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COURT OF KING'S BENCH OF MANITOBA

B E T W E E N:

	)	Peter V. Edgett
HIS MAJESTY THE KING,	)	Brendan Roziere
	)	for the Crown
- and -	)	
	)	
ROY JR DUNSFORD,	)	Zachary B. Kinahan
	)	for the accused
accused.	)	
	)	
	)	
	)	Judgment Delivered:
	)	April 2, 2025

MARTIN J.

INTRODUCTION

[1] Roy Jr. Dunsford was charged with second-degree murder for killing his mother. The Crown accepted Mr. Dunsford's guilty plea to manslaughter based on his extreme intoxication. As if this were not bad enough, at the time, he was on probation, having completed a jail sentence for beating his best friend, his brother Ryan, to death while intoxicated. This decision deals with the question of a fit and appropriate sentence.

[2] The Crown says the sentence must be 20 years' incarceration and seeks delayed parole pursuant to s. 743.6 of the ***Criminal Code***. After deduction for a 1.5 credit of time-in-custody since his arrest, the go-forward sentence would be 17 years and 2 months. On the other hand, Mr. Dunsford's counsel submits an 8-year sentence is appropriate, for a go-forward sentence of 5 years and 2 months.

[3] As a bit of a roadmap, I will set out the facts, concisely outline Mr. Dunsford's background, the sentencing principles, followed by my analysis and conclusion.

FACTS

[4] Counsel jointly submitted an Agreed Statement of Facts.

[5] In June 2018, while drunk, Mr. Dunsford killed a brother by a "brutal and prolonged assault". In September 2019, he was sentenced for manslaughter to 3 years and 10 months incarceration. After accounting for the usual time-in-custody credit, the go-forward sentence was 2 years less one day, plus 3 years probation with a condition to abstain absolutely from consuming alcohol. He remained subject to this probation order in May 2023.

[6] On May 4, 2023, Mr. Dunsford's mother returned home, to Little Grand Rapids First Nation, from her cancer treatment in Winnipeg. Mr. Dunsford lived with her. At about 11:00 a.m., Mrs. Dunsford, her son Lee and Mr. Dunsford, started drinking alcohol. Around 4:00 p.m., Lee went to his sister's house. Mr. Dunsford followed. An altercation took place there, during which he smashed a TV. He was intoxicated.

[7] Mr. Dunsford then returned his mother's house. Shortly, Lee also went there. He saw Mr. Dunsford stomping his mother's face while bracing himself against a wall. Lee told him to stop, which he did.

[8] RCMP and medical personnel were quickly called. Mrs. Dunsford was pronounced deceased at the nursing station.

[9] In a statement to the RCMP, Mr. Dunsford said he had been drinking with his mother and, essentially, blacked out. He admitted that he gets very violent when he drinks.

[10] Mrs. Dunsford died of blunt force injuries, consistent with a crushing injury, such as stomping. Her significant injuries included: subarachnoid hemorrhage; fractures of the hyoid bone and thyroid cartilage in the neck; many contusions over the head, chest and back; fractures of the manubriosternal joint in the upper chest, sternum and 23 of 24 ribs; lacerations of the anterior mediastinal soft tissues, pericardium, heart and lungs; transection of aortic root, pulmonary trunk, and right pulmonary artery with laceration of the left pulmonary artery; lacerations of the left hemidiaphragm, liver, mesentery and pancreas; and fractures of the left clavicle (collar bone) and mid shaft left radius and ulna (forearm bones).

MR. DUNSFORD'S BACKGROUND

[11] Mr. Dunsford's history and background are deeply distressing. It is thoroughly canvassed in a Pre-Sentence/Gladue Report.

[12] At the time of the offence, he was 25 years old. He has a grade eight education and no work experience to speak of. He is not in a relationship and has no dependents.

He lived with his mother at Mishi-baawitigong, or Little Grand Rapids First Nation, which is a remote Indigenous community of about 1,500 on-reserve residents, accessible by air only. Mr. Dunsford has a long-standing major alcohol addiction, during which he is prone to blackouts and violence. He has taken programs to address this but, obviously, those interventions have missed the mark.

