Date: 2023 02 09
File: T-1-CR-2020-002127

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

HIS MAJESTY THE KING

-and-

THOMAS DRYNECK

REASONS FOR JUDGMENT
of the
HONOURABLE CHIEF JUDGE ROBERT GORIN

Heard at:	Yellowknife, Northwest Territories
Date of Decision:	February 9, 2023
Date of Written Judgment:	February 9, 2023
Counsel for the Crown:	Annie Piché & Georgios Phillips
Defence Counsel:	Roopa Mulherkar & Mallorie Malone

[S. 271 of the *Criminal Code*]

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A. INTRODUCTION

[1] Thomas Dryneck has been convicted of sexual assault contrary to s. 271 of the *Criminal Code*.

[2] Very briefly, the essential facts of the offence are that after a night of drinking at a residence with several other people, the victim woke up in the bed where she had previously gone to sleep with the accused lying next to her digitally penetrating her vagina. She contacted the police who arrived soon after and arrested the accused.

[3] The Crown submits that the maximum allowable jail term of 18 months along with probation and other ancillary orders should be imposed. Mr. Dryneck submits that a conditional sentence of 15 months would be appropriate, or in the alternative, a jail term of 10 to 12 months.

[4] For the following reasons, I agree with the Crown.

B. ANALYSIS

Effect of the Crown Election

[5] The Crown says that the offence in question was a "major sexual assault" as that term has been defined by the Alberta and Northwest Territories Courts of Appeal, that characterization is not disputed by Mr. Dryneck. As made clear by the Alberta Court of Appeal in *R. v. Arcand*, 2010 ABCA 363; at para. 169, the

starting point for cases of major sexual assault on an adult victim is three years imprisonment. *Arcand,* was adopted in the Northwest Territories by Northwest Territories Court of Appeal in *R. v. A.J.P.J.*, 2011 NWTCA 2.

[6] Notwithstanding that the offence committed was a major sexual assault, the Crown proceeded summarily with this matter. The Crown takes the position that I should impose the maximum jail sentence of 18 months along with probation and other ancillary orders. Mr. Dryneck submits that I should impose a conditional sentence of 15 months or alternatively a jail term of 10 to 12 months. He argues that, I must apply the principle of parity of sentence and in doing so, use only other cases where the Crown has proceeded summarily as comparators.

[7] Parliament recently amended s. 787(1) of the *Criminal Code* to increase the maximum period of imprisonment generally applicable to summary conviction offences, where no maximum is otherwise specified, to two years less a day. However, sexual assault in cases where the Crown has proceeded summarily– and in which the victim is 16 years of age or over– has explicitly retained a maximum jail term of 18 months; see s. 271(b) *Criminal Code*. I note that these maximum penalties lead to an anomaly since common assault contrary to s. 266 of the *Code*, an offence that is included in that one cannot commit a sexual assault without also committing a common assault, now carries a maximum period of imprisonment of 2 years less a day in the case of a summary election. That said, there is no dispute that in the present circumstances, the maximum amount of jail that I can impose is 18 months.

[8] The Crown relies on the case of *R. v. Solowan*, [2008] 3 SCR 309. In *Solowan* the accused had received the maximum jail term of six months for two offences in which the Crown had proceeded summarily, possession of stolen property and failing to stop at the scene of an accident. Mr. Solowan appealed his sentence. The British Columbia Court of Appeal reduced the sentence on the possession count but upheld the sentence on the count of failing to stop at the scene of an accident. In doing so the court observed that it was clear that the worst offender, worst offence principle no longer operated as a constraint on the imposition of the maximum sentence given the principles of sentencing now set out in Part XXIII of the *Criminal Code* and earlier jurisprudence of the Supreme Court of Canada; see: *R. v. Cheddesingh*, [2004] 1 SCR 433; *R. v. L.M.*, [2008 2 SCR 163].

[9] Lowry J.A. on behalf of the Court of Appeal, 2007 BCCA 388, stated:

> [9] The applicant contends that the judge erred in imposing the maximum sentence for which the law provides on two of the counts without first finding he was the worst offender committing the worst offence which the judge could not have done. The applicant says the sentences are in the result at odds with the principle of proportionality. But possession of stolen property under $5,000 and failing to stop are hybrid offences. The Crown can proceed summarily or by indictment. *The maximum sentence for the offences was not imposed here. It is available only where the Crown elects to proceed by indictment.*
>
> [Emphasis added.]

