

IN THE COURT OF APPEAL OF MANITOBA

Coram: Mr. Justice Christopher J. Mainella
Madam Justice Janice L. leMaistre
Madam Justice Anne M. E. Turner

BETWEEN:

	)	<i>M. D. Glazer and</i>
	)	<i>C. L. Mahoney</i>
	)	<i>for the Appellant</i>
<i>HIS MAJESTY THE KING</i>	)	
	)	<i>D. P. Chaput</i>
	)	<i>for the Respondent</i>
<i>Respondent</i>	)	
	)	<i>Appeal heard:</i>
	)	<i>October 22, 2025</i>
<i>- and -</i>	)	
	)	<i>Judgment delivered:</i>
	)	<i>March 30, 2026</i>
<i>WILLIAM RYERSON THOMAS COMBER</i>	)	
	)	<i>Sentencing submissions</i>
	)	<i>heard:</i>
<i>(Accused) Appellant</i>	)	<i>May 28, 2026</i>
	)	
	)	<i>Judgment delivered:</i>
	)	<i>August 31, 2026</i>

NOTICE OF RESTRICTION ON PUBLICATION: An order has been made in accordance with section 486.5(1) of the *Criminal Code*, RSC 1985, c C-46, directing that any information that could identify a victim or witness in this proceeding shall not be published, broadcast or transmitted in any way.

LEMAISTRE JA

Introduction

[1] After a trial composed of a judge and jury, the accused was convicted of second degree murder. This Court dismissed his conviction appeal and substituted a verdict of manslaughter for that of second degree murder (see *R v Comber*, 2026 MBCA 27 [*appeal reasons*]).

[2] Pursuant to section 686(3)(b) of the *Criminal Code*, RSC 1985, c C-46 [the *Code*], the parties were directed to file relevant sentencing materials and written submissions, and an oral hearing was held so that this Court could impose the sentence that is warranted in law for manslaughter.

[3] For the reasons that follow, I would impose a sentence of twelve years' imprisonment less credit for pre-sentence custody served to the date of these reasons for a go-forward sentence of just under five years.

Circumstances of the Offence

[4] The circumstances of the offence are set out in the *appeal reasons*. Briefly, on November 17, 2018, the accused recklessly discharged a firearm at a truck travelling on a dark, gravel road in rural Manitoba. The truck had four occupants. Hailey Dugay (the victim) was sitting in the rear seat behind the passenger. One of the bullets fired by the accused struck her in the back. Her two friends, also passengers in the truck, performed CPR on the way to the hospital. Tragically the victim did not survive.

[5] The police initially charged Jesse Paluk (Paluk) with second degree murder based on information from eyewitnesses. However, it later became

clear that Paluk's firearm had not fired the fatal bullet. On August 8, 2019, the accused was arrested.

Circumstances of the Offender

[6] The accused was twenty years old at the time of the offence. Adopted at nine months old, he had a positive upbringing in a stable family. He left school in grade ten to work, and left home at eighteen to work in the Saskatchewan oil fields. He returned to Manitoba to raise twin boys, who were born five months before the offence. After returning to Manitoba, the accused started a welding business out of his home and took on a part-time job at a manufacturing plant.

[7] On November 19, 2019, the accused was denied judicial interim release on the murder charge. The next day, while armed with a utility knife, he stole a delivery truck and drove it through a secured gate at Headingley Correctional Centre. He led correctional staff and the police on a pursuit down major highways until the truck slid off the road and he was apprehended.

[8] On June 3, 2021, the accused was sentenced for the offences of prison breach and flight from peace officer (collectively, the prison breach). His total sentence was three and one-half years' incarceration less pre-sentence custody of twenty-seven and one-half months (November 20, 2019 to June 3, 2021, credited at a rate of one and one-half days for each day served).

[9] The accused has additional convictions as a youth, including possession of a weapon for a dangerous purpose, uttering threats, flight from

peace officer, dangerous driving, failing to comply with court orders and property offences.

