was exhibiting increased energy, poor sleep and loss of appetite. There were also indications of "delusional preoccupations". During this period it appears Mr. Young had not been consuming drugs or alcohol.

[48] At admission, the only substance for which Mr. Young tested positive was cannabis.

[49] The assessor did not note any clear features of psychosis such as hallucinations or delusions. Staff noted that Mr. Young's mastery of his native tongue was "impressive".

[50] In recounting the events in question Mr. Young went on at great length about the days leading up to February 7th. He attempted to portray himself in a good light. He referred to the ankle injury and the pain he was experiencing, pain which he attempted to treat by ingesting cannabis. Eventually, in frustration, he consumed a large quantity of liquid THC, shortly before the encounter with the NSPC truck.

[51] The assessor concluded that Mr. Young did not qualify for a finding of "non criminally responsible" under s.16 of the Code. He based this not on a finding that

Mr. Young was thinking clearly, but rather that the psychosis he was experiencing was largely self-induced (the ingestion of cannabis). “It appears that the use of the substances aggravated his pre-existing mood state.” The doctor said that various stressors in his personal life led to Mr. Young once again developing “mood instability” leading up to February 7th. He allowed for the possibility that Mr. Young had genuine amnesia of the events in question.

[52] In short, the examining psychiatrist concluded that the accused did not have an ongoing psychiatric disorder although he was in a psychotic state at the relevant time. This mental state was caused by a combination of (i) mood disorder brought on by life stresses and (ii) the ingestion of cannabis oil to deal with these and the pain he was experiencing in his ankle.

[53] The doctor also allowed for the possibility that Mr. Young did have recall of his actions but was reluctant to discuss them “out of a sense of shame or embarrassment.” He also states that despite a history of substance abuse in his younger days “Mr. Young’s use of substances in this matter appears to be an outlier”.

CULPABILITY

[54] Mr. Young is responsible for his actions on February 7th, 2022. His plea of guilty is appropriate. This does not end all inquiry into the extent of his culpability and the blameworthiness of his behavior.

[55] The accused has struggled with his mental health most of his life. There is a clear history of mood instability. He was going through a difficult period in his life and immediately preceding the events was experiencing significant pain from a broken ankle, which had been misdiagnosed. He was prone to psychosis when abusing drugs and knew (or ought to have known) this. He might have sought further medical treatment at a hospital rather than self-medicating. However, while he voluntarily consumed the THC oil, this was not simple self-indulgence or thrill-seeking. These factors, clearly documented in the record, diminish the degree of culpability which one would otherwise ascribe to Mr. Young's actions.

CRIMINAL HISTORY

[56] The accused has no prior criminal record. Local RCMP Detachments expressed no concern about his behavior aside from the instant offences.

CONDITIONS AWAITING SENTENCE

[57] Mr. Young has complied with all his release conditions during the 26 months they have been in effect. Hailey Young says that the imposition of conditions drastically changed their lifestyle. “We can’t do much; he is allowed out with me but we have been keeping to ourselves.”

CASELAW

[58] In support of its submission for a three year jail sentence, Crown referred to *R. v. Robinson* 2021 NSPC 20 where a four-year sentence of incarceration was imposed. This case is distinguishable in that Robinson was convicted after trial of an aggravated assault, there was no operation of Gladue factors (see par.14 and 57 - 59) and the injuries suffered (certainly the physical injuries) were more serious (see par.8). Mr. Robinson also had a history of violent offences.

[59] The Crown’s argument is grounded more in the general statement of principle found in par.19 of Robinson - found also in countless other cases - that the emphasis in sentencing for serious crimes of violence like aggravated assault will almost always be on denunciation and deterrence, and that emphasizing these objectives reflects the need to condemn such violence and discourage the offenders and others from committing similar behavior in future.

[60] Crown also referred to *R. v. Whebby* 2017 NSPC 83 where the accused received a five year jail sentence. Here too one finds a clear statement of the principles of denunciation and deterrence, but here again there are important distinguishing factors. Firstly the case is uninformed by Gladue factors, which are of central importance in fashioning a sentence for Mr. Young. Secondly the charge is aggravated assault, a more objectively serious offence, where the injuries are described as “life-threatening”. It seems the accused left a knife embedded in the victim’s neck, punctured his airway, etc. Thirdly there was the aggravating factor of domestic context. While Whebby also pled guilty, showed remorse, had a positive PSR and had no prior record of violence, Whebby is not particularly helpful on the question of parity, given these distinguishing factors. Lastly, the attack was conscious and premeditated, suggesting a high degree of culpability. This diminishes its precedential value on the metric of proportionality.

