

Information Nos. 20-20159, 21-9558 & 9868

ONTARIO COURT OF JUSTICE

HER MAJESTY THE QUEEN

v.

STEVEN F. HELFER

GUILTY PLEA HEARING

HEARD REMOTELY BEFORE THE HONOURABLE JUSTICE D. BERG
on Thursday, June 24, 2021, at OTTAWA, Ontario

APPEARANCES:

T. Dobec
J. Boss

Counsel for the Crown
Counsel for Mr. Helfer

ONTARIO COURT OF JUSTICE
T A B L E O F C O N T E N T S

5

E X H I B I T S

<u>EXHIBIT NUMBER</u>		<u>ENTERED ON PAGE</u>
1	Criminal record.	12
2	S.21 report dated March 23, 2014.	13

10

* * * * *

15

Legend

(ph) - Indicates preceding word has been spelled phonetically.

[sic] - Indicates preceding word has been reproduced verbatim and is not a transcription error.

20

25

30

Thursday, June 24, 2021

U P O N R E S U M I N G:

5 THE COURT: Good afternoon, everybody. Just wait there with me for one second. So would the gentleman at OCDC state his name, please?

THE ACCUSED: Steven Helfer.

10 THE COURT: Okay, Mr. Helfer, good afternoon. And Mr. Boss, this is your matter? Mr. Boss, can you hear me? No, we can't hear you. I can see your lips moving.

MR. BOSS: Yes.

THE COURT: Alright.

15 MR. BOSS: It's my matter.

THE COURT: Okay, and I have two Crowns here. Ms. Dobec, this is your matter?

MS. DOBEC: It is.

THE COURT: And what is happening?

20 MS. DOBEC: So it's for plea and sentence, Your Honour. I emailed earlier this morning the s.21 and his prior ruling on a previous incident, as well as his criminal record. It is for a joint position, but we'll probably have to make a few extra comments than may be the normal.

25 THE COURT: Okay, I see. I didn't see the - sorry, I didn't look at the s.21, because it was stapled together with that case from Justice Alder, so I didn't realise it was there.

30 MS. DOBEC: That's fine.

THE COURT: Sorry, bear with me. And it's a joint submission? Okay, that's - so why don't we do this? Because it's a joint submission and just given the

5 realities of how difficult it is to juggle a remote court like this, we'll do the plea, we'll do the plea enquiry, the plea, you'll tell me what the joint submission is and you'll walk me through any materials that I have to - rather than me sit here for five minutes and read through everything by myself. Alright, why don't we just do it that way, it's a bit more expedient, I think.

MS. DOBEC: That's fine, Your Honour.

10 THE COURT: Okay, so what - does Anne-Marie know which counts Mr. Helfer is going to be pleading guilty to?

MS. DOBEC: She does.

15 THE COURT: Alright. Okay, Mr. Helfer, I'm going to ask you a few questions; okay?

THE ACCUSED: Yes.

THE COURT: So my understanding is that you're going to be entering some guilty pleas here today; is that correct?

20 THE ACCUSED: Yes.

THE COURT: You understand that, when you're entering a guilty plea, you're telling me that you did what has been alleged?

THE ACCUSED: Yes.

25 THE COURT: You understand that, because you are entering a guilty plea, there is not going to be a trial of this matter?

THE ACCUSED: Yes.

30 THE COURT: Now, there's a joint submission. Mr. Helfer, it's highly unlikely that I would not accept a joint submission, but I'm allowed to under certain circumstances. I'm the one that's sentencing you,

R. v. Steven F. Helfer
Arraignment

not them; you understand that?

THE ACCUSED: Yes.

THE COURT: Has anyone forced you to plead guilty or are you doing so of your own free will?

THE ACCUSED: Free will.

THE COURT: Okay, do you need a second?

THE ACCUSED: No, I'm fine.

THE COURT: You're fine? Okay.

THE ACCUSED: Yeah.

THE COURT: Okay, so if he can - if he can be arraigned, then, please?

COURT CLERK: When you say a plea to breach of probation, contact, both dates, both victims, you mean counts one and two?

MS. DOBEC: Let me just pull up the agreement. Yes, so that would be - it would be just one count, but to amend it, so it would be between dates and both the complainants' names in the information.

COURT CLERK: And does it matter which of the "resist arrests"?

MS. DOBEC: No, it doesn't.

COURT CLERK: And the second information, you said unlawfully in a dwelling, that's not the charge on the information. Is he pleading to a lesser and included?

MS. DOBEC: Yes, please.

COURT CLERK: Okay, thank you, I'll do them in date order and then I'll take the pleas for each. Are you ready, Your Honour?