[10] The accused was sentenced for murder on October 27, 2023. Dr. Kent Somers prepared a report and testified at the sentencing hearing. He indicated that the accused had no drug or alcohol problem, no mental illness or disorder, and was a low risk to re-offend. The accused filed fifteen reference letters from family and friends. He continues to have the support of his family.

[11] In 2021, while serving his sentence for the prison breach, the accused completed the Thinking Awareness Group program. Since being sentenced for murder, the accused has maintained employment and upgraded his education. He has also served as the president of the inmate welfare committee.

[12] The parties filed a joint submission setting out the accused's total pre-sentence custody time as follows:

- August 8, 2019 (arrested for murder) to June 2, 2021 (day prior to sentence imposed for the prison breach): 665 days
- March 24, 2022 (warrant expiry for the prison breach) to October 26, 2023 (day prior to sentence imposed for murder): 582 days
- October 27, 2023 (sentence imposed for murder) to May 28, 2026 (manslaughter sentencing hearing): 945 days

Positions of the Parties

[13] The Crown recommends a sentence of fourteen years' imprisonment. Its position is that the offence is serious with grave consequences, there are numerous aggravating factors and few mitigating factors, and the accused's moral culpability is high. He intentionally fired a rifle multiple times toward an occupied vehicle and knew, or was wilfully blind, that his conduct risked serious bodily harm or death.

[14] The Crown argues that the sentencing range for serious gun-related offences where no death has occurred is between seven and eleven years' incarceration (see e.g. *R v Maytwayashing*, 2018 MBCA 36). It says that sentences where a death has occurred should exceed the higher end of that range and points to cases where sentences above that range have been imposed for the offence of manslaughter committed by a firearm (see *R v Kyriakakos*, 2023 MBKB 150; *R v Edwards*, 2023 MBKB 111; *R v Meilleur*, 2022 MBCA 71; *R v Anderson*, 2021 ABCA 135; *R v Warner*, 2019 ONCA 1014).

[15] In response to the accused's submission that his sentence should be similar to the four-year sentence imposed on Paluk for his involvement in the same incident, the Crown points to significant differences between their conduct.

[16] Finally, the Crown concedes that the accused should receive credit of one and one-half days for each day spent in custody (enhanced credit) between the date of his arrest and the prison breach (August 8, 2019 to November 20, 2019), and between the expiry of his warrant for the prison breach and the date of his initial sentencing for murder (March 24, 2022 to October 27, 2023). However, the Crown argues that he should not receive

credit for the 555 days already taken into account when he was sentenced for the prison breach (November 20, 2019 to June 3, 2021), nor should he receive enhanced credit for the time served since he was sentenced for murder (October 27, 2023 to the date of these reasons).

[17] The accused seeks a sentence of time served. He acknowledges that he is not entitled to any credit for the 555 days already accounted for when he was sentenced for the prison breach. However, he submits that he is entitled to enhanced credit for each additional day spent in custody that was not included in that calculation.

[18] The accused's position is that his moral culpability for the offence was reduced. He submits that he had no intention of harming anyone; he intended only to damage the vehicle. He maintains that the killing was accidental, arising from his reckless conduct.

[19] The accused points to what he asserts are strong mitigating factors regarding his personal circumstances and describes himself as a fundamentally pro-social individual who made a grave mistake. He argues that rehabilitation should carry meaningful weight, reducing the need for further incarceration.

[20] The accused concedes that he bears greater responsibility for the victim's death as the shooter but submits that Paluk was the catalyst for the shooting. Accordingly, he argues that his sentence should be "similar [to] but slightly higher" than Paluk's sentence.

[21] Finally, the accused relies on cases involving manslaughter committed with a firearm, in which the sentences imposed were typically in

the four- to eight-year range, to reinforce his submission that this is not a high-end manslaughter warranting the sentence sought by the Crown.

