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Docket: CR 24-01-39983  
(Winnipeg Centre)  
Indexed as: R. v. Lavallee  
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## **COURT OF KING'S BENCH OF MANITOBA**

### **B E T W E E N:**

HIS MAJESTY THE KING,

- and -

KELVIN MARK LAVALLEE,

accused.

)  
) Nick J.T. Reeves  
) for the Crown

)  
) Zachary B. Kinahan  
) for the accused

)  
) Judgment Delivered Orally:  
) November 13, 2025  
) Written Judgment Delivered:  
) November 25, 2025

### **HARRIS J.**

#### **Oral Reasons for Sentence**

[1] Kelvin Lavallee has entered pleas of guilty on charges of operating a conveyance with a blood alcohol concentration at or above 80 milligrams of alcohol in 100 milliliters of blood causing death, one count of dangerous operation of a conveyance causing death, and one count of failing to stop after an accident resulting in death. Sentencing submissions were made by counsel on September 22, 2025. Mr. Lavallee now appears for sentencing.

[2] The Crown is seeking a sentence of six years concurrent with respect to each of the charges related to causing death and a consecutive sentence of one year for failing to stop after an accident resulting in death. Mr. Lavallee submits that a total of three years, either with or without a probation order, would meet the ends of justice. There is agreement that he is entitled to credit for pre-trial custody at a rate of 1.5 to 1.

[3] Pursuant to section 724(1) of the ***Criminal Code of Canada***, Mr. Lavallee made the following admissions of fact:

- (a) On September 26, 2023, around 8:30 p.m., Mr. Lavallee was driving his girlfriend's red Audi sedan east on Jubilee Avenue. He turned south onto Osborne Street and then turned into a left turning lane towards Fermor Avenue, stopping at a red light;
- (b) An off-duty police officer had been driving behind Mr. Lavallee and observed him tailing other vehicles closely and weaving in his lane. Another motorist who was stopped beside Mr. Lavallee at the red light saw him using his cellphone. When the light turned green, Mr. Lavallee sped east on Fermor Avenue around the bend in the road. Both the off-duty police officer and the other motorist lost sight of Mr. Lavallee as he went around the bend;
- (c) The next controlled intersection east on Fermor Avenue is at St. Mary's Road. A light for east bound traffic was red as Mr. Lavallee

approached the intersection. He did not stop or slow down, and continued through the intersection despite the red light;

- (d) When he entered the intersection, the light had been red for 23 seconds;
- (e) Ms. Akech Machuor was walking north across Fermor Avenue on the east side of St. Mary's Road where Mr. Lavallee went through the intersection;
- (f) The pedestrian light indicated that she had the right of way to cross the street;
- (g) Mr. Lavallee struck and killed Ms. Akech Machuor as she crossed the road. Mr. Lavallee neither stopped nor slowed down;
- (h) The video surveillance from the YMCA at 5 Fermor Avenue, the traffic motion camera at the intersection of St. Mary's Road and Fermor Avenue and a civilian's dash camera, showed him approaching the intersection, going through the intersection and striking Ms. Machuor;
- (i) Mr. Lavallee continued east on Fermor Avenue towards the Esso gas station at Beaverhill Boulevard, 3.7 kilometres from the collision. He stopped at a gas pump, went inside, purchased gasoline, and returned to the car to pump his gas;
- (j) Winnipeg Police had been called after the collision and were searching the area for Mr. Lavallee. Witnesses to the collision were

able to give a description of the car and a partial plate number. Winnipeg Police were able to identify the vehicle as being registered to Megan Hyatt with an address on Beaverhill Boulevard;

- (k) A police unit drove to the area and saw the red Audi at the Esso on Beaverhill Boulevard, with Mr. Lavallee standing at the gas pump. He was arrested and transported to Winnipeg Police Headquarters;
- (l) Police noted that Mr. Lavallee was mumbling his words, had red glossy eyes and had a strong odour of liquor coming from his breath. He admitted to having drank Snapple Vodka drinks, which are a cooler beverage;
- (m) At the police station, he provided samples of his breath, resulting in two readings of 100 milligrams of alcohol in 100 milliliters of blood at 11:01 p.m. and 11:22 p.m. respectively. He then provided a statement to the police wherein he said he had been drinking at Legends on Portage Avenue before the collision; and
- (n) In accordance with section 320.31(4) of the ***Criminal Code***, Mr. Lavallee's blood alcohol concentration is conclusively presumed to be 110 milligrams of alcohol in 100 milliliters of blood for the purpose of sentencing.