THE COURT: Yes, I am.

COURT CLERK: Thank you. Steven Helfer, you're charged that on or about the 21st day of June in the

R. v. Steven F. Helfer
Arraignment

5
year 2020, at the City of Ottawa in the east region,
did commit an assault on R [REDACTED] I [REDACTED] - first
name - R [REDACTED] - surname - I [REDACTED] -
contrary to s.266 of the *Criminal Code of Canada*.

10
You are further charged that on or about the 21st
day of June in the year 2020, at the City of Ottawa
in the east region, did possess a weapon, namely a
metal bar and fire extinguisher, for a purpose
dangerous to the public peace, contrary to s.88(2)
of the *Criminal Code of Canada*.

15
You are further charged that on or about the 21st
day of June in the year 2020, at the City of Ottawa
in the east region, did in committing an assault on
R [REDACTED] I [REDACTED], cause bodily harm to him, contrary
to s.267(b) of the *Criminal Code of Canada*.

20
And you are further charged that on or about the
21st day of June in the year 2020, at the City of
Ottawa in the east region, did reside in the same
premises as an animal, namely multiple rabbits,
during a period while prohibited from doing so by
reason of an order made pursuant to s.447.1(1)(a) of
25
the *Criminal Code*, contrary to s.447.1(2) of the
Criminal Code of Canada.

30
On December 16, 2020, the Crown elected to proceed
summarily. What is your plea to these charges;
guilty or not guilty?

THE ACCUSED: Guilty.

COURT CLERK: Thank you.

R. v. Steven F. Helfer
Arraignment

COURT CLERK: Right, sub-one?

MS. DOBEC: Yes.

5
10
15
COURT CLERK: And not guilty to the charge as read.
And you are further charged that between the 22nd of
May in the year 2021 and the 23rd day of May in the
year 2021, at the City of Ottawa in the east region,
did while bound by a probation order made by the
Ontario Court of Justice on April 12th, 2021,
without reasonable excuse fail to comply with such
order, namely do not contact or communicate in any
way with - either directly or indirectly, by any
physical, electronic or other means, with P [REDACTED]
I [REDACTED] and - okay, just P [REDACTED] I [REDACTED], contrary
to s.733.1(1) of the *Criminal Code of Canada*.

MS. DOBEC: And the Crown would ask that that
information be amended to also include P [REDACTED]
I [REDACTED].

20
25
COURT CLERK: Right, and P [REDACTED] I [REDACTED]. You are
further charged that on or about the 23rd day of May
in the year 2021, at the City of Ottawa in the east
region, did by word of mouth knowingly utter a
threat to cause death to P [REDACTED] I [REDACTED], contrary to
s.264.1(2) of the *Criminal Code of Canada*.

30
And you are further charged that on or about the
23rd of May in the year 2021, at the City of Ottawa
in the east region, did resist Constable [REDACTED] [REDACTED]
[REDACTED] - a peace officer in the execution of his
duty, contrary to s.129(a) of the *Criminal Code of
Canada*.

Crown election, please?

MS. DOBEC: Summarily.

COURT CLERK: What is your plea to these charges, guilty or not guilty?

THE ACCUSED: Guilty.

COURT CLERK: Thank you. That's all.

THE COURT: That's it? Okay, so Mr. Helfer, listen now to what the Crown is going to be reading out.

MS. DOBEC: By way of background, Your Honour, in October of 2013, Mr. Helfer got into an argument with his mother, R [REDACTED] I [REDACTED], that resulted in Ms. I [REDACTED] demanding that Steven Helfer leave the residence. Her boyfriend, P [REDACTED] I [REDACTED], was also present at that time. Mr. Helfer refused to leave and grabbed the family dog, Breezy, and severely beat her.

As a result, the accused was ultimately convicted of various offences, including criminal harassment of his mother for the occurrence that occurred that day, as well as the abuse of Breezy. He received a two-year jail sentence and was placed on an animal prohibition for 25 years. The order prohibited him from owning or having the custody or control of, or residing in the same premises, as any animal or bird for a period of 25 years.

On June 21st, 2020, R [REDACTED] I [REDACTED] and her boyfriend, P [REDACTED] I [REDACTED], and her son, Mr. Helfer, were in their home in Ottawa. Ms. I [REDACTED] offered her son, the accused, a steak dinner, but he was not happy with the manner in which the steak had been cooked and became verbally aggressive with his

5
mother. Ms. I [REDACTED] and Mr. I [REDACTED] attempted to go to bed. Steven Helfer refused and continued to verbally abuse Ms. I [REDACTED]. She told him to leave the residence or she would call the police.