Principles of Sentencing Applicable to Manslaughter

[22] The purpose of sentencing is to protect society and prevent crime through the imposition of just sanctions that serve one or more of the objectives set out in section 718 of the *Code*. Those objectives include both punitive aims, such as denunciation and deterrence, and restorative aims, such as rehabilitation, reparation and the promotion of responsibility (see *Quebec (Attorney General) v Denis*, 2026 SCC 25 at para 75 [*Denis*]).

[23] The determination of a fit sentence “involves a complex and multifactorial assessment” (*R v Hills*, 2023 SCC 2 at para 44). The analysis begins with the fundamental principle of proportionality.

[24] Proportionality requires “the imposition of a sentence that is sufficient to denounce the offence and punish the offender, without exceeding what is necessary” (*Denis* at para 76). A proportionate sentence must reflect both the gravity of the offence and the offender’s degree of moral blameworthiness. The secondary principles set out in section 718.2 of the *Code*, including aggravating and mitigating factors, parity, totality, and restraint, inform that assessment. Ultimately, “proportionality ‘serves to give effect’ to the objectives of sentencing and to guide the court’s discretionary balancing of them” (*Denis* at para 76).

[25] The analysis of the gravity of the offence includes both objective and subjective components. Objectively, manslaughter committed with a firearm is a grave offence. Parliament has signalled its seriousness through

both the maximum penalty of life imprisonment and the four-year mandatory minimum sentence (see the *Code*, s 236(a)). Subjective gravity is assessed in light of the circumstances surrounding the offence, including the manner in which it was committed and its consequences (see *Denis* at para 78).

[26] Manslaughter is a form of culpable homicide. The absence of an intention to kill distinguishes manslaughter from murder but does not diminish the gravity of the harm caused. Sentencing courts must therefore balance the tragic consequence of the offender's conduct against the offender's degree of moral culpability that led to the death.

[27] The degree of moral blameworthiness in manslaughter cases exists on a broad spectrum, ranging from conduct approaching an accident to conduct approaching murder. While the loss of human life renders every manslaughter offence inherently serious, the offender's culpability may vary significantly depending on the circumstances of the killing, the offender's state of mind and the degree of risk created by the offender's conduct. The sentencing court must therefore determine where the offence falls on the broad continuum of moral culpability reflected in the jurisprudence (see *R v Parisian*, 2018 MBCA 16 at para 28; *R v Stone*, 1999 CanLII 688 at para 233 (SCC); *R v Laberge*, 1995 ABCA 196 at paras 6-9; *R v Creighton*, [1993] 3 SCR 3 at 48-49, 1993 CanLII 61 (SCC) [*Creighton*]).

[28] An offender's degree of responsibility is assessed "having regard to the intentional risk-taking of the offender, the consequential harm caused by the offender, and the normative character of the offender's conduct" (*R v M (CA)*, 1996 CanLII 230 at para 80 (SCC)). Moral blameworthiness is closely linked to an offender's state of mind and the extent to which the

conduct reflects a conscious decision to proceed in the face of a serious and foreseeable risk of harm.

[29] The objectives of denunciation and general deterrence assume particular prominence in sentencing for manslaughter where the offence involves a firearm (see *R v Parker*, 2023 MBCA 51 at para 16; see also *R v Hilbach*, 2023 SCC 3 at para 73). Appellate courts have recognized that the reckless use of firearms in populated areas calls for significant penitentiary sentences that communicate society's condemnation of such conduct and deter others from engaging in similarly dangerous behaviour (see e.g. *R v Husbands*, 2024 ONCA 155 at para 126; *R v Bellissimo*, 2009 ONCA 49 at paras 4-5).

[30] At the same time, denunciation and deterrence cannot overwhelm the principle of proportionality. A sentence must ultimately reflect not only the gravity of the offence but also the offender's individual moral culpability and personal circumstances. The moral blameworthiness component of proportionality performs an important limiting function, by ensuring that punishment does not exceed what is just and appropriate for the particular offender.