[13] He was not convicted of any criminal offence before he was 21 years of age. In 2018, he was convicted twice of assault, and in 2019, manslaughter of his brother. He was released from custody in January 2021. Within six weeks, he committed two counts of assault and one of assault a peace officer. Thereafter, in May 2023, he committed this offence and subsequently, in September 2023, he was convicted of mischief. Alcohol featured in all the violent offending.

[14] The probation officer aptly summarized his situation in the Pre-Sentence Report at pages 13-14:

> The subject experienced a very difficult upbringing. Growing up in Mishi-baawitigong, the subject was raised primarily by his mother. He was exposed to substance abuse at a young age, and was the victim of physical and sexual abuse before the age of nine. He was raised without a father figure and felt he was responsible for his mother's well-being at times. The home environment was depicted as a chaotic place with frequent parties and violence that left the subject feeling unsafe. He would seek the safety of other family members' residences, a behaviour which continued well into his twenties. Today, the subject appears to have been ostracized by his family. He has not had contact with any family in nearly one year, and has very little support at this time.
>
> Alcohol use has been a problem for the subject since the age of 12. It is well documented in Probation supervision records, and acknowledged by the subject, that when he consumes alcohol he is prone to violence. Despite numerous programs and interventions, he has been unable to overcome this addiction to date. To his credit, he has continued to seek assistance both in custody and the community. The subject's mental health is tied to his use of alcohol. He reported experiencing severe anxiety while in school to the point that it led him to leaving school in grade eight. It was at this time he began using alcohol problematically. It does not appear that he has ever been properly assessed and treated for these

> co-occurring disorders. He would benefit from interventions specialized in this area. The subject has resided in Mishi-baawitigong most of his life and expects to return to the community upon release. In the writer's assessment, the subject may need to seek programs outside the community that meet his needs.
>
> The subject has been compliant with community supervision in the past. Supervision records indicated he has reported as directed, completed numerous programs, and sought employment when available. However, it is also noted he committed the offence before the Court while bound by a supervised Probation Order and has re-offended while under supervision. The subject's behaviour in custody has been of a similar nature insofar as he is completed several programs, holds employment, and is described as being cooperative and compliant by his Custody Case Manager.

[15] Finally, he is assessed as a high risk to re-offend. The significant risk factor categories include: "Alcohol/Drug use, Companions, Family/Marital, and Education/Employment".

SENTENCING CONSIDERATIONS

[16] A sentence imposed by a judge for a serious crime should be tailor-made in the sense that, mindful of principles of sentencing, it responds appropriately to the circumstances of the offence and the particulars of the offender. The ***Criminal Code*** articulates the fundamental purpose of sentencing is to contribute to respect for the law and the maintenance of a safe, peaceful society through just sanctions that denounce unlawful conduct; deter persons from committing offences; separate offenders from society where necessary; assist in rehabilitation; provide reparation; and promote a sense of responsibility in offenders.

[17] Further, the ***Criminal Code*** mandates that a judge consider a number of principles, including sections:

- 718.04: denunciation and deterrence must be primary considerations for offences involving the abuse of a person who is vulnerable because of personal circumstances, including because the person is Aboriginal and female;
- 718.1: a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender;
- 718.2(a): a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender. Abuse of a member of the offender's family is a deemed aggravating circumstance (718.2(a)(ii);
- 718.2(b): the parity principle that a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances; and
- 718.2(e): the restraint principle, with particular attention to the circumstances of Aboriginal offenders.

[18] To this statutory list are a number of common law principles that have developed over many decades of jurisprudence.

[19] As to manslaughter sentences generally, I start with the Manitoba Court of Appeal's comments in ***R. v. Csincsa (M.A.P.)***, 1993 CanLII 14863:

> [4] … D. A. Thomas, in his text ***Principles of Sentencing***, 2d ed. (London: Heinemann, 1979), commented at p. 74:
>
> > "Manslaughter" is a generic term for a group of offences with different definitions, linked only by the common requirement of a death."

