

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HIS MAJESTY THE KING

- v -

O(A)

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Oral Reasons for Sentence of The Honourable  
Justice K.M. Shaner, sitting in Yellowknife, in the  
Northwest Territories, on the 14th day of  
November, 2023.

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APPEARANCES:

M. Fane	Counsel for the Crown
K. Oja	Counsel for the Defence (Remote Appearance)

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Charges under s.271 of the Criminal Code

There is a ban on the publication, broadcast or transmission  
of any information that could identify the complainant  
pursuant to s. 486.4 of the Criminal Code.

These reasons have been edited and some information  
redacted to comply with the publication ban.

I N D E X

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1 DECISION

2 THE COURT: On January 13th, 2023, A.O.  
3 pleaded guilty to three counts of sexual assault  
4 against his two stepdaughters, B and C.

5 Agreed facts concerning all three charges  
6 were read into the record on August 1st, 2023,  
7 and convictions were entered.

8 Today it is my responsibility to impose a  
9 sentence on Mr. O. I have to do so taking into  
10 account the nature and the circumstances of the  
11 offences, including the aggravating and  
12 mitigating circumstances, Mr. O's personal  
13 history and current circumstances, including  
14 Gladue factors, the principles of sentencing, the  
15 goals and objectives of sentencing in sexual  
16 assault, and the effects that these crimes have  
17 had on the victims.

18 These reasons are subject to a publication  
19 ban under Section 486.4 of the Criminal Code.

20 The facts are admitted. A.O. had two  
21 stepdaughters, B and C.

22 The facts relating to Count 1 on the  
23 indictment, being a sexual assault against B on  
24 June 20th, 2020, are these: B's mother went  
25 upstairs in the home she shared with Mr. O and  
26 the two children to discover Mr. O naked in bed  
27 with B. He had been sexually assaulting her. A

1 spoke to Mr. O about what was happening. Mr. O  
2 subsequently assaulted A and damaged their shared  
3 property before he was arrested.

4 Medical treatment was administered to B,  
5 which led to the discovery of a mark near her  
6 anus.

7 Mr. O's DNA was discovered in B's underwear.

8 The facts relating to Count 4 of the  
9 indictment are these: Mr. O started sexually  
10 assaulting B in 2014. Although her age is not  
11 specified in the statement of agreed facts, Crown  
12 counsel stated the sexual assaults started on or  
13 just before B's seventh birthday. This was not  
14 disputed by Mr. O's counsel.

15 The sexual assaults continued for  
16 approximately six years until the final assault  
17 in June of 2020. They included oral sex, Mr. O  
18 rubbing his penis against B's genitals, and  
19 attempted and completed anal intercourse.

20 On one occasion while sexual assaulting B,  
21 Mr. O placed his hand on her throat. B's sister,  
22 C, was in the same room sleeping and she started  
23 to wake up. Mr. O used a pillow to block C's  
24 view of what was happening.

25 With respect to Count 5, which is a sexual  
26 assault against the younger daughter, C, the  
27 facts are these: Mr. O assaulted C on one

1 occasion when she was approximately five years  
2 old. He laid on top of her, touched her body  
3 with his hands, and pressed his penis against her  
4 body. He stopped when she protested.

5 Finally, B and C gave statements to the RCMP  
6 about the events of June 20th, 2020, and the  
7 historic offences. B described Mr. O showing her  
8 a photograph of her maternal grandmother  
9 appearing to perform oral sex on Mr. O. Such  
10 photo was discovered on Mr. O's phone.

11 Mr. O is an Indigenous man in his 40s who  
12 grew up in [REDACTED]. He has a criminal  
13 record dating back to 1998 when he was sentenced  
14 for sexual assault as a youth. The record also  
15 includes convictions for breaking and entering  
16 and theft, simple assault, and two convictions  
17 for serious sexual assaults in 2005 for which he  
18 received a six-year sentence. He served that in  
19 Bowden, Alberta.

20 I had the benefit of reading both a  
21 Pre-sentence Report and a Gladue Report about  
22 Mr. O, in addition to hearing about him through  
23 his lawyer. There is significant overlap between  
24 these reports, and both are helpful. I've taken  
25 all of the information into account.