[31] Although rehabilitation may carry less weight in serious manslaughter cases, it remains an important sentencing objective and, together with the other principles set out in sections 718 to 718.2 of the *Code*, cannot be ignored. The principle of restraint similarly requires that courts impose no greater punishment than is necessary to achieve the objectives of sentencing.

[32] Ultimately, sentencing for manslaughter cases is a highly contextual exercise. The court must assess the gravity of the offence, the circumstances surrounding the offence, the offender's degree of responsibility, and the applicable sentencing objectives in order to craft a sentence that is just and proportionate. The resulting sentence must adequately denounce the unlawful taking of human life and deter similarly dangerous conduct, while remaining faithful to the individualized nature of sentencing and the fundamental requirement that punishment be proportionate to both the circumstances of the offence and the offender.

Analysis

A Starting-Point Approach

[33] As explained by the Supreme Court of Canada in *R v Parranto*, 2021 SCC 46, “[l]ike sentencing ranges, starting points are a form of appellate guidance that provide a place to begin the exercise of reaching a fit and proportionate sentence” (at para 1).

[34] There are three stages to the starting-point approach: “(1) defining the category of an offence to which the starting point applies; (2) setting a starting point; and (3) individualization of the sentence by the sentencing court” (*ibid* at para 18) to account for any relevant aggravating and mitigating factors.

[35] The offence in this case arose from the reckless discharge of a firearm toward a location known to be occupied by at least one person, without any lawful justification, resulting in the death of another person. This conduct involved the possession and discharge of a firearm, activities highly regulated

by Parliament because of the inherent danger firearms pose to public safety. Firearms must be possessed in conformity with the law and must never be discharged at a person or a place occupied by persons, except in the most exceptional of circumstances, such as self-defence.

[36] In my view, the following authorities, which involve broadly similar circumstances, demonstrate that sentences for this category of offence (manslaughter committed with a firearm in circumstances more closely resembling murder than accident) generally exceed ten years' imprisonment.

[37] In *R v Wharry*, 2008 ABCA 293, the Court upheld a sentence of twelve years. The offender fired several shots from a vehicle into a group of people, killing one of them.

[38] In *R v Higham*, 2009 ONCA 147, the Court upheld a sentence of nineteen years. The offender fired into a vehicle, killing its occupant.

[39] In *R v Seruhungo*, 2012 ABCA 54, the Court upheld a sentence of twelve years for manslaughter, together with concurrent sentences of six years for extortion with a firearm and three years for pointing a firearm. The offender fired through the floor of a townhouse during a party, killing an innocent bystander.

[40] In *R v Mulligan-Brum*, 2013 BCCA 231, the Court upheld a sentence of seven years. The offender fired a handgun at a group of youths who had been vandalizing vehicles, including by slashing the offender's tires, killing one of them.

[41] In *R v Anderson*, 2019 ABCA 223 [*Anderson*], the Court upheld a sentence of nine years. The offender fired through bushes toward a residence used as a meeting place by a rival gang while people were standing in the driveway, killing one person. Writing for the Court, Rowbotham JA referred to *R v Holloway*, 2014 ABCA 87 [*Holloway*], “which noted that ‘panels of [the Alberta Court of Appeal] have in their reasons referred to ranges of 8 to 12 years’” (*Anderson* at para 12). In *Holloway* at para 51, the majority stated:

The Crown may be correct that a range of 10 years or more has been emerging for cases that fit the most serious category within the ***Laberge*** categorization. Factors such as group involvement, protracted brutality, use of weapons, vulnerable victim and so on have been influential. This is not to say that we are recognizing or adjudicating a starting point for such situations. Rather we merely note that in a *de facto* way something of a range of that sort appears to be reflected in the present selection decisions of this Court and some from other jurisdictions. On the other hand, other panels of this Court have in their reasons referred to a range of 8 to 12 years.