> [5] In ***R. v. Cascoe,*** [1970] 2 All E.R. 833 (C.A.) Salmon L.J. wrote:
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> > "As for sentence, manslaughter is, of course, a crime which varies very, very greatly in its seriousness. It may sometimes come very close to inadvertence. That is one end of the scale. At the other end of the scale, it may sometimes come very close to murder." (p 837)
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> Freedman C.J.M., in ***R. v. Sinclair*** (1980), 3 Man. R. (2d) 257 (C.A.) made a similar observation:
>
> > "The offence of manslaughter presents the widest possible range for sentencing among all the offences in the ***Criminal Code***. A sentence of life imprisonment may in one set of circumstances not be too much, and a suspension of sentence may in a different set of circumstances not be too little." (p. 257)
>
> In short, the breadth of the factual circumstances in which the offence of manslaughter may be committed is equaled only by the wide discretion given to the judge on sentencing.

[20] The Crown relies on ***R. v. Laberge***, 1995 ABCA 196, for an analytical framework to assist in determining blameworthiness in one manslaughter compared to another (paras. 6 – 17). ***Laberge*** has been cited positively by many courts since, including the Manitoba Court of Appeal. In sum, "[u]nlawful acts may be divided into three broad groups: those which are likely to put the victim at risk of, or cause" (i) bodily injury, (ii) serious bodily injury, or (iii) life-threatening injuries (para 9).

[21] In ***R. v. McLeod***, 2016 MBCA 7, the Manitoba Court of Appeal referenced ***Laberge***:

> [17] In *R v Laberge* … Fraser CJA wrote (at para 6):
>
> > All unlawful act manslaughter cases have two common requirements - conduct which has caused the death of another; and fault short of intention to kill. However, despite these common elements, the offence of unlawful act manslaughter covers a wide range of cases extending from those which may be classified as near accident at the one extreme and near murder at the other: *R. v. Cascoe* ..; *R. v. Eneas*, … . Different degrees of moral culpability attach to each along a continuum within that spectrum. It is precisely because a sentence for manslaughter can range from a suspended sentence up to life imprisonment that the court must determine for sentencing purposes what rung on the moral culpability ladder the offender reached when he committed the prohibited act. The purpose of this exercise is to ensure that the sentence imposed fits the degree of moral fault of the offender for the harm done.
>
> (citations omitted)

[22] Counsel provided me numerous manslaughter precedent cases to support their respective positions. Arguably, all the cases are distinguishable in some respect. They are important however to demonstrate (i) how sentencing considerations are taken into account in a given manslaughter case as a judge balances all the factors in determining a fit sentence and, (ii) a non-binding array of sentences for a certain kind of manslaughter. I will refer to several helpful precedents in my analysis.

[23] As noted, also at play in this situation is the Crown's position that I should order Mr. Dunsford not be eligible for parole until he has served one half of his sentence. The operative portion of s. 743.6(1) of the ***Criminal Code*** states:

> (1) … the court may, if satisfied, having regard to the circumstances of the commission of the offence and the character and circumstances of the offender, that the expression of society's denunciation of the offence or the objective of specific or general deterrence so requires, order that the portion of the sentence that must be served before the offender may be released on full parole is one half of the sentence or ten years, whichever is less.

This section must be read in conjunction with ss. (2):

> (2) For greater certainty, the paramount principles which are to guide the court under this section are denunciation and specific or general deterrence, with rehabilitation of the offender, in all cases, being subordinate to these paramount principles.

[24] The Supreme Court of Canada's decision in ***R. v. Zinck***, 2003 SCC 6, remains the seminal precedent respecting s. 743.6. Since ***Zinck***, the section has been amended to include other provisions (ss. (1.1) and (1.2)). Those provisions do not apply in this situation, nor do they detract from the general principles and considerations set by the Supreme Court. Where applicable, the power to delay parole eligibility is part of the sentencing process and part of an offender's potential punishment; it is an explicit power

to reduce the discretion of the Parole Board in certain circumstances (para. 23). The case headnote provides a concise summary of the function and two-step intellectual process to be employed:

> … delaying parole can be a significant component of a sentence. … Generally speaking, delayed parole is a decision that remains out of the ordinary and must be used in a manner that is fair to the offender. The sentencing judge must first determine the appropriate punishment for the crime, taking into account and weighing all relevant factors. The analysis then may shift to the exercise of the power to delay parole. Section 743.6 should not be applied in a routine manner. The judge must once again apply the sentencing factors. In the course of the second balancing, priority is given to the factors of general and specific deterrence as well as denunciation. The prosecution has the burden of establishing that additional punishment is required. Delayed parole should not be ordered without necessity; it should be invoked only on the basis of demonstrated need.