[10] Fish J., on behalf of the Supreme Court of Canada, noted that the emphasized portion of the above paragraph, if construed literally, was incorrect in that given the Crown's summary election, the maximum jail term had in fact been imposed. However, he also held that the Court of Appeal had not erred in imposing the maximum sentence that was available. In upholding the Court of Appeal's sentence, he stated:

> [15] A fit sentence for a hybrid offence is neither a function nor a fraction of the sentence that might have been imposed had the Crown elected to proceed otherwise than it did. More particularly, the sentence for a hybrid offence prosecuted summarily should not be "scaled down" from the maximum on summary conviction simply because the defendant would likely have received less than the maximum had he or she been prosecuted by indictment. Likewise, upon indictment, the sentence should not be "scaled up" from the sentence that the accused might well have received if prosecuted by summary conviction.
>
> [16] In short, the sentencing principles set out in Part XXIII of the *Criminal Code* apply to both indictable and summary conviction offences. Parliament has made that clear in the definition of "court" at s. 716 of the *Code*. And when the Crown elects to prosecute a "hybrid" offence by way of summary conviction, the sentencing court is bound by the Crown's election to determine the appropriate punishment within the limits established by Parliament for that mode of procedure. Absent an error of principle, failure to consider a relevant factor, or overemphasis of the appropriate factors, any sentence within that range — including the maximum — should not be varied on appeal unless it is demonstrably inadequate or excessive.

[11] I interpret the foregoing words as stating that the sentence imposed by the court should not be affected by the election of the Crown, other than to limit the sentence at the lower maximum sentence in the case of a summary election.

[12] In the case of *R. v. Minoza*, 2009 NWTSC 07, Charbonneau J. (as she then

was) appears to have come to a similar conclusion where she stated:

> [37] The line of reasoning according to which maximum penalties should be reserved for the theoretical "worst crime committed by the worst offender" has also been rejected. The fitness of any sentence, even the maximum sentence, must be assessed in light of all the sentencing principles set out in the *Criminal Code*. *R. v. L. M.*, supra. In *Solowan*, the Supreme Court made it clear that this is as true for summary conviction offenses as it is for indictable offenses, and that it applies to hybrid offenses for which the Crown has proceeded summarily:
>
> In short, the sentencing principles set out in Part XXIII of the *Criminal Code* apply to both indictable and summary conviction offenses. Parliament has made that clear in the definition of "court" at s. 716 of the *Code*. And when the Crown elects to prosecute a "hybrid" offence by way of summary conviction, the sentencing court is bound by the Crown's election to determine the appropriate punishment within the limits established by Parliament for that mode of procedure. Absent an error in principle, failure to consider a relevant factor, or overemphasis of appropriate factors, any sentence within that range - including the maximum - should not be varied on appeal unless it is demonstrably inadequate or excessive.
>
> *R. v. Solowan*, supra, at para. 16.
>
> [38] The Sentencing Judge recognized that the Crown's election to proceed summarily limited the range of sentences available to her. She respected that limit, even though she thought that a jail term in the penitentiary range would have been fit under the circumstances. The sentence imposed, which was only a few months longer than the one suggested by both counsel, cannot be characterized as "inadequate or excessive", even though it was the maximum jail term that could be imposed.

[13] I note that in *Minoza*, Charbonneau J. was sitting in her capacity as a summary conviction appeal court and I am therefore bound by her decision as a matter of *stare decisis*.

[14] Ms. Mallone on behalf of Mr. Dryneck has filed two cases from the Ontario Court of Justice as authority for the proposition that where the Crown elects to proceed summarily, that decision does not only affect the maximum penalty that can be imposed. Rather, it also requires the court to consider the principle of parity with particular regard to cases where the Crown has proceeded summarily. She refers to the case *R. v. C.G.*, 2020 ONCJ 459. However, in my view *C.G.* largely bolsters the Crown's position where it states:

> [58] An important decision in assessing whether a conditional sentence can appropriately reflect the sentencing principles of denunciation and deterrence in a case of sexual assault where the Crown proceeds by summary conviction is the decision in *R. v. Smith*, 2015 ONSC 4304 (CanLII), [2015] O.J. No. 3513, a summary conviction appeal. Justice Campbell indicated where the accused has been prosecuted by indictment, the