26 Additionally, Crown counsel provided  
27 documents relating to Mr. O's time at Bowden

1 Institution. These are a Program Performance  
2 Report from 2008 pertaining to Mr. O's  
3 participation in an Aboriginal Offender Substance  
4 Abuse Program, and a Psychological Assessment  
5 Report and risk assessment regarding his  
6 participation and completion of the High  
7 Intensity Sexual Offender Program, which was also  
8 administered at Bowden.

9 Crown counsel also provided two reports from  
10 the National Parole Board dated February 25th,  
11 2009, and January 20th, 2010, both evidencing the  
12 Parole Board's assessment that Mr. O posed a high  
13 risk to re-offend and its decision ordering him  
14 to serve his sentence until warrant expiry, which  
15 happened in 2011.

16 Both the Pre-sentence Report and the Gladue  
17 Report contain detailed information about the  
18 history of [REDACTED], including, but not  
19 limited to, how the community changed with the  
20 advent of residential schools and other  
21 assimilation policies of successive federal  
22 governments.

23 [REDACTED] is an elder from [REDACTED]  
24 [REDACTED] who shared her knowledge with the authors of  
25 the Pre-sentence Report. The information is  
26 specific to Mr. O's community and very useful.  
27 According to the elder, children from Mr. O's

1 community were initially sent to residential  
2 school in Fort Providence and then, in 1935, to  
3 Aklavik, and finally to Grollier Hall in Inuvik  
4 beginning in 1959. Over 100 children from the  
5 community were sent away, a significant portion  
6 of the population. They returned without their  
7 language and without their traditional knowledge,  
8 survival skills, and culture. Alcohol use  
9 amongst community members became rampant and  
10 problematic. Despite some progress, the elder  
11 says the community remains plagued by alcohol and  
12 drug use. Suicide is also a problem in the  
13 community. Indeed, Mr. O has lost several  
14 friends to suicide over the years.

15 Mr. O had the benefit of being connected to  
16 the land and his culture through his parents.  
17 The Pre-sentence Report and the Gladue Report  
18 identify a few direct links to the classic  
19 systemic factors prominent in the lives of so  
20 many Indigenous people who come before this  
21 Court.

22 His father consumed alcohol. However, the  
23 family had food, shelter, and there was no family  
24 violence. His father managed to maintain his  
25 language.

26 Mr. O described his childhood as being a  
27 good one. He maintains close relationships with

1 his siblings, his father, and extended family.  
2 This said, Mr. O's childhood and adolescence were  
3 nevertheless affected negatively by assimilation  
4 policies and the effects of residential school.

5 As stated in both the Pre-sentence Report  
6 and the Gladue Report, the federal policies for  
7 Indigenous people, including, but not limited to,  
8 residential schools, led to widespread  
9 dysfunction in Indigenous communities and in  
10 Indigenous families.

11 Mr. O recounted to the author of the Gladue  
12 Report staying at a hostel in [REDACTED]  
13 while his parents were out on the land. He was  
14 10 or 12 years old and experienced sexual abuse  
15 at the hands of older teenagers who were also  
16 staying there.

17 He recounted to the author of the  
18 Pre-sentence Report that he experienced sexual  
19 abuse at the hands of a female caretaker who also  
20 worked at the hostel while he was staying there  
21 when he was seven or eight years old.

22 Abuse by an older woman is also reported in  
23 the psychological report from Bowden.

24 There was some question about the  
25 discrepancy between the Pre-sentence Report,  
26 which notes the abuse by the older teenagers, and  
27 the Gladue Report, which notes the abuse when



1 Mr. O was younger at the hands of the female  
2 caretaker at the hostel. I see no need to reject  
3 either of these, nor to reconcile them. They do  
4 not appear to be inconsistent versions of the  
5 same events, but rather they seem to be  
6 descriptions of two different sets of events. It  
7 is important to recognize that for most people,  
8 talking about such private and intimate matters  
9 is difficult. It may be that Mr. O just did not  
10 feel comfortable or capable of telling both  
11 interviewers about both things. I accept that  
12 both of these things happened to him.