[61] Cases submitted by the Defence were instructive, although they were not from this province. In *R. v. Mianscum* [2019] Q.J. No. 5355 an indigenous accused was given a three year suspended sentence with probation for an aggravated assault which caused significant brain injury to the victim, who was put in a coma and had a plate surgically installed in his cheek. The victim suffered financial loss and had ongoing physical and psychological sequelae. The judgement refers to various

Gladue factors, to the SCC decisions in Ipeelee and Proulx, and discusses other cases where suspended sentences were imposed on aboriginal offenders for crimes of serious violence (par.57 and appendix).

[62] In *R. v. Ross* 2015 SKQB 150 an indigenous woman slashed her sister's face, required 29 stitches to close the wound. The offence had a significant impact on the victim. The judge imposed a two year suspended sentence on conditions. Gladue factors are discussed and applied (par.19).

[63] In *R. v. Nicholls* 2013 BCSC 1145 the accused was convicted of aggravated assault and assault with a knife. He was of indigenous ancestry and at the time of sentence was receiving culturally appropriate programming (par. 16). The court pointed out that it was not necessary to establish a direct causal link between the accused's circumstances and the offending behavior (par. 38). The applicable principles of sentence are succinctly stated in par. 27 to 37. The court imposed a suspended sentence of 30 months on conditions.

[64] In *R. v. Bogue* 2017 BCPC 58 the accused set fire to the victim's home, putting lives at risk and causing \$315,000 worth of damage. The actions were described as "planned" while at the same time the judge said the accused was "suffering from a drug-induced psychosis". This, it seems, diminished the degree

of responsibility. Mental health problems were seen to play a central role in the commission of the offences. The accused had no prior record, he showed remorse for his actions, and an 18 month suspended sentence was the result.

[65] One example from this province of a non-custodial sentence for a violent crime is *R. v. Shand* 2021 NSSC 263 where a youthful first offender pled guilty to an aggravated assault. The accused and victim were out in search of marijuana. They got into an argument. It escalated into a knife assault upon the victim. Shand stabbed the helpless victim in the back multiple times. He suffered a collapsed lung and spinal cord injury, causing pain and weakness for which there was no sure prospect of recovery. Despite the vicious nature of the assault the court imposed a three year suspended sentence upon conditions, given the foregoing mitigating factors, the accused's difficult childhood, and the strong prospects for rehabilitation.

CONCLUSIONS

[66] Looking at this matter through the lens fashioned by Parliament in s.718.2(e) and by the SCC in *Gladue* and *Ipeelee*, I note, in no particular order of importance:

- In the months prior to the offences, the accused, ashamed of the breakdown of his marriage, believed he should remove himself from his community, Eskasoni, and live in Malagawatch. It seems this may have had the effect of increasing the stressors in his life and may have compromised important cultural connections which were important to his mental well-being.
- Mr. Young has experienced jealousy in his community from his success in the fishery.
- Mr. Young has experienced humiliation in his community because of his medical condition (alopecia).
- Mr. Young has experienced racism in school – particularly high school – and elsewhere he has lived and worked, and also experienced some negative attitudes in his own community because of his mother’s non-native background.
- Mr. Young experienced dislocation from his community when he went to live with his mother in Bridgewater.

- The offender suffered through a very rough childhood characterized by substance abuse, lack of structure, poverty and neglect.
- Mr. Young had direct experience with the suicide of friends and loved ones, as do many who live in First Nations communities.
- He lost his sister in a house fire likely caused by drunken carelessness.
- Mr. Young has experienced physical violence at the hands of his father, including in his attempts to spare his mother similar abuse.
- The offender suffered from mental instability as a youth, without receiving appropriate care and attention.
- Mr. Young wishes to restore connection to his community, realizing that living in relative isolation in Malagawatch has been detrimental to his overall well-being.

[67] Such features are not unique to Mr. Young, or to indigenous offenders, but their prevalence among the indigenous population requires a heightened consciousness of the context from which the offender's conduct arose.

[68] Deterring Mr. Young from similar conduct in future need not be emphasized. There is a strong prospect of rehabilitation. It appears unlikely that Mr. Young will act similarly in future given the available supports and the accused's genuine desire to lead a life in harmony with his community.