> usual range of sentence for an invasive assault involving intercourse on a sleeping or unconscious victim is somewhere between an upper reformatory term of imprisonment and a lower penitentiary term of imprisonment (18 months to 3 years). He cites numerous examples in the Ontario Court of Appeal and Superior Court (see paras. 32-33) where custodial sentences were imposed.
>
> [59] Justice Campbell continued in *Smith* to address cases where the Crown elected to proceed summarily and indicated somewhat lesser sentences were required. He referred to the maximum sentence pursuant to s. 271(b) was 18 months, however, the sentencing principles outlined in Part XXIII still apply. *He also noted that the "worst offender committing the worst offence principle" does not operate to constrain the imposition of the maximum sentence in summary conviction matters where the maximum sentence would otherwise be appropriate having regard to the principles articulated in Part XXIII of the Code*. See *R. v. Solowan*, 2008 SCC 62 (CanLII), [2008] 3 S.C.R. 309, 237 C.C.C. (3d) 129, at paras. 3, 10, 15-16. Justice Campbell provided the case of *R. v. J.W.M.*, [2004] O.J. No. 1295 (SCJ, Hill J.) as an example where the maximum sentence of 18 months was upheld on a summary conviction appeal where Justice Hill held the maximum sentence imposed by the trial judge was a fit and appropriate sentence notwithstanding the fact that the accused was not the "worst offender" and the sexual assault was not the "worst offence."
>
> [Emphasis Mine]

[15] In *C.G.*, the court went on to hold that the maximum allowable jail sentence of 18 months would be excessive considering the seriousness of the offence and the moral culpability of the accused.

[16] Ms. Mallone also relies on *R. v. Sayers*, 2020 ONCJ 644, in which Kukurin J. stated:

> [29] Admittedly, there is some judicial disagreement with what inference a sentencing court may draw from the crown's elected mode of procedure. In *R. v. Sanatkar*[15], an Ontario Court of Appeal decision, the court stated [at paragraph 7]
>
> > *The election to proceed summarily represents a prosecutorial choice of procedure reflecting the less serious nature of the offence and obviously affecting the permissible range of appropriate sentences."*
>
> [30] While the foregoing statement was made in 1981, the same court made the following statement in June 2019 in *R. v. Stuckless*[16] [at paragraph 108]
>
> > *However, as noted by this court in R. v. Sanatkar (1981), 1981 CanLII 3323 (ON CA), 64 C.C.C. (2d) 325 (Ont. C.A.), at p. 327, the maximum penalty provided for an offence is an important indicator of the gravity of an offence.*

[31] In the *R. v. Lequiere*[17] decision, Justice Dillon [at paragraph 49 and following] embarks on a historical review of summary conviction procedure election, and its meaning, and eventually concludes [at paragraph 58]

"[the court] rejects the worst offence/worst offender principle but recognises that the maximum sentence should be reserved for those cases that fall within the worst category of summary conviction offences." ***[18]***

[32] The end result is that the *Sanatkar* decision has never been clearly overruled, it is an Ontario decision, and it is a decision of our Court of Appeal. I adopt what it says about crown elections to proceed summarily in hybrid offence charges.[19] It does not make any sense that so fundamental a principle as the proportionality principle of sentencing would be inapplicable to sentencing on hybrid offences prosecuted by summary conviction procedure.

[33] Even if I am wrong in this belief, the crown's decision to proceed summarily on a hybrid offence has significance from the vantage point of 'parity' in s.718.2 (b) of the *Criminal Code*:

> **S.718.2 (b)** a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.

[34] The crown's mode of procedure decision is clearly relevant and has implications for the court in its sentencing of an offender who was prosecuted by summary conviction. As concluded in *Lequiere*, supra, [at paragraph 61]

> *the decision to proceed summarily is a significant one and is a relevant factor for the sentencing judge to consider when determining the appropriate range of sentence for the purpose of minimizing disparity in accordance with section 718.2(b) of the Criminal Code. Consideration of this factor requires the sentencing judge to consider sentences that have been given to other offenders in similar circumstances for the same offence that has proceeded summarily. A failure to consider other summary conviction cases, being a relevant factor, is a reviewable error." (my emphasis)*

[35] My inference, for purposes of sentencing, from the crown's election to proceed summarily is that the crown's assessment of the offence was that it was not the worst offence, committed by the worst offender, in the worst set of circumstances. I acknowledge that it is unknown whether the crown felt which one or more of, the offence, or the offender, or the circumstances was or were less than the "worst" and to what degree they were less than the worst. That determination is a judicial function that flows from the facts of the case and the findings made with respect to those facts.