13 Mr. O started drinking alcohol as a young  
14 adult. He said he started drinking more heavily  
15 in 2018 because of work stress. He told the  
16 author of the Gladue Report that in 2020 he lost  
17 control of his drinking and that from time to  
18 time he would drink to the point of blacking out.  
19 This was reflected as well, albeit in different  
20 words, in the Pre-sentence Report.

21 Mr. O completed grade nine in the  
22 Territorial school system. He is currently  
23 working towards a GED. He has a positive work  
24 history, describing himself as a workaholic. His  
25 Aunt [REDACTED] describes him as a hard worker as  
26 well.

27 Mr. O is currently on remand in Fort Smith.

1           There have been no issues with his behaviour, and  
2           it appears he makes positive contributions to the  
3           institution.

4                     Sentencing objectives are set out in S. 718  
5           of the Criminal Code. They include denunciation  
6           of unlawful conduct, general and specific  
7           deterrents, rehabilitation, and promoting a sense  
8           of responsibility in offenders, and  
9           acknowledgement of the harm done to victims and  
10          to the community.

11                    The emphasis placed on each of these  
12          objectives depends on what the offence is, the  
13          circumstances under which it was committed, and  
14          the circumstances of the offender.

15                    In sexual assault, denunciation and  
16          deterrence are the primary objectives. Moreover,  
17          S. 718.04 of the Criminal Code requires the Court  
18          to give primary consideration to denunciation and  
19          deterrence where the victim is a vulnerable  
20          person, and that includes Indigenous female  
21          victims and child victims. The victims here are  
22          Indigenous, female children.

23                    The Criminal Code also sets out principles  
24          to be applied in determining what an appropriate  
25          sentence is. The overarching principle is  
26          proportionality: that is, a sentence must be  
27          proportionate to the gravity of the offence and

1 the degree of responsibility of the offender.

2 In considering and applying the principle of  
3 proportionately, I must consider the fact that  
4 Mr. O is Indigenous and specifically consider the  
5 systemic and personal background factors,  
6 described earlier as Gladue factors, which may  
7 have contributed to him committing these  
8 offences. This helps to inform his degree of  
9 responsibility or moral blameworthiness.

10 It's important to note as well that as the  
11 Supreme Court of Canada affirmed in R v Ipeelee,  
12 2012 SCC 13, at paragraphs 82 and 83 that:

13 In considering Gladue factors, the  
14 Court is concerned with the overall  
15 effect of intergenerational trauma  
16 on the collective experience of  
17 Indigenous people.

18 An Indigenous offender, such as Mr. O, does  
19 not need to establish a causal link between his  
20 circumstances and the offending behaviour, although  
21 it is not unusual for these links to be strong and  
22 obvious.

23 Courts must also apply the principles of  
24 parity and restraint. Parity means that there  
25 should be similar treatment for like offences and  
26 offenders, bearing in mind that it does not call  
27 for identical sentences to be imposed for the same

1 crimes.  
2 In R v Friesen, 2020 SCC 9, Chief Justice Wagner  
3 and Justice Rowe, writing for the Supreme Court of  
4 Canada, said the following about the relationship  
5 between parity and the overarching principle of  
6 proportionality at paragraphs 32 and 33:

7 Parity and proportionality do not  
8 exist in tension. Rather, parity is  
9 an expression of proportionality. A  
10 consistent application of  
11 proportionately will lead to parity.  
12 Conversely, an approach that assigns  
13 the same sentence to unlike cases  
14 will achieve neither parity nor  
15 proportionately. In practice parity  
16 gives meaning to proportionately. A  
17 proportionate sentence for a given  
18 offender and offence cannot be  
19 deduced from first principles.  
20 Instead judges calibrate the demands  
21 of proportionality by reference to  
22 the sentences imposed in other  
23 cases.

24 Sentencing precedents reflect  
25 the range of factual situations in  
26 the world and the plurality of  
27 judicial perspectives. Precedents

1           embody the collective experience and  
2           wisdom of the judiciary. They are  
3           the practical expression of both  
4           parity and proportionately.

5           The principle of restraint is also relevant  
6           and it requires the Court to impose no more  
7           punishment than is necessary. Relatedly, where  
8           consecutive sentences are imposed, the combined  
9           sentence must not be unduly long or harsh. This is  
10          known as the totality principle.