[25] With all of these matters in mind, I turn to my analysis.

ANALYSIS

[26] The aggravating and mitigating circumstances of the offence and Mr. Dunsford are significant:

Aggravating Circumstances:

- the victim was an Indigenous woman and family member. She was Mr. Dunsford's mother and particularly vulnerable in other ways as well. She had just returned home from cancer treatment and was also intoxicated, having a blood-alcohol level of 0.254 mg percent at death;
- other than Mr. Dunsford's propensity for violence when intoxicated, there is no context or explanation for the killing. Shortly before, he smashed his sister's television for no given reason. Whatever anger was percolating at that point

appears to have boiled into a rage within moments of returning to his mother's home;

- the beating he inflicted on his mother was severe. It may have been quick but clearly, as noted by the severe injuries, many powerful blows were inflicted. He was seen standing over her, bracing himself with the wall, stomping her. Over two dozen bones were broken including, critically, those in the chest and rib cage beneath which vital internal arteries, tissue and organs sustained major injury; and
- Mr. Dunsford was on probation with a condition that he abstain from alcohol for killing his brother. When he started drinking with his mother that day, he knew that he was a danger to others, regardless of relationship. That his mother and brother Lee ignored the risk of drinking with him does not lessen the aggravating nature of this factor.

Mitigating circumstances:

- Mr. Dunsford was a relatively young 25-year-old man who, when sober, is quiet, respectful and apparently not a threat;
- Mr. Dunsford is extremely remorseful; and
- it appears that the root of Mr. Dunsford's rage is some undiagnosed psychological condition or trauma that, in tandem with his alcohol addiction, erupts into furious violence. He is tied by life circumstance to his dysfunctional family and community, neither of which have the capacity to provide support

and resources he needs to deal with his addiction. He has earnestly tried to stem his addiction through various programs but has been unsuccessful.

[27] Mr. Dunsford's criminal record is not an aggravating factor per se. However, two implications are important. First, particularly since this is the second time he has killed someone, and within a relatively short duration of five years (2018 and 2023), he is not entitled to leniency. Second, while not an overly lengthy record, in just over five years he has committed six violent offences which demonstrates, as he conceded, he is prone to violent outbursts when drinking or drunk.

[28] As to the impact on the victim, obviously it is horrible and final. Mrs. Dunsford was a 63-year-old residential school survivor who enjoyed gospel music and her grandchildren. She taught her children Ojibwe. Mrs. Dunsford's family is hurting for her. Sadly, one of her adult children has turned to alcohol to cope. Mr. Dunsford's siblings do not forgive him.

[29] Otherwise, I accept what is plain: Mr. Dunsford's moral culpability is impacted by *Gladue* considerations. I need not reiterate his history or background; it was extensively commented on by his counsel and in the Pre-Sentence/Gladue Report as summarized earlier. *Gladue* considerations must be reflected when balancing various factors in assessing a fit sentence. However, two important points must be highlighted.

[30] First, as noted by the Manitoba Court of Appeal in ***R. v. Guimond***, 2016 MBCA 18, at para. 6, "… [A] sentencing judge's mandatory duty to apply section 718.2(e) in sentencing an Aboriginal offender does not necessarily mean that consideration of the

relevant individual and systemic *Gladue* factors will lead to an "automatic reduction of a sentence"".