[17] I note that the cases cited in the foregoing passage all, with the exception of *R. v. Stuckless*, [2019] ONCA 504, predate *Solowan*. *Sanaktar* was decided in 1981 and *R. v. Lequiere*, 2006 BCSC 688, was decided in 2006. Moreover, *Stuckless* was not speaking of the maximum that applies in summary conviction

matters. In the paragraph in *Stuckless* referred to by Kukurin J., the Ontario Court of Appeal in fact stated:

> [108] The current 14-year maximum penalty for sexual offences against children certainly exceeds the maximum penalty of ten years for indecent assault against a male that is applicable to the respondent's offences. As mentioned, recourse to new statutory maximums is unhelpful insofar as the appropriate sentence is guided by the maximum penalties in effect at the time of the commission of the offences. However, as noted by this court in *R. v. Sanatkar*, 1981 CanLII 3323 (ON CA), [1981] O.J. No. 137, 64 C.C.C. (2d) 325 (C.A.), at p. 327 C.C.C., the maximum penalty provided for an offence is an important indicator of the gravity of an offence. The Alberta Court of Appeal stated in *R. v. King*, [2013] A.J. No. 3, 2013 ABCA 3, 542 A.R. 43, at para. 20, that although changes set out in the *Criminal Code* for sexual offences involving children cannot be applied retrospectively, the court "*need not be oblivious to what [the changes] suggest about Parliament's view of the gravity of such offences*" (emphasis added).

[18] The Court then went on to state:

> [109] This principle is illustrated in this court's decision in *Woodward*. There, the appellant was sentenced to six-and-a-half years' imprisonment for child luring and a single incident of sexual abuse involving fellatio and vaginal intercourse with a 12-year-old in December 2008. The offences were committed in September 2006. The appellant argued that the sentence imposed was unfit and that a range of 12 months to 24 months for the offence of child luring had been established in this court's decision in *R. v. Jarvis*, 2006 CanLII 27300 (ON CA), [2006] O.J. No. 3241, 214 O.A.C. 189 (C.A.). Moldaver J.A. (as he then was) rejected this submission and noted, at para. 58, that even if Jarvis did purport to set a range of 12 to 24 months for the offence of luring, that range needed to be revised given the 2007 amendment to the *Criminal Code* in which Parliament doubled the maximum punishment for the offence from five to ten years.

[19] While the foregoing paragraphs in *Stuckless* certainly cite *Sanaktar*, they are focused on Parliament's assessment of the seriousness of an indictable offence as reflected by the maximum allowable penalty it has specified.

[20] I respectfully disagree with the proposition that a summary conviction court must focus on parity of sentence in other similar cases with particular regard to those where the Crown has proceeded summarily. I am unable to see why the Court should view a summary election in other cases as a salient factor when assessing parity – other than where the maximum sentence was less than in the matter it is dealing with. As pointed out in *Sayers*, s. 718.2 of the Code states that the principle of parity requires that a sentence should be "similar to sentences imposed on similar offenders for similar offences committed in similar circumstances"; see *Sayers*, supra, at para 33.

[21] In my respectful view, parity requires that the sentence imposed on a given offence must be similar to sentences imposed on other offences where there are similar aggravating and mitigating factors relating to the offenders and the circumstances of the offences. A summary election on the part of the Crown is not a mitigating factor any more than an indictable election is an aggravating factor.

[22] Ultimately, I agree with the Crown's submission that had it elected to proceed by way of indictment, a term of imprisonment of more than 18 months would have been required and that in that sense Mr. Dryneck has already benefited from the Crown's summary election.

The Appropriate Sentence

[23] As stated, the sexual assault committed by Mr. Dryneck was a "major sexual assault". In *Arcand,* (supra), The Alberta Court of Appeal held:

> [171] A sexual assault is a major sexual assault where the sexual assault is of a nature or character such that a reasonable person could foresee that it is likely to cause serious psychological or emotional harm, whether or not physical injury occurs. The harm might come from the force threatened or used or from the sexual aspect of the situation or from any combination of the two. A major sexual assault includes but is not limited to non-consensual vaginal intercourse, anal intercourse, fellatio and cunnilingus. We are satisfied that assessing whether a sexual assault is a major sexual assault is well within the capacity of sentencing judges.