11          Finally, S. 718.2(a) directs sentences should  
12          be increased or reduced to account for any relevant  
13          aggravating and mitigating circumstances, and it  
14          codifies certain factors as aggravating.

15          The statutorily aggravating factors in this  
16          case are that Mr. O's victims are children, and  
17          that he was their stepfather and thus abused a  
18          position of trust or authority in relation to them.

19          The Crown is seeking a global sentence of 14  
20          years for the three offences broken down as  
21          follows: For Count 1, being the June 20th, 2020,  
22          sexual assault on B, six years. This would run  
23          concurrently with a ten-year sentence for Count 4,  
24          being the sexual assaults committed against B  
25          between 2014 and 2020. This would be followed by a  
26          four-year sentence for the sexual assault against  
27          C, which is set out in Count 5.

1           In proposing this, the Crown has taken into  
2           account Mr. O's personal background and broader  
3           Gladue factors. Crown counsel has also considered  
4           amendments to S. 271 in the Criminal Code made in  
5           2015, which raised the maximum penalty of  
6           imprisonment up to 14 years for a sexual assault  
7           concerning a victim under 16 years of age and the  
8           fact that the sexual assaults set out in Count 4 of  
9           the indictment took place between 2014 and 2020,  
10          thus straddling this amendment.

11          Defence counsel argues a 12-year global  
12          sentence would be appropriate. She points to the  
13          broad range of sentences imposed for sexual crimes  
14          against children, which is about six to 14 years,  
15          and she notes the mid-range for offences with facts  
16          similar to what is before the Court in this case is  
17          nine years. She also argues that the proposed  
18          sentence for Count 5, the offence against the  
19          younger child, C, is too high.

20          Both counsel have presented judicial  
21          authorities to illustrate the appropriate  
22          sentencing range and the application of sentencing  
23          principles. I do not intend to go through each of  
24          them.

25          I accept defence counsel's submission that the  
26          range is broad and that the mid-range for a  
27          sentence in these circumstances would be nine years

1 in prison.

2 For reasons that follow I have determined that  
3 the 14-year global sentence proposed by the Crown  
4 is appropriate and needed in these circumstances.

5 In the R v Friesen, which I referred to  
6 earlier, guidance is set out for the manner in  
7 which the principles and objectives of sentencing  
8 are to be applied in sexual crimes against  
9 children. Friesen marked a significant change in  
10 the approach, particularly the length of sentence.

11 At paragraph 5 of the reasons, Chief Justice  
12 Wagner and Justice Rowe wrote:

13 ... We send a strong message that  
14 sexual offences against children are  
15 violent crimes that wrongfully  
16 exploit children's vulnerability and  
17 cause profound harm to children,  
18 families, and communities.  
19 Sentences for these crimes must  
20 increase. Courts must impose  
21 sentences that are proportional to  
22 the gravity of the sexual offences  
23 against children and the degree of  
24 responsibility of the offender as  
25 informed by Parliament's sentencing  
26 initiatives and by society's  
27 deepened understanding of the

1           wrongfulness and harmfulness of  
2           sexual violence against children.  
3           Sentences must accurately reflect  
4           the wrongfulness of sexual violence  
5           against children and the  
6           far-reaching and ongoing harm that  
7           it causes to children, families, and  
8           society at large.

9           Later, at paragraph 42, the Court noted that:  
10          "Protecting children from exploitation and harm is  
11          the overarching objective of the legislative scheme  
12          set out in the Criminal Code addressing sexual  
13          offences against children"... and that "protecting  
14          children from becoming victims of sexual offences  
15          is vital in a free and democratic society."

16          The Court in Friesen also offered a  
17          non-exhaustive list of significant factors to  
18          consider in determining a fit sentence for sexual  
19          offences against children. These include some  
20          factors which have traditionally been treated as  
21          aggravating. They are abuse of a position of trust  
22          and authority, duration and frequency of the abuse,  
23          the victim's age, and the degree of physical  
24          interference. The list of factors also includes  
25          the likelihood the offender will re-offend as a  
26          consideration in sentencing. I will address that  
27          later on.



1           I begin my analysis with proportionately.  
2           Again, that principle is this: A sentence must be  
3           proportionate to the gravity of the offence and the  
4           degree of responsibility of the offender.