[31] Second, for sentencing purposes, Mr. Dunsford's personal history as an Indigenous man entitled to the benefit of s. 718.2(e) is not displaced by, nor does it displace, consideration of this Indigenous female victim, a vulnerable person, under s. 718.04. Both considerations must be weighed and balanced, along with all other relevant sentencing factors, including the unique circumstances of the offence, in assessing a fit and just sentence. This was aptly explained by the Alberta Court of Appeal in ***R. v. AD***, 2019 ABCA 396:

> [26] The sad fact is that Aboriginal women are disproportionately affected by domestic violence and violence in general and this reality should inform the sentencing process if there is to be any hope of achieving the fundamental purpose of sentencing and meeting the objectives set out in section 718 of the Criminal Code, which include denunciation and deterrence.
>
> [27] Consideration of the victim, in this case the fact that she was an Aboriginal female, does not negate or otherwise trump the necessity of courts, when sentencing offenders, paying particular attention to the circumstances of Aboriginal offenders (s 718.2(e)). Rather, it requires that, in having regard to the circumstances of Aboriginal offenders, the courts do not discount the lives of or harms done to Aboriginal victims of crime, their families and their communities …
>
> [28] Considering the circumstances of the victim and the effects of the offence on the community does not mean that the circumstances of the offender, in particular the circumstances of Aboriginal offenders, are disregarded or, … that consideration of the victim's circumstances effectively disentitles the offender from a meaningful *Gladue* analysis under s. 718.2(e). What it does mean is that, in arriving at a fit sentence, judges must take into account the circumstances of the offender, the circumstances of the victim and the effect of the crime on the community in which it took place. The fact that a sentencing judge is required to consider one set of circumstances does not mean other circumstances are ignored … .

[32] The Manitoba Court of Appeal, pronounced in ***R. v. Bunn***, 2022 MBCA 34:

> [110] In summary, section 718.04 mandates sentencing courts to give primary consideration to the objectives of denunciation and deterrence in circumstances

> where the victim is vulnerable because of personal circumstances — including because the person is Aboriginal and female. It is not intended to diminish *Gladue* principles. The application of *Gladue* principles will not necessarily result in a lesser sentence, but they may, depending on the circumstances. Nonetheless, the principles of denunciation and deterrence often mandate a harsher sentence in the interest of the protection of the public.

Finally on this point, in ***R. v. Wood***, 2022 MBCA 46, at para. 57, the Court cautioned: "the deceased vulnerability … could not overtake the sentencing process."

[33] This situation is yet another senseless tragedy in the seemingly unrelenting and dire record of heartbreaking circumstances of an Aboriginal man killing an Aboriginal woman. Mr. Dunsford appears to be a peaceful man when sober but prone to extreme violence when drunk. Since age 21, he is progressively getting worse. Community and family resources cannot help Mr. Dunsford - - his addiction is beyond their capacity and his control. His ill-fated background, dysfunctional family and impoverished community – described by his counsel as "third-world" – somewhat lessens his blameworthiness. He is stuck in bad circumstances. *Gladue* factors are real and present.

[34] I also recognize he is a man of 25 years, is remorseful and has tried to tackle his addiction and violence. Normally these factors support prospects for rehabilitation. However, the reality of his situation is far from optimistic. This time he killed his mother in a most vicious fashion; while on probation for killing a brother, having received the benefit of a relatively lenient sentence of less than 4 years. Nothing was learned; nothing changed.

[35] Overall, his moral culpability is very high.

[36] Common sense and the law demand that denunciation and deterrence be the primary sentencing factors. In these circumstances, the proposed 8-year sentence would

fall far short of such demands. It is not proportional. Moreover, it would not meaningfully account for the risk he poses, and will likely pose, for some time until he is offered and absorbs appropriate and intensive therapy. Until that success, he will remain a danger to any community he lives in. At this point, his potential rehabilitation is very long-term and, as such, may align with the need to protect the community by separating him from society for an extended time.