[69] In contrast, general deterrence is indeed a live consideration. These are crimes of violence. In such cases general deterrence is often expressed by the imposition of a jail sentence. That said, general deterrence, as a principle of criminal justice, need not be front and centre in each and every case. To the extent that it is effectual, it is given effect in the entire array of punishments for violent behavior, over the many such cases which come before the courts.

[70] The principle of denunciation requires that I ask whether a jail sentence is necessary to demonstrate, on behalf of society, condemnation of the accused's conduct. This is the most vexing aspect of this case. Equally important however is the principle of rehabilitation, best achieved through a community-based sentence - a particularly important consideration where indigenous offenders are concerned. It may be impossible to fully reconcile these principles. So long as protection of the public remains the paramount consideration, courts may have to choose which principles to emphasize in a given case.

[71] I have concluded that the well-being of the accused's community is better served by having Mr. Young serve a community-based sentence rather than adding to the ranks of indigenous persons behind bars. Ultimately, this enures to the benefit of the broader community as well.

[72] I have considered the possibility of a conditional sentence of imprisonment, but I think such sentences, to be worthy of the name, must be accompanied by significant restrictions on a person's liberty of movement. Given the accused's field of employment and the need for other rehabilitative measures, such restrictions would be self-defeating. While there are consequences, burdens and procedures specific to conditional sentences, a breach of conditions pursuant to a suspended sentence can also entail serious consequences. The Criminal Code allows for the offender to be brought back to court should they be convicted of a further offence, at which point the court may revoke the original sentence and impose any other sentence which was available to it at the time of the original sentencing. The threat of further and more serious sanction still hangs over the head of the offender should they not abide by the conditions.

[73] A fit and reasonable sentence in all the circumstances, imposed concurrently on counts 3, 4, 6, 8, and 9 is a three year suspended sentence on probation, the maximum allowable period. Mr. Young will be obliged to comply with the

following conditions, and will be subject to another sentencing for the instant offences should he breach any of them:

- Keep the peace and be of good behaviour
- Report to the Probation Office at Port Hawkesbury within 10 days of the making of this order and thereafter in such manner and times as may be required by the probation officer.
- Reside at 95 Young's Road, Malagawatch, NS and advise the probation officer of any change of address. Any move to Eskasoni shall be done in consultation with the Eskasoni Housing Department.
- Remain within the Province of Nova Scotia unless written permission to leave the province is obtained from the probation officer. This is not intended to be a restriction on off-shore fishing.
- Not to have in his possession any firearm crossbow, restricted weapon, prohibited weapon, prohibited device, prohibited ammunition or explosive substance unless specifically authorized by a competent authority pursuant to s.113

- Not to have any knives in his possession except as an eating utensil, to do household chores, or as may be necessary to fulfill tasks associated with his work in the fishery, or when exercising traditional hunting and fishing rights.
- Not to have any contact with Curtis Martell or Joey Fougere or any member of their immediate families, direct or indirect, and to stay away from their places of residence and employment.
- Notwithstanding the foregoing, to provide a written apology to the victims, Mr. Martell and Mr. Fougere, on or before June 1st, 2024, which shall be delivered to the probation officer, but which will not be given to the victims unless they advise the probation officer that they choose to receive it.
- Not to possess or consume alcoholic beverages, and not to possess or consume any controlled substance as defined by the Controlled Drugs and Substances Act except in strict accordance with a medical prescription.
- Undertake any assessment, counselling or treatment for substance abuse, particularly with regard to the consumption of cannabis products.

- Undertake any psychological assessments and any anger management or mental health counselling which may be recommended by the probation officer including any such services available through Eskasoni Mental Health Services.
- Undertake traditional healing and culturally-based programming or practices in consultation with the probation officer.
- Not to be found in the community of Louisdale except to pass through en route to work.

[74] There will be a requirement to provide a DNA sample under s.487.051 on counts 3, 4, 8 and 9 as primary designated offences

[75] There will be a lifetime ban on the possession of firearms (and other specified items) pursuant to s.109 on counts 3, 4, 6, 8 and 9. Defence counsel proposed and agreed that if any modification of this is required to accommodate Mr. Young's aboriginal rights a subsequent application would be made under relevant provisions of the Criminal Code.

[76] On counts 12 and 13, the theft and property damage, the sentence is one day in jail, served by his presence in court.

[77] There has been no request for restitution for the damage to the window of the NSPC truck.

[78] If the knife used in the offence was seized, it is hereby forfeited.

A. Peter Ross, PCJ