[4] The consequences of Mr. Lavallee's decision to drive impaired were, predictably, significant and life changing. Ms. Machuor was a young mother of three children and a recent immigrant to Canada from Sudan. The family was just

beginning their new life together in Canada. All was good. Then, in the blink of an eye, Mr. Lavallee's actions took it away. Ms. Machour's children were taken into care by Child and Family Services immediately after her death and, at the time of submissions on sentence, one remained in care. Ms. Machour's niece, Laura, tells of the children calling family members in the middle of the night because they are waking up having nightmares. She says, "they have been forced to grow up and live without their mother's love". I cannot begin to imagine the lifelong impacts of this loss on her children and the extended family; her death has only begun to take its toll. Their words about their loss and grief were impactful and moving. They were words that no family should have to speak.

[5] There is no sentence that I can impose on Mr. Lavallee to make their loss and grief go away. I can only hope that the end of this process will allow the family to focus on healing. All of this was completely avoidable, if not for the decisions made by Mr. Lavallee.

[6] Mr. Lavallee's remorse is evident. He told the author of the Pre-Sentence Report that he felt like a monster for what he did to Ms. Machuor and her family. In this court, when asked if he had anything to say, Mr. Lavallee told me that he had not prepared a statement however, he faced Ms. Machour's family and apologized. My observation was that the apology was heartfelt and not contrived. I accept that Mr. Lavallee is deeply remorseful and that he will carry the consequences of his actions that day for the rest of his life.

[7] Most people who kill someone when drinking and driving are remorseful. For the most part, they are otherwise law-abiding citizens who have not yet understood the message that if you drink, you cannot drive. But despite the toll that impaired driving takes on the lives of innocent people and their families every year, and despite the certainty of going to prison for doing so, citizens continue this irresponsible behaviour. It is for this reason that the sentences for this conduct are directed at denunciation and general deterrence. However, the sentence must also consider Mr. Lavallee's circumstances.

[8] Mr. Lavallee is a 27-year-old Métis man through his father, who is Métis, from St. Laurent, Manitoba. He experienced significant interruption in family relationships since birth. He had little to do with his parents for most of his life due to their substance abuse issues, which led him to witnessing much related domestic violence. His father experienced many challenges, including poor physical and mental health, substance abuse and physical dysfunction. He himself faced emotional abuse, neglect and struggles with alcohol growing up.

[9] Mr. Lavallee's struggles with alcohol can easily be traced through his childhood where it was normalized. His introduction to drugs and alcohol came at an early age, when he took alcohol left over at parties hosted by his mother. He struggled with alcohol use throughout his teen years, although alcohol has become less a part of his life in the past few years.

[10] His father returned to his life when Mr. Lavallee was in his late teens; mostly, it appears, to borrow money from him and have him provide care for his younger children. He and his mother are working on rebuilding their relationship.

[11] His maternal grandparents raised him, and he continues to have a strong relationship with his grandmother. His grandfather passed away a few years ago. His grandmother will continue to support him no matter the outcome of these proceedings.

[12] Mr. Lavallee is in a long-term relationship with Megan Hyatt, with whom he has a one-year-old child. Ms. Hyatt is a source of support for Mr. Lavallee. She describes him as a good partner and father. He also has an eight-year-old child with a former girlfriend who he continues to support as much as he can.

[13] Mr. Lavallee struggles with ADHD which made it difficult to learn in school. While on pre-trial release, he attended the Winnipeg Adult Education Centre where he earned his grade 11 and 12 credits. Since originally leaving school, Mr. Lavallee has had reasonably consistent employment, changing jobs periodically. His latest job was installing wireless access products, a job which he hopes to return to once he has completed his sentence.