[24] In *R. v. Lepine,* 2013 NWTSC 19, Shaner J. came to the conclusion that digital penetration of the victim's vagina, constituted a major sexual assault. She stated:

> [13] The assault began while the victim was unconscious with [Mr. B] asleep beside her. She testified that she started to wake up because she felt something brushing against her face. Mr. Lepine placed his finger in her vagina and at that point she became fully awake and Mr. Lepine stopped. He put his hands on his head and was turning in a circle; he said "sorry" and something to the effect of "I can't believe that I did this to my girl". He then left the room and the residence.
>
> [. . .]
>
> [16] In argument, defence counsel urged that this is not a major sexual assault and argued that I should not equate what happened [to] her that is digital penetration, with penile penetration. In my view, while these are in fact different acts, they are equally serious and obviously equally harmful violations of a victim's sexual integrity. The fact that

> there was no penile penetration does not [remove] this act from the category of sexual assault.
>
> [. . .]
>
> [18] I am also of the view that the amount of time that the assault lasted does not remove it from the category of a major sexual assault. There are many serious, awful crimes that take seconds to commit but yet have permanent, long-standing, and devastating result[s]. I think of a murder victim who is shot and killed in an instant. This sexual assault was cut short because the victim woke up. It was an invasive act perpetuated upon a vulnerable sleeping victim and any reasonable person could foresee that such an act would cause psychological or emotional harm. Accordingly, it is a major sexual assault.

[25] In *R. v. T.N.*, 2020 NWTSC 43, another case involving forced digital penetration of an adult victim's vagina, Charbonneau C.J. stated (beginning at page 10 line 19):

> Defence argues that a jail term between 12 and 14 months would be enough to achieve the goals of sentencing, given Mr. T.N.'s youth his lack of record and his overall circumstances.
>
> In my view, it is very clear that the sexual assault falls in the category of major sexual assault, as described in R. v. *Arcand*, 2010 ABCA 363, and several other cases before it. *Arcand* was adopted by our Court of Appeal in *R. v. A.J.P.J.*, 2011 NWTCA 2.
>
> As noted in one of those cases quoted by this Court in R. v. *Lepine*, 2013 NWTSC 19, referred to by the Crown, there was a time where it was believed that there was a significant difference in seriousness between a case involving intercourse and a case involving digital penetration. With respect, in my view that approach was seriously misguided. Both acts constitute a serious violation of the victim's physical, personal and sexual integrity.
>
> I entirely agree in this regard with the Court's conclusion in *Lepine* and I consider it to be a well-settled point of law, at least in this jurisdiction, a sexual assault that involves a digital penetration is a major sexual assault within the meaning of *Arcand* and *A.J.P.J.* And while the more prolonged any assault, the more serious it is, the fact that a sexual assault is not prolonged does not take it outside that category.
>
> As a result, the starting point in sentencing is three years imprisonment. It bears repeating, so I repeat again, this is not a minimum sentence. It simply is a starting point that reflects the objective seriousness of this type of conduct. From this starting point, a Court will determine a fit sentence by adjusting the sentence to reflect aggravating factors and mitigating factors that are present.

[26] I agree that in the Northwest Territories it is uncontroversial that a case of forced digital penetration on an adult constitutes a major sexual assault. I also note that both *Lepine* and *T.N.* were decided in the Supreme Court of the Northwest

Territories sitting as courts of first instance. As was held in *R. v. Sullivan*, 2022 SCC 19, the principle of comity, or horizontal *stare decisis* as it is also referred to, requires that I follow a similar approach; see paras. 65, 75, & 86. Given the facts in this case, I conclude the sexual assault was such that a reasonable person would easily have foreseen that it was likely to cause serious psychological or emotional harm.

[27] For these reasons, the starting point for an appropriate sentence that is applicable in the present case is one of three years imprisonment, notwithstanding that the maximum allowable jail term is 18 months.

[28] In the case of Mr. Dryneck, the mitigating aspects that are highly significant are the Gladue factors that have been set out in his presentence report and referred to by counsel, his rehabilitative efforts since being detained pending trial, and his level of remorse. I remind myself that the fact that he pleaded not guilty and required a trial is not an aggravating factor but rather the absence of a mitigating factor. However, I feel it worthwhile to note that, in my assessment, a guilty plea in this case would have been a highly mitigating factor that would have resulted in a large reduction in what would otherwise have been required. This is for the usual reasons that guilty pleas are said to be mitigating. But in the present case, the fact that a guilty plea would have saved the victim the ordeal of having to testify would have been particularly important.