[37] The Crown's sentence submission is not far off the mark from a precedent standpoint. Four examples of manslaughter sentences, where an accused had a prior manslaughter conviction, include:

- ***R. v. Piche***, 2006 ABCA 220: Mr. Piche was convicted of stomping an older man to death. Mr. Piche was a 29-year-old Aboriginal male with a horrible record for violence, including a prior manslaughter 10 years earlier and accessory to another homicide. *Gladue* factors were relevant. A life-in-prison sentence was affirmed as necessary to manage his risk to the community;
- ***R. v. Loon***, 2020 ONSC 619: Mr. Loon brutally beat another man to death. He was 44 years old with an extensive violent record, including a prior manslaughter about a decade before. *Gladue* factors were relevant. Mr. Loon was sentenced to 16 years' incarceration;
- ***R. v. Pruden***, 2022 MBKB 240: Mr. Pruden was 39 years old when he randomly struck another man once with a crutch. He pled guilty to manslaughter. He had a record for violence and a prior manslaughter conviction as a youth, about

24 years earlier. *Gladue* factors were relevant. He was sentenced to 12 years' incarceration; and

- ***R. v. Williams***, 2022 MBQB 125: Mr. Williams was on statutory parole from an 18-year sentence for manslaughter when he repeatedly stabbed and killed a stranger while in a methamphetamine state of intoxication. Mr. Williams was a 34-year-old Indigenous man with a record for violence. *Gladue* factors were relevant. Given his lack of insight and willingness to change or be rehabilitated, separation from society and community safety were paramount. Life-in-prison was imposed.

[38] Otherwise, it is clear that key factors in manslaughter precedents include a history or propensity for violence or dangerousness (including when intoxicated), the relationship with the deceased, the vulnerability of the deceased, the severity and nature of the violence inflicted upon the deceased, whether the accused has killed previously; personal characteristics of the accused such as age, remorse, prospect of rehabilitation, and; *Gladue* circumstances.

[39] Weighing and balancing all the factors and sentencing objectives I must in reaching a fit and just sentence, for the manslaughter of Mrs. Dunsford, I find a sentence of 18 years custody is required, particularly bearing in mind denunciation, deterrence and future community safety. But for the mitigating circumstances, I would have found the Crown's 20-year submission appropriate.

[40] Of note, respecting the ***Wood*** decision, this is the same sentence I imposed on Mr. Wood for a similarly brutal manslaughter, albeit of his domestic partner.

Gladue factors, alcohol and drug addiction, and prior attempts at rehabilitation, in a remote Indigenous community unable to support those needs, were also live factors, along with a record for violence, including against the victim. However, Mr. Wood had not killed before (***R. v. Wood***, 2021 MBQB 4). The Court of Appeal upheld the sentence.

DELAYED PAROLE

[41] The remaining issue is that of delayed parole under s. 743.6 of the ***Criminal Code****:* has the Crown established that additional punishment is required, that there is a demonstrated need for Mr. Dunsford to serve 9 years (one half of his sentence) before being released on full parole?

[42] Returning to the judgment in ***Zinck***, I repeat the Supreme Court's analytical instructions for this stage of sentencing:

> [30] … The power should not be exercised in a mechanical or automatic way, nor invoked in connection with every jail term imposed for an offence covered by s. 743.6. The judge must once again apply the sentencing factors. In this part of the process, however, the addition of s. 743.6(2) requires that, in the course of this second balancing, priority be given to the factors of general and specific deterrence, and of denunciation. The other factors remain relevant, but, to the extent of any conflict, subordinated to those identified by Parliament. It is worth noting that Parliament has not given priority to these specific factors in the application of s. 745.4.
>
> [30] …The judge must satisfy himself or herself that the order is needed to reflect the objectives of sentencing, with awareness of the special weight ascribed by Parliament to the social imperatives of denunciation and deterrence. Nevertheless, at the end of this intellectual process, the sentencing decision must remain alive to the nature and position of delayed parole in criminal law as a special, additional form of punishment. Hence it should not be ordered without necessity, in a routine way. …

[43] Section 743.6(1) of the ***Criminal Code*** deals with delaying full parole only, as provided for in s. 120(1) of the ***Corrections and Conditional Release Act*** (S.C. 1992, c. 20). In that ***Act***, s. 99(1) defines full parole as "the authority granted to an offender

by the Board … to be at large during the offender's sentence". Section 120(1) of the ***Act*** states that an offender is not eligible for full parole until he has served the lesser of one third or seven years of his sentence.