[14] Mr. Lavallee has made tremendous gains through his involvement with Alcoholics Anonymous, the Addictions Foundation of Manitoba, Child and Family All Nations Coordinated Response Network (ANCR), Child and Family Services, and while in custody at Headingley Correctional Institute. Among the programs he has completed are Healthy Relationships for Men, Overcoming Addictions, Brothers

Helping Brothers, Introduction to Healthy Relationships, Coming to Terms, Thinking Awareness Group, End to Aggression and Positive Parenting Program. He wants to be the one in his family to break the generational ties to addiction and is committed to caring for his family. He has recently joined a program organized by Métis Child and Family Services called Caring Dads.

[15] Members of the community have provided letters regarding their knowledge of Mr. Lavallee, speaking to his efforts and successes since these charges arose, and his commitment to being a better man than when he was on the date of this offence.

[16] The sentence that I must impose today does not have to be one designed to deter Mr. Lavallee from drinking and driving. Rather, as I noted earlier, the focus for these offences is general deterrence and denunciation. As the Supreme Court noted in ***R. v. Lacasse***, 2015 SCC 64, the principles of general deterrence and denunciation are particularly relevant to offences like drinking and driving causing death, that might be committed by ordinarily law-abiding people. It is such people, more than chronic offenders, who will be sensitive to harsh sentences. This, of course, must be tempered by Mr. Lavallee's specific circumstances. The sentence must be proportionate to the gravity of the offence and the degree of Mr. Lavallee's responsibility.

[17] As Mr. Lavallee is Indigenous, the court must also consider how his Indigenous background affects his moral blameworthiness and degree of responsibility. As explained by Beard J.A. in ***R. v. Smoke***, 2014 MBCA 91 (at

para. 42), “the factors related to the accused’s circumstances as an Aboriginal offender must be taken into account as mitigating factors going to moral blameworthiness and weighed, together with all of the other mitigating and aggravating factors related to the offender and the offence, in determining the appropriate sentence for each offence. This applies whether the link is direct or indirect”.

[18] It is evident from the **Gladue** Pre-Sentence Report that his Indigenous background weighs heavily in Mr. Lavallee’s life. He has virtually no relationship with his father who he described as not being a good influence on him and ruining his life. He described his relationship with him as a minus five out of ten. He faced numerous forms of abuse including emotional abuse, neglect and witnessed substance and alcohol struggles with his father. His grandmother commented on how Mr. Lavallee struggled not having a true father figure to teach him how to be a man. Learning from his grandfather was not the same as learning from the father. These circumstances must be considered as mitigating factors going to moral blameworthiness.

[19] Counsel referred me to several cases to support their respective submissions regarding the appropriate sentence for Mr. Lavallee.

[20] In **R. v. Ruizfuentes**, 2010 MBCA 90, the Court of Appeal established two range of sentences for those who cause death while driving impaired. For those without a prior conviction for drinking and driving or serious personal injury, the range is two to five years with a driving prohibition of three to ten years. For those

who are second or subsequent offenders, the range moves to four to eight years with a driving prohibition for ten years to a lifetime ban. A sentence outside of these ranges can be imposed if it is done so in accordance with the principles and objectives of sentencing.

[21] In ***Ruizfuentes***, the accused was observed to be speeding, tailgating and driving through intersections against red lights. When he drove through his third red light, his vehicle hit another vehicle, killing the driver. An expert's report estimated the accused's blood alcohol readings at the time of driving to be between .131 and .183 milligrams of alcohol in 100 milliliters of blood. He had a limited and dated unrelated criminal record, but he did have an unenviable driving record of 13 infractions over 15 years, consisting mostly of disobeying traffic control devices, including one for going through a red light.

[22] The Court of Appeal noted that despite several mitigating circumstances, they were outweighed by the aggravating circumstances because of the sheer dangerousness of his actions: voluntarily drinking to the point of impairment, getting behind the wheel, speeding and entering intersections against three red lights, and his lengthy and related prior driving record. The Court of Appeal set the range for first-time offenders to two to five years, noting that for Ruizfuentes, the sentence should be at the high end of that range.