[29] Mr. Dryneck's Gladue factors are thoroughly set out in the pre-sentence report beginning at page 14 through to page 18. I will not go through the specifics of the report other than to state, that they demonstrate the intergenerational trauma resulting from colonization that is far too common in Canada's indigenous population. Briefly, the reverberations of that trauma that have been specifically visited on Mr. Dryneck, are the enumerated personal tragedies he has suffered, his both chronic and acute abuse of alcohol and other legal and illegal drugs, homelessness, and instability in employment and living arrangements. He consumes mind altering substances to deal with his anger and anxiety. He has experienced suicidal ideation in the past.

[30] I conclude that these case specific factors considerably diminish his moral blameworthiness.

[31] He has also taken significant rehabilitative steps since being detained this past September. He has taken programs to deal with his substance abuse and to assist him in living without violence. He has also attended nine one on one

counselling sessions. These post-offence rehabilitative efforts are also significantly mitigating.

[32] I find that he is indeed remorseful for his actions. However, I will say that I would have considered that remorse to have been far more mitigating had it been expressed through a guilty plea in this matter.

[33] An aggravating factor that I must consider is Mr. Dryneck's criminal record. However, I do not give it great weight. The criminal record consists of four convictions. Three of those convictions are for common assault. However, the most recent convictions entered in 2022 cannot be considered as aggravating since they were committed following the facts of the present offence. In terms of convictions that predate the facts of the present offence, he has one for assault entered in December of 2016, for which he received a $300 fine and 12 months of probation, and another entered in June 2018 for taking a motor vehicle without the owner's consent, for which he received a suspended sentence accompanied by 9 months of probation.

[34] In terms of aggravating factors there are the negative effects that have been described by the victim in her victim impact. She indicated that she did not want her victim impact statement to be read out loud in court and I will not get into specifics. However, it is fair to say that the event has had a negative impact on her mental health. That is not surprising given the nature of the sexual assault committed on her.

C. CONCLUSION

[35] After having considered the seriousness of the offence and the moral blameworthiness of Mr. Dryneck, I have concluded that an appropriate sentence is the maximum term of imprisonment allowable given the Crown's summary election – in other words, 18 months of imprisonment. However, he will be given credit of 180 days for 120 days of actual pretrial detention.

[36] Pursuant to s. 743.21(1) of the *Code*, I am ordering that Mr. Dryneck is prohibited from communicating directly or indirectly with the victim for the entire period that he remains in custody.

[37] I am also going to impose a probation order for a period of one year requiring that, in addition to the statutory terms, he not have any direct or indirect contact or communication with his victim or go within 10 meters of her place of residence, employment, or education, wherever that may be. He is to report to his probation officer within 48 hours of his release from imprisonment and thereafter

when and as directed by his probation officer. He is to participate in any and all counselling that his probation officer may direct.

[38] I am not going to impose a firearms prohibition order pursuant to s. 110 the *Criminal Code*. Although the offence committed was a serious offence of violence given that a weapon was not used or threatened and given his limited criminal record, I do not find it desirable in the interests of the safety of Mr. Drybones or anyone else that the order be made.

[39] However, there will be a DNA authorization given that the offence committed by Mr. Dryneck is a primary designated offence as defined in s. 487.04 of the Code and falls within the supercategory of offences set out in s. 487.061(1) where the authorization is compulsory.

[40] There will be an order pursuant to ss. 490.12 & 490.14 of the *Code* that Mr. Dryneck comply with the provisions of the *Sex Offender Information Registry Act* for a period of 10 years from today's date.

[41] Finally I am not going to impose the victim of crime surcharge in this matter since given that the accused has been incarcerated since September and will continue to be incarcerated for a significant period of time.

[42] Before we conclude court, I want to commend Mr. Dryneck for the rehabilitative path he started on several months ago. I hope that he continues on that path. Although he committed a very serious offence, I certainly do not by any means believe that he is a bad person. I know that he has what it takes to turn his life around and ensure that he does not get into this sort of trouble again.

[43] I also wish to thank the counsel who have appeared on behalf of Mr. Dryneck and the Crown for their assistance in this matter.

_____

Robert Gorin
Chief Judge of the
Territorial Court

Dated at Yellowknife, Northwest Territories,
this 9th day of February, 2023.

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