10
Ms. I [REDACTED] and Mr. I [REDACTED] attempted to go into the kitchen to get away from Mr. Helfer. They put the closet door between themselves and the accused, but Mr. Helfer pushed the closet forward to gain entry into the kitchen. Mr. I [REDACTED] attempted to protect Ms. I [REDACTED] by positioning himself in front of her. The accused punched Mr. I [REDACTED] in the head many times with his fists, causing a broken nose and swollen eye. He then grabbed a steel bar and struck Mr. I [REDACTED] in the face.

15
Ms. I [REDACTED] then attempted to intervene and (phone line cut) to the ground by the accused, causing an injury to her arm. Mr. Helfer then continued to assault Mr. I [REDACTED] by knocking him to the ground and choking him, while threatening to kill him. He also struck Ms. I [REDACTED] in the back - sorry, Mr. I [REDACTED] in the back with a fire extinguisher while he was attempting to get away from Mr. Helfer.

20
25
30
Police responded to the scene but were unable to locate Mr. Helfer; he had left prior to police arrival. When police cleared the apartment, they observed several rabbits and birds in cages that were located in the bedroom and the back yard of the location. Ms. I [REDACTED] and Mr. I [REDACTED] indicated that they belonged to Mr. Helfer. He was eventually

located and arrested for those offences on July 13th, 2020.

5 On April 9th, 2021, a witness observed people attending the residence across the street from her, namely at [REDACTED] the City of Ottawa. The witness knew the residence to be vacant and owned by the Embassy of Niger. She asked the male and female if they were allowed on the property. The male was 10 subsequently identified as Mr. Helfer and the female was identified as Kimberley Wright. Mr. Helfer indicated that he was there to do work on the property. He then climbed into the residence via a broken, boarded-up window, located on the residence 15 side door. Once inside, he unlocked the door and allowed Mrs. Wright entry.

20 Inside, they both drank alcohol. Ms. Wright noticed that the accused had appeared to be residing in the residence. There was garbage and food and other items strewn about.

25 The witness called police, who arrived and observed Mr. Helfer and Ms. Wright walking down the alleyway away from the rear of the residence. Ms. Wright advised police that she had to climb out the back window, and then was followed out the same window by the accused. She further advised that she had never 30 been to the residence before, but she believed that Mr. Helfer had lawful access. He was arrested and released on an undertaking.

5 On April 12th, 2021, he was placed on probation for two years as a result of an unrelated property offence, with conditions to have no contact with R [REDACTED] I [REDACTED] and P [REDACTED] I [REDACTED].

On May 22nd, 2021, he attended their residence and began banging on the rear door. He was yelling and shouting but left prior to police arrival.

10 On May 23rd, he reattended the back yard of the residence and again was banging on the back door. He was yelling and swearing. He told his mother he would put a hole in her head if she came to court. He again left prior to police arrival but was located in the area shortly thereafter by the police. He took off running. He was apprehended a short time later. The police struggled to arrest him, as he actively resisted by twisting, turning, and pulling away from the officers.

20 While *en route* to cells, he hit his head off the partition and attempted to kick out the side doors of the cruiser. And he has been in custody since, so his - he came into custody on March - sorry, May 23rd. And those are essentially the facts.

25 THE COURT: Okay, Mr. Helfer, is that basically what occurred? Is that the history?

THE ACCUSED: Yeah.

30 THE COURT: Okay, I make findings of guilt. Can I just see the - once you've done all that on the informations, can I just see them, please?

COURT CLERK: Sure.

5 THE COURT: Just stand by. And I take it you want the criminal record, Ms. Dobec, adduced as an exhibit at this point?

MS. DOBEC: Yes, as well as we probably should put the s.21 report...

THE COURT: Okay, step....

MS. DOBEC: ...produced in....

10 THE COURT: Okay, Ms. Dobec, step-by-step, please. So okay, the criminal record, Mr. Boss, any issue with that?

MR. BOSS: There's one correction to the criminal record, otherwise no issue, and it's the most recent conviction from 2021.

THE COURT: The b-and-e and commit?

15 MR. BOSS: Which reads - it reads as a break-and-enter. The plea was actually to being unlawfully in a dwelling, and that's what he was sentenced for.

MS. DOBEC: I can indicate that's correct, Your Honour.

20 THE COURT: Okay, I'm just going to cross off b-and-e and write in "unlawful in dwelling" and initial it. Okay, thank you, so that would be Exhibit 1 on these proceedings.

EXHIBIT 1: Criminal record - produced and marked.