[23] Taking into account his driving record, that he was speeding and going through red lights, it was clear that Ruizfuentes was engaged in intentional risk taking and that there would be tragic consequences as a result. The court

concluded that his moral blameworthiness was high and imposed a four and one-half-years sentence and a seven and one-half year driving prohibition.

[24] More recently, in ***R. v. Goodman (T.S.)***, 2023 MBPC 61 (leave to appeal requested), McKenzie P.J. noted that the range of sentences appeared to be trending upward for offences of impaired operation of motor vehicles causing death. In that case, Goodman had consumed nine to ten drinks in a bar. A friend took his keys because he was drunk, but Goodman declined the offer of an alternate ride and retrieved his keys. He left the bar and was observed driving at a high rate of speed through two stop signs before going through a third and striking a vehicle being operated by Jordyn Reimer, who was a designated driver, killing her. There were no breathalyzer readings as Goodman fled the scene and did not turn himself in until the following day. It was determined that he was going 108 kilometres per hour in a 50 kilometre per hour zone. He had no criminal record, expressed genuine remorse, pled guilty and had taken steps to address his use of alcohol, including attending at AFM and AA. He was sentenced to six years for impaired driving causing death and an additional year for leaving the scene of the accident, to be served consecutively and prohibited from driving for ten years.

[25] A six-year sentence was also imposed by Abel J. in ***R. v. Quevedo***, an unreported 2023 decision. Mr. Quevedo lost control of his vehicle on the highway, over-corrected, causing the vehicle to roll several times, killing one of his passengers. His readings were .184 and .210. He had a family and a job and no

related record and was a low risk to reoffend. He was found to have made misleading statements to the police denying that he was the driver.

[26] A six-year sentence was also imposed in ***R. v. Baldovi***, a 2024 decision of this court. There, a 20-year-old drove at speeds between 143 and 153 kilometres per hour on Keewatin Street in Winnipeg. He went through one red light and was in the process of going through another when he struck a car being operated by the deceased, Sarbjit Gil. Justice Champagne found his driving not only aggravating, but outrageous. His blood alcohol level was .173, more than twice the legal limit. There were no mitigating factors relating to the circumstances, but Champagne J. noted Baldovi's very positive personal circumstances. He determined that the aggravating circumstances outweighed the mitigating factors and imposed concurrent six-year sentences and a ten-year driving prohibition.

[27] On the other end of the spectrum is ***R. v. Devos***, 2024 MBCA 23, where the court imposed an eighteen-month sentence on a youthful first offender who had consumed two or three cans of Bud Light apple beers prior to driving. His passenger was a 14 or 15-year-old friend who was in the back seat of Devos' truck without a seat belt. While driving across a frozen field, Devos decided to spin donuts. The truck rolled, killing the passenger. The court commented on the general upward trend demonstrating an increase in sentences imposed in Manitoba for the offence of impaired driving causing death where an offender has no previous or related record. The court determined that the sentencing judge overemphasized the mitigating factors and underemphasized the objectives of

deterrence and denunciation. The original sentence of six months was increased to eighteen months by the Court of Appeal.

[28] In ***R. v. Stuart***, 2018 MBQB 54, the accused was found guilty of impaired driving causing death in a single vehicle accident where the offender missed a turn and drove into a ditch killing the passenger in the accused's vehicle. She was speeding and had no criminal record and was of otherwise good character. Justice Grammond sentenced her to four years on each charge to be served concurrently, plus a seven and one-half years driving prohibition.

[29] In ***R. v. Smoke***, 2014 MBCA 91, an Indigenous offender drove his vehicle at speeds up to 102 kilometres per hour on city streets, ran four traffic lights before colliding with an SUV at such an impact that the SUV was turned 90 degrees and pushed onto the sidewalk, killing a citizen waiting at a bus stop and injuring two passengers in the offender's vehicle and another, the driver of the SUV. He had been told by his passengers to slow down. After the collision, he told his brother to tell the passengers to remain silent. He was convicted after trial and was sentenced to six and one-half years.