[44] The Crown argues this provision should be invoked because, despite the overlap of denunciation and deterrence being the primary considerations in setting this specific sentence, those factors should nonetheless be considered to delay parole. The Crown submits the difference s. 743(6) would make is significant. On an 18-year sentence, Mr. Dunsford would be eligible for full parole after 6 years, versus 9 years if I delayed his full parole eligibility. Thus, the Crown asserts the public interest is served if I override the Parole Board in this manner.

[45] The defence asserts delayed parole is not appropriate given the Parole Board expertise in setting release and supervising it. Further, by law, they will not release Mr. Dunsford when eligible for full parole unless they are satisfied it is safe to do so.

[46] For Manitoba, I was only able to find three instances where delayed parole was invoked:

- ***R. v. Gagnon***, 2005 MBQB 44: For an offender who committed many house break ins and other offences, including a number after having escaped custody and while on parole;
- ***R. v. JLK***, 2013 CarswellMan 289: For numerous sexual assault charges against two victims where the offender indicated he would refuse treatment while in custody; and

- ***R. v. Amsel***, 2018 MBPC 46: For several attempted murder convictions where bombs were set off, seriously injuring a lawyer which was seen as an attack on the administration of justice.

On the other hand, in ***Williams*** the sentencing judge refused to delay parole from the mandatory seven years for a life-in-prison sentence to 10 years. Otherwise, in the other manslaughter sentences, as cited above, the Crown did not seek delayed parole.

[47] On balance, I decline to invoke delayed parole. I do not find it necessary to repeat the detail of circumstances of the commission of the offence and the character and circumstance of the offender. Clearly, I must bear those details in mind at this stage.

[48] Notably though, I am struck by the brutality of this killing, that it was of Mr. Dunsford's mother, who was a vulnerable Indigenous woman, and it happened in her home. Also important is the scourge of man-on-woman violence generally, and more so in the Indigenous community where females suffer in disproportionate numbers relative to the rest of society. Hence, Parliament enacted sentencing provisions mandating denunciation and deterrence as key considerations in these situations. These factors are built into Mr. Dunsford's 18-year sentence.

[49] His *Gladue* considerations are important, not the least of which are his life-long exposure to alcohol abuse and violence within his family and community settings. The contrast of Mr. Dunsford's behaviour and character when sober and drunk is noteworthy, as is his willingness to take programs and cooperate with probation services. Clearly, the potential programs available to him in his small, remote community are inadequate. That is not his fault, nor can he be blamed for continuing to live in his

community despite this. I cannot image life on the streets of Winnipeg, for example, for Mr. Dunsford without major support and oversight, which was beyond the scope of his probation supervision but would not be beyond parole supervision. I am also cognizant of the practical reality that Mr. Dunsford is very unlikely to be released on full parole when the statutory minimum period is met; his rehabilitation challenges are too great.

[50] In the end, on balance, I do not agree this is one of those cases where it is necessary to impose extra punishment of delayed parole. In ***R. v. Smith***, 2008 SKCA 20, the Saskatchewan Court of Appeal commented, at para. 72, that s. 743.6 is about fairness to society. "It affords the court the opportunity to step back and consider the larger picture – to ask itself "knowing what I know about the parole process, does this sentence sufficiently express society's denunciation and interest in deterrence?"". The 18-year sentence is a just but significant punishment under all the circumstances. Full parole at 6 years cannot be assumed; in fact, it is highly unlikely. Denunciation and deterrence, along with community safety, are at the forefront of this sentence while rehabilitation is subordinate. The sentence is sufficient; the need for delayed parole has not been established.

CONCLUSION

[51] Mr. Dunsford is sentenced to 18 years' imprisonment for manslaughter. He is entitled to a time-in-custody credit which makes his go-forward sentence 15 years and two months.

[52] The usual ancillary orders for DNA and a lifetime ban on weapons are also imposed.

[53] Given the family dynamics, and practicalities of Mr. Dunsford's ability to communicate with various family, and their ability to decline such a call, I do not see it necessary or otherwise practical to issue a noncommunication order during the custodial period of the sentence (s. 743.21 of the ***Criminal Code***).

_____ J.