25 THE COURT: Okay, if I could just grab those, here's Exhibit 1, if you want to take those. And there's Exhibit 1. Just give me one moment, please. Okay, just before we get any further, is it - so there's rabbits and birds, just given the presence of that 25-year order, this was at his mother's house and she knew he was keeping them; right?

30 MS. DOBEC: That's right.

5 THE COURT: Alright, I'll address that particular issue at the end. Okay, so there's then the s.21 report dated March 23rd, 2014, by Dr. Ward. It's obviously dated, but it does provide some psychiatric, psychological backgrounds, so you're asking that that be marked as an exhibit; is that the idea?

MS. DOBEC: That's right.

10 THE COURT: Mr. Boss?

MR. BOSS: I don't take any issue with that, Your Honour. It's been made an exhibit before.

THE COURT: Okay, just asking, so that's Exhibit 2. EXHIBIT 2: s.21 report dated March 23, 2014 - produced and marked.

15 THE COURT: And then there - is there a decision of my sister, Justice Alder, which is Helfer, 2014 OJ No. 2984 dated June 19th, 2014. I'm assuming that Dr. Ward's psychiatric s.21 report was for that sentencing?

20 MS. DOBEC: That's right.

THE COURT: Okay. What in that particular - what in Justice Alder's decision do you want me to take a look at?

25 MS. DOBEC: So specifically, there's two things, so that is the judgment that results in him having the 25-year animal prohibition.

THE COURT: Yep.

30 MS. DOBEC: The facts concerning the serious nature of that charge are related in there, as well as that was all sparked as a result of an argument with his mother, who of course now is a victim again. So Crown is providing that for a few reasons: to talk

5
about the history of the violence between the
accused towards his mother; his history of violence
towards animals, and the serious offence that he was
- he was convicted and received a two-year jail
sentence for the beating of that dog, so it was an
extremely significant sentence he received.

10
So those are the main reasons that the Crown wanted
to bring that decision to your attention, Your
Honour.

15
THE COURT: Okay. The criminal record shows that in
any rate, as does Dr. Ward's report, it's all in
there. I'm not going to file it as an exhibit.

I'll just - the Crown has referred me to *R. v.*
Helfer in 2014, OJ No. 2984. Okay. Alright, and
what is the - well, I make the findings of guilt, I
don't know whether I stated that formally, and what
is the joint position, if I may ask, Ms. Dobec?

20
MS. DOBEC: Certainly, so ultimately, it's going to
be for a 12-month sentence, minus his pretrial
custody. We're asking for 18 months of probation
with a DNA order and a weapons' prohibition. And I
can go through sort of the breakdown of all of that
in my submissions now, if Your Honour wishes.

25
THE COURT: Sure. It's a joint submission, so why
don't you do that, and then Mr. Boss will provide
any further information I need. I'm assuming,
because it's joint, the two of you have already had
ample discussion, so okay what....

30
MS. DOBEC: Yes, exactly, Your Honour.

THE COURT: So why don't you go?

MS. DOBEC: So, and I can indicate Mr. Boss and I

were both the lawyers involved in his 2013 conviction. The pretrial custody in this matter, he came into custody on May 23rd, so as of today's date he has 32 days of actual jail.

The probation order is joint, with the exception of maybe one condition. We're joint on there being no contact and no attendance with the two complainants, P [REDACTED] I [REDACTED] and R [REDACTED] I [REDACTED]; no attendance at [REDACTED], that's the place that he was unlawfully in; no weapons; a further animal prohibition with no exceptions....

THE COURT: Sorry as part of the condition - as a condition of the probation?

MS. DOBEC: Exactly. A counselling condition, report as required and sign any waivers as required; the only thing that we're not necessarily joint on is whether the no contact and no attendance conditions can be with written revocable consent or not. I'm going to be asking that they are not. This is a relationship - I appreciate that Ms. I [REDACTED] is his mother. However, this is now the second and third time he has been convicted of incidents of violence in relation to her. It's clear that she's not in a position to be able to protect herself from her son, and I would simply be, at this point, asking for a blanket "no contact" condition. I'm sure Mr. Boss will make some submissions with regards to that.

With regards to the rest of the sentence, Your Honour, of course we are in the midst of COVID. We

5 are aware that OCDC in particular has been on lockdown for a number of weeks because of an outbreak there. Certainly, the conditions appear to be getting better at this point, but of course we never know what tomorrow is going to bring.

10 The history concerning Mr. Helfer and his mother is especially concerning because it's been so long-standing and so violent. However, I can indicate she has been a reluctant witness in the past. She has been reluctant with regards to this prosecution, although she has provided information and statements to the police. She has indicated to the police her reluctance with regards to the continuing
15 prosecution.