5           Friesen offers guidance to sentencing Courts  
6           on giving effect to the gravity of the offence  
7           noting, at paragraph 76, the following:

8           ... The sentence imposed must  
9           reflect the normative character of  
10          the offender's actions and the  
11          consequential harm to children and  
12          their families, caregivers, and  
13          communities. Specifically, Courts  
14          must recognize and give effect to  
15          (1) the inherent wrongfulness of  
16          these offences (2) the potential  
17          harm to children that flows from  
18          these offences and (3) the actual  
19          harm that children suffer as a  
20          result of these offences.

21          The actual and potential harm flowing from  
22          Mr. O's actions is plain and obvious. The sexual  
23          exploitation of B was prolonged, spanning six  
24          years. The sexual assaults were physically  
25          invasive and no doubt painful, both psychologically  
26          and physically.

27          The offence against C, while not invasive

1           physically, was nevertheless a violation of C's  
2           physically autonomy and integrity.

3           Mr. O's actions were predatory and perpetrated  
4           against the most vulnerable of victims and, with  
5           respect to B, fall at the most serious end of the  
6           spectrum of sexual assault.

7           Mr. O bears a high degree of moral  
8           blameworthiness for these crimes. He took  
9           advantage of two highly vulnerable victims to  
10          satisfy his own sexual desires.

11          In reaching this conclusion, I have thought  
12          long and hard and taken into account the fact Mr. O  
13          is an Indigenous man from a community which was  
14          profoundly affected by the legacy of residential  
15          schools and other policies. I recognize, given  
16          what we know about the effects of those policies,  
17          that the personal and community dysfunction they  
18          caused was what likely led to Mr. O's own  
19          victimization. So, logically, that diminishes  
20          somewhat his moral culpability.

21          At the same time, however, Mr. O's diminished  
22          culpability must be limited by the same facts. As  
23          a victim of sexual abuse himself, Mr. O knows the  
24          hurt, pain, anger, and shame victims experience  
25          from this kind of abuse. Put simply, he knew it  
26          was wrong. This is evident from the reports  
27          following his participation in substance abuse and

1 sexual offender programing at Bowden Institution.

2 As a victim himself, Mr. O must also know  
3 these feelings of betrayal, shame, anger,  
4 resentment, and guilt do not go away, but remain  
5 imprinted on the victim's psyche forever.

6 These offences are characterized by highly  
7 aggravating factors, some of which I've touched on  
8 already.

9 The victims are female Indigenous children to  
10 whom Mr. O stood in a position of trust and  
11 authority. They viewed him as a father, someone  
12 who would care for and protect them, someone they  
13 could trust, and he violated that.

14 As Crown counsel noted, these children not  
15 only lost the security of their family unit, but  
16 the fallout also led to the children's mother and  
17 the children having to leave the community of [REDACTED]  
18 [REDACTED] and resettle elsewhere. Thus they also  
19 lost their community and their friends.

20 These offences occurred in the family home, a  
21 place where a child is entitled to feel safe and  
22 secure and protected by their parents, but also a  
23 place where they are most vulnerable.

24 As noted, the offences against B span six  
25 years, starting shortly before her seventh  
26 birthday. They included oral sexual activity and  
27 attempted and completed anal intercourse. This is

1 perhaps the most highly aggravating factor.

2 As set out in Friesen at paragraph 133:

3 In sum, sexual violence against  
4 children that is committed on  
5 multiple occasions and for longer  
6 periods of time should attract  
7 significantly higher sentences that  
8 reflect the full cumulative gravity  
9 of the crime. Judges cannot permit  
10 the number of violent assaults to  
11 become a statistic. Each further  
12 instance of sexual violence  
13 traumatized the child victim anew  
14 and increases the likelihood that  
15 the risks of long-term harm will  
16 materialize. Each further instance  
17 shows a continued and renewed choice  
18 by the offender to continue to  
19 violently victimize children...

20 The nature of the sexual assaults against B  
21 represent the most egregious degree of physical  
22 interference, no doubt causing physical pain and  
23 injury to B in addition to the psychological harm,  
24 which will last a lifetime. Again, this is  
25 extremely aggravating.