[42] In *R v Yaali*, 2020 ONCA 150, the Court upheld a sentence of thirteen years. The offender fired numerous shots at two individuals, killing one of them.

[43] Having regard to the above-mentioned jurisprudence, I would conclude that a starting point of ten years is appropriate for manslaughter committed with a firearm in circumstances that are closer to murder than to accident. The ultimate sentence in any given case will vary according to the circumstances of the offender and the relevant aggravating and mitigating factors.

Application of the Principle of Parity to Paluk

[44] In the context of the ten-year starting point, I have considered the accused's submission that his sentence should be similar to Paluk's, resulting in a sentence of six years in light of Paluk's four-year sentence. I would not accept that submission.

[45] Importantly, Paluk pleaded guilty to a different offence (reckless discharge of a firearm contrary to section 244.2(1)(b) of the *Code*), which carries a maximum penalty of fourteen years and to which the ten-year starting point does not apply. Additional considerations relevant to Paluk's four-year sentence included his anticipated testimony at the accused's trial, the fact that he fired away from the vehicles and did not injure or kill anyone, and the fact that his sentence was pursuant to a joint recommendation.

[46] Paluk's sentence is not a suitable comparator for the purpose of the principle of parity in this case.

Moral Culpability

[47] The offence in this case is extremely serious. As Mainella JA stated in the *appeal reasons*, "the accused's behaviour is highly blameworthy" (at para 204).

[48] At the time of the shooting, the accused was with Paluk who had been involved in a bar fight earlier that night, resulting in the bar being closed. After stopping at the side of a rural road, they saw three vehicles coming toward them. Paluk assumed it was the individuals involved in the fight; it was not. Regardless, he thought he was going to "get jumped" and asked the

accused to back him up. As the vehicles passed him, Paluk fired his rifle into the air and trees (not toward the vehicles). The accused fired in the direction of the vehicles. Two of his shots struck the back of the second vehicle. One of those shots killed the victim.

[49] While the accused did not intend to kill anyone, his conduct was neither inadvertent nor momentary. He deliberately armed himself with a rifle and discharged it multiple times toward an occupied vehicle that was accelerating away from the scene (see *appeal reasons* at paras 32-36).

[50] The accused's moral culpability is further increased by the grave consequences of his actions. The accused's actions resulted in the death of a young woman.

[51] The victim's death has had a profound and enduring effect on her family and friends, including the surviving victims of the shooting. In their victim impact statements, they described the victim as a kind, vibrant, and compassionate young woman, approaching her twenty-first birthday, whose life was cut short. Her mother spoke of the devastating loss of a daughter and the permanent trauma inflicted upon the family, including severe anxiety, panic attacks and emotional struggles experienced by the victim's younger brother, who lost his sense of safety and much of his childhood following her death.

[52] Other family and friends described ongoing grief, nightmares, fear, anger and an overwhelming sense of loss. The victim's death fractured family relationships and transformed cherished memories into sources of sadness and pain. Emily Caumartin, who was present during the shooting and heard the victim's final words, described suffering from post-traumatic stress disorder,

anxiety, panic attacks, flashbacks and a complete loss of trust and security that continues years later.

[53] Collectively, the victim impact statements reveal profound psychological, emotional, and, in some cases, financial consequences that remain ongoing and underscore the lasting harm caused by this senseless act of gun violence.

[54] Finally, the normative character of the accused's conduct places it at the higher end of the culpability spectrum closer to murder than to accident. Firing a rifle toward an occupied vehicle reflects a profound disregard for the safety of others. In circumstances where alternatives were readily available, the accused nevertheless chose a course of conduct that was highly reckless. By intentionally exposing others to lethal risk, the accused's conduct falls well above cases involving a near accident. These considerations support a strong denunciatory and deterrent sentence.