[30] On appeal, the court determined that the sentencing judge erred by failing to account for Mr. Smoke's Indigenous background. The court noted that the circumstances of Mr. Smoke's driving were more serious than those in ***Ruizfuentes***. The court also noted that a youthful offender is usually shown some leniency in sentencing. Mr. Smoke was 18 years-of-age. He had no prior traffic offences and a limited unrelated criminal record. As required by ***Gladue***,

the court noted several factors related to Mr. Smoke's Indigenous background. Taking all of this into account, and recognizing the upward trend referenced in ***Ruizfuentes***, the court imposed a sentence of four and one-half years for causing death while impaired.

[31] In ***R. v. Hansell***, 2015 MBQB 109, a 19-year-old offender, driving under the speed limit with a reading of between .100 and .120 at the time of the collision, had been texting and swerved to avoid rear ending another vehicle. He had no criminal convictions and one ***Highway Traffic Act*** conviction. Exercising the principle of restraint because Hansell was a youthful offender, Suche J. imposed a sentence of 26 months.

[32] In ***R. v. Coutu***, 2016 MBQB 5, Schulman J. imposed an eighteen-month sentence on a driver who struck a cyclist when he accelerated quickly without looking ahead and noticing the cyclist, after another car moved to the right to go around the cyclist. Counsel agreed that the facts placed Coutu at the lower end of criminality. His apology was considered to be genuine and had minimal ***Gladue*** factors.

[33] A very recent case is ***R. v. Grogan***, an April 2025 decision of Erykson P.J., Grogan had been drinking and drove through a stop sign going 100 kilometres in what appears to have been a 90 kilometre per hour zone, killing one person and injuring two others. His readings were noted by the judge to be 25 percent over the legal limit, which I take to be 100 milligrams of alcohol in 100 milliliters of blood. His age is not noted, and he was a man of otherwise good character with

lots of community support. Judge Erykson sentenced him to four and one-half years on the impaired driving causing death and two years concurrent for each of the charges related to impaired driving causing injury, for a total of four and one-half years.

[34] It is clear that while there is a general range of sentences, the particular circumstances of each offence and the offender will ultimately determine the appropriate sentence.

[35] These cases demonstrate that while there is a range of sentences for these offences, the circumstances of each offence and the offender will ultimately determine the appropriate sentence.

[36] I agree with the Crown that in sentencing impaired driving causing death cases, the good character of the accused takes a backseat to general deterrence and denunciation. Most of the accused in the cases that I have referred to were of otherwise good character. As I noted earlier, the objectives of deterrence and denunciation are particularly relevant to offences that might be committed by ordinary law-abiding citizens such as Mr. Lavallee. However, Mr. Lavallee's circumstances are nonetheless relevant:

- Mr. Lavallee has a minor unrelated criminal record;
- he is genuinely remorseful;
- he entered a guilty plea despite what he says were triable issues;
- he has taken significant steps with AA and AFM to break the generational ties with addictions;

- he has taken significant steps to be the father and husband that his own father was not;
- he has the support of many social organizations and his family, including his spouse and grandmother; and
- his **Gladue** factors are interrelated and are connected to the choices and actions that led to his decisions that day and reduce his moral culpability.

[37] The Agreed Statement of Facts reflects the egregious nature of Mr. Lavallee's driving, which I also take into consideration. I also note that Mr. Lavallee has a prior speeding conviction from several years ago for driving 153 kilometres per hour in a 100 kilometre per hour zone.

[38] Weighing all of these factors, I find that a fit and proper sentence for Mr. Lavallee is 4½ years for the offence of operating a conveyance with a blood alcohol concentration at or above 80 milligrams in 100 milliliters of blood, 4½ years concurrent for the offence of dangerous operation of a conveyance causing death and 12 months consecutive for failing to stop after an accident causing death, for a total of 5½ years.

[39] He will have credit for 360 days of pre-trial custody at 1.5 to 1, for a total credit of 540 days.

[40] As well, Mr. Lavallee will be prohibited from driving for 10 years. He has already had his driving privileges restricted for 372 days, so those days will be deducted from the 10-year prohibition.

[41] In addition, section 109 of the ***Criminal Code*** requires the imposition of a weapons prohibition on all convictions. There shall be an order prohibiting Mr. Lavallee from possessing any firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition, and explosive substance for a period of 10 years.

[42] I will not make a DNA order.

\_\_\_\_\_ J.