26 B was also shown a photograph of her  
27 grandmother, depicting the grandmother engaging in

1 oral sexual activity with Mr. O. This was bound to  
2 cause significant confusion and psychological harm  
3 to B.

4 Mr. O, on at least one occasion, decided to  
5 sexually assault B in the presence of her sleeping  
6 younger sister. When she awoke, he did not stop  
7 sexually assaulting B, but rather used a pillow to  
8 block her younger sister's view. This demonstrated  
9 a blatant disregard for both children's  
10 psychological well-being and would no doubt lead to  
11 hurt and confusion for both.

12 Mr. O has a criminal record, which includes  
13 three convictions for sexual assault. These are  
14 relevant and they are aggravating.

15 Mr. O finished serving his sentence for those  
16 two sexual assaults in 2011. It was only three  
17 years later, in 2014, that he began sexually  
18 assaulting B. This was despite serving a six-year  
19 sentence for sexual assault, undergoing substance  
20 abuse programming, and undergoing and completing  
21 the High Intensity Sexual Offender Program while at  
22 Bowden.

23 There are, of course, mitigating  
24 circumstances. The most significant being Mr. O's  
25 guilty plea. The guilty plea came late, so it's  
26 mitigative affect is diminished. Nevertheless, the  
27 Crown points out it is still valuable, and I agree.

1           The guilty plea, being made freely by Mr. O,  
2           validates the victims' claims. There are times  
3           when after a trial, notwithstanding a finding of  
4           guilt, questions remain and innocence is  
5           maintained. The guilty plea here eliminates that  
6           possibility and that is worthy of consideration in  
7           Mr. O's favour. I have applied it in his favour.

8           While I note that in both the Gladue Report  
9           and the Pre-sentence Report Mr. O seemed equivocal  
10          in taking responsibility for his actions, I agree  
11          with his counsel that there are other indicators in  
12          the two reports and from Mr. O himself that he is  
13          moving towards accepting responsibility. Mr. O is  
14          entitled to the benefit of, at least, some  
15          mitigative effect for this.

16          In Friesen, the Supreme Court of Canada held  
17          at paragraphs 123 and 124 that:

18                 Where the sentencing judge finds  
19                 that the offender presents an  
20                 increased likelihood of reoffending,  
21                 the imperative of preventing harm  
22                 calls for emphasis on the sentencing  
23                 objective of separating the offender  
24                 from society in S. 718(c) of the  
25                 Criminal Code. Emphasizing this  
26                 objective will protect children by  
27                 neutralizing the offender's ability

1 to engage in sexual violence during  
2 the period of incarceration. The  
3 higher the offender's risk to  
4 reoffend, the more the court needs  
5 to emphasize this sentencing  
6 objective to protect vulnerable  
7 children from wrongful exploitation  
8 and harm.

9 The offender's likelihood to  
10 re-offend is clearly also relevant  
11 to the objective of rehabilitation  
12 in 718(d) of the Criminal Code:  
13 Courts should encourage efforts  
14 toward rehabilitation because it  
15 offers long-term protection.  
16 Rehabilitation may also weigh in  
17 favour of a reduced term of  
18 incarceration followed by probation,  
19 since a community environment is  
20 also often more favourable to  
21 rehabilitation than prison. At the  
22 same time, depending on the  
23 offender's risk to reoffend, the  
24 imperative of providing immediate  
25 and short-term protection to  
26 children may preclude early release.  
27 In these cases, efforts at

1 rehabilitation must begin with such  
2 treatment or programming as is  
3 available within the prison. In  
4 some cases, the only way to achieve  
5 both short-term and long-term  
6 protection of children may thus be  
7 to impose a lengthy sentence.

8 [Citations omitted]

9 As noted, the Crown submitted reports on Mr. O  
10 from the Bowden Institution and the National Parole  
11 Board.

12 The two reports from Bowden suggested that  
13 Mr. O needed to gain more insight into his  
14 offending behaviour, including his anger. The  
15 psychological report on his participation in the  
16 sex offender programming while at Bowden offered  
17 that he would benefit from ongoing programming.  
18 The two reports from the National Parole Board, as  
19 I said, both found that Mr. O lacked insight into  
20 his offending and was at high risk to reoffend, and  
21 therefore he was denied early release.