Other Relevant Factors

[55] Other factors relevant to determining a proportionate sentence include the following.

[56] The accused was relatively young at the time of the offence. Despite having criminal convictions as a youth, he was leading a pro-social lifestyle; he was running a welding business and had a second job. As I have already stated, he continues to have the support of his family and was assessed as a low risk to reoffend.

[57] At the sentencing hearing before this Court, the accused expressed remorse for his conduct¹. Since the prison breach, he has taken advantage of rehabilitative opportunities while incarcerated.

[58] The accused was a hunter and had prior experience with firearms. Earlier on the evening of the offence, he was illegally hunting deer, he had no licence for the firearm he used to shoot at the vehicle and it was not properly stored prior to the shooting.

[59] After Paluk asked the accused to back him up, the accused loaded his rifle. Paluk did not ask him to shoot at the vehicle to back him up. The accused chose to do that on his own. Although the accused had been drinking prior to the shooting, there was no evidence that he was impaired to a degree that diminished his responsibility for his actions.

[60] The vehicle was driving away rather than toward the accused. The accused shot at a vehicle that was fifty to one hundred yards away; however, the firearm was a rifle designed to kill at long distances. Although he was shooting at the vehicle's tail lights, his actions were inherently dangerous (see *Creighton* at 58).

[61] The shooting occurred on an isolated rural road with no immediate medical attention available.

[62] After the shooting, the accused removed the firearm from the scene and hid from the police. The firearm was never recovered.

¹ The accused elected to not appear in person at the hearing. With the Crown's consent, he appeared by teleconference.

[63] The accused has already been sentenced for the prison breach, committed while he was in pre-trial custody and cannot be re-sentenced for those offences. However, that conduct, together with his prior criminal convictions, demonstrates a continuing pattern of reckless and impulsive behaviour, as well as a corresponding disregard for the safety of others and for lawful authority.

Conclusion and Sentence

[64] Discharging a firearm at the tail lights of a fleeing occupied vehicle on an unlit gravel road while it was swerving is extremely dangerous conduct. It involves the conscious creation of a substantial risk of harm and demonstrates a marked indifference to the potentially life-threatening consequences to others.

[65] In my view, the appropriate sentence in this case is twelve years' imprisonment. This sentence is the sentence that would have been an appropriate sentence had the accused been sentenced for manslaughter on October 27, 2023, rather than for murder. That said, the sentence runs from the date imposed (see the *Code*, s 719(1)).

Credit for Pre-Sentence Custody

[66] An inference in favour of enhanced credit for pre-sentence custody will generally arise where an offender has lost eligibility for early release while detained prior to sentencing (see *R v Beardy*, 2016 MBCA 68 at para 49).

[67] Although the accused was serving the sentence imposed for murder from October 27, 2023 to March 30, 2026, when a verdict of manslaughter was substituted, there is nothing in the record to indicate that this period will be taken into account in the calculation of any earned remission. Moreover, as I have indicated, the sentence for manslaughter runs from the date it is imposed, which supports the conclusion that the time served under the murder sentence will not form part of that calculation. In these circumstances, I see no basis to deny the accused enhanced credit for the time he has spent in custody.

[68] Accordingly, I would grant enhanced credit for all time spent in custody to date, except for the period already credited toward the prison breach and the period between the sentencing date for those offences and the warrant expiry date.

[69] The accused will receive credit for pre-sentence custody as follows:

- August 8 to November 19, 2019 = 104 days
- March 24, 2022 to August 31, 2026 = 1,622 days
- Total pre-sentence custody = 1,726 days x 1.5 = 2,589 days

[70] The resulting go-forward sentence is 1,794 days (4,383 days minus 2,589 days).

[71] I would also make a DNA order (see the *Code*, s 487.051) and a mandatory weapons prohibition (see *ibid*, s 109).

leMaistre JA

I agree: Mainella JA

I agree: Turner JA