22 In my view, the circumstances of this case on  
23 their own support and justify the imposition of the  
24 14-year global sentence proposed by the Crown;  
25 however, it is worth pointing out the evidentiary  
26 record supports the conclusion that there is a  
27 likelihood Mr. O will continue to commit sexual



1 offences if he does not receive a sentence  
2 sufficiently long to engage in meaningful sexual  
3 offender and substances abuse programming, and  
4 ultimately achieve rehabilitation. Until this  
5 happens, he presents an unacceptable risk to  
6 society, particularly children and other vulnerable  
7 people.

8 I will address defence counsel's argument that  
9 the sentence to be imposed for the sexual assault  
10 on C in Count 5 is too long. Respectfully, I  
11 disagree. The Crown is proposing a four-year  
12 sentence. While arguably the circumstances of this  
13 particular sexual assault fall at the lower end of  
14 the seriousness spectrum, the victim was very  
15 young, five years old at the time, and the assault  
16 was perpetrated by her stepfather, who was in a  
17 position of authority. Moreover, as noted, Mr. O  
18 has a previous record for sexual assault, two of  
19 which were very serious and attracted a six-year  
20 prison sentence. Something less than four years  
21 might be appropriate for an offender with no  
22 criminal record and who did not stand in the  
23 position of authority in relation to the victims.  
24 In this case and in these circumstances, however,  
25 attributing four years of the global sentence to  
26 this particular count is entirely appropriate.

27 I have considered whether the Crown's proposed

1 total sentence of 14 years would offend the  
2 totality principle, given that is the maximum  
3 sentence for sexual assault. I have concluded that  
4 it does not.

5 The Crown proposes that ten years of the  
6 global sentence be attributed to the ongoing sexual  
7 assaults against B, which lasted six years and  
8 include attempted and completed anal intercourse.  
9 The Crown proposes a six-year sentence for the  
10 sexual assault on June 20th, 2020, which would run  
11 concurrently with the ten-year sentence. The  
12 sentence for the sexual assault against C, the  
13 Crown is proposing four years, as discussed, and  
14 that would run consecutively, and properly so,  
15 given that it is a separate and unrelated criminal  
16 event.

17 While acknowledging the importance of  
18 restraint, the hope of rehabilitation, and the  
19 effects of colonization on Mr. O and collectively  
20 on the people of ██████████, the fact is Mr. O  
21 is guilty of egregious violations of the physical  
22 and mental integrity of these child victims and  
23 their trust. The law requires the sentence reflect  
24 the harmful effects of sexual crimes on children  
25 and the utter wrongfulness of these crimes. Mr. O  
26 needs to understand that harm and he has to be  
27 deterred from engaging in it ever again. The

1 larger community needs to understand that too.  
2 Above all, children need to be protected and they  
3 need to know they will be protected from sexual  
4 exploitation by adults.

5 Mr. O, can you please stand?

6 A.O., I sentence you as follows: On Count 1,  
7 you will serve a term of six years in prison. That  
8 will run concurrently with a ten-year sentence on  
9 Count 4, to be followed by a four-year sentence on  
10 Count 5. That is a global sentence of 14 years.  
11 And the amount of 1,864 days will be deducted from  
12 your total sentence as credit for time served  
13 before sentencing.

14 You can sit down.

15 With respect to ancillary orders, Mr. O will  
16 be prohibited from possessing any weapon described  
17 in Section 109, including a firearm or crossbow for  
18 ten years, subject to a Section 113 exemption.

19 There will be an order to allow bodily fluids  
20 to be taken from Mr. O for DNA testing.

21 Mr. O will be required to register and provide  
22 information under the Sex Offender Information  
23 Registration Act, and this order will remain in  
24 place for 20 years on each offence.

25 Mr. O may not contact directly or indirectly B  
26 or C while he is in custody.

27 There will be no victims of crime surcharge

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CERTIFICATE OF TRANSCRIPT

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability. Judicial amendments have been applied to this transcript.

Dated at the City of Calgary, Province of Alberta, this 15th day of December, 2023.

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T. Kaga, CSR(A)  
Official Court Reporter