20 Her boyfriend, Mr. L [REDACTED], has been cooperative with the police and of course he is the main victim with regards to these offences. But all of that to say, there has certainly - that has been taken into account when the Crown agreed to this resolution position, that ultimately there may have been some difficulties with those witnesses proceeding to
25 trial.

30 With regards to the animal prohibition, I am going to be asking Your Honour to actually sentence Mr. Helfer on that matter, as opposed to just doing either a concurrent sentence or a suspended sentence on that charge. The original offence for which he was convicted of is probably considered the most serious case of animal cruelty that we've had in

5 Ottawa; certainly within the last number of years
it's been the most serious case we've had. He
received one of the highest sentences ever received
in Canada for that offence, and certainly it was
made crystal clear to him at the sentencing that he
should not be anywhere near animals.

10 The breach is egregious. It was numerous animals in
different locations, in contravention of that order,
and a clear message needs to be sent to him that
that animal prohibition needs to be respected
absolutely with no exception. The danger that he
poses to animals is extreme, and there can be no -
no exception to his ability to be anywhere near
15 animals.

20 There is very little caselaw on breaches of animal
prohibitions, thankfully. However, given the clear
messages we have received from numerous courts with
regards to animal cruelty offences over the last
number of years, it's clear that courts consider
denunciation and deterrence to be the primary
sentencing considerations, and certainly I would be
asking Your Honour to apply that with regards to his
25 animal prohibition.

So subject to any questions, those would be my
submissions.

30 THE COURT: Okay, Ms. Dobec, I'm not quite sure what
it is you're asking me with respect to the animal
prohibition, the manner of sentencing. A concurrent
sentence is still a sentence, so I'm not really sure

what it is you're asking me.

5 MS. DOBEC: And so, sorry, Your Honour, I may have misspoken in the sense that what I don't want to see happen is, for instance, all 12 months of the sentence that we're proposing, that nothing be reflected with regard to that specific offence.

10 There needs, in my opinion, to be a statement made that that 12 months, part of it is certainly in - the breach of the animal prohibition was certainly aggravating and played a part in arriving at our 12-month ultimate sentence.

15 THE COURT: So and once again, sorry, you've given this case a lot more thought than I have, obviously, you and Mr. Boss. So are you suggesting something - I'm just pulling these numbers out of the air - nine months on everything, and then a consecutive sentence of three months, shall we say - I'm just pulling the numbers out of the air - a consecutive sentence for three months on the breach, equalling the 12 - the 12 months; is that what you're suggesting?

20 MS. DOBEC: I would suggest that's fair. I can indicate to Your Honour, there's one other case I'm aware of where there was a breach of an animal prohibition that resulted in a nine-month consecutive sentence on that case. However, in that case, the animals that were found were abused.

25 THE COURT: Okay, and this case, they're not. In this case, he's apparently taking good care of the animals.

30 MS. DOBEC: Well, we don't have any information on the care of the animals.

THE COURT: So I have to assume, I have to assume that they were properly cared for.

THE ACCUSED: Yes.

THE COURT: Alright, so it's the breach. Alright. Okay, thank you, Ms. Dobec, I get that. So 32 days - sorry, I'll come to Mr. Boss in a second, so 32 days times 1.5, gives us 43 days, if I'm not mistaken? Do the math, because I'm horrible.

MR. BOSS: Forty-eight days is my count.

THE COURT: Sorry, how many?

MR. BOSS: My count, it would be 48 days at 1.5 credit.

THE COURT: Oh, yeah?

MS. DOBEC: I have that too.

THE COURT: Well, that's why I asked you guys to do it too, 'cause you don't want me doing math. Equals 48 days, alright, so that would basically mean there's another ten and a half months to serve, effectively. Alright, 18 months probation, report, okay, no contact with R [REDACTED] I [REDACTED] and P [REDACTED] I [REDACTED], and there's the issue of written revocable consent there. Non-attendance at 30 - I can't read my own writing here, 30 Blackthorne or whatever it was, we'll get to that in a second.

MR. BOSS: Blackburn Avenue.

THE COURT: Blackburn? Thank you. No weapons as defined by the *Criminal Code*, do not possess any animals or reside at any residence where animals are kept, counselling - and the counselling, what I'm going to do is say as per the s.21 report, and append a copy of that report to the probation order for the probation officer's assistance. It strikes

me that we have Dr. Ward's assessment there, let's - that's the starting point. And waivers.

5 Okay, so the issues then, there may be other issues, but at least the issues arising out of Ms. Dobec's submissions, Mr. Boss, are the written - the issue of written revocable consent, and the issue of consecutive for the fail to comply with the animal order, no animal order. So I'm not going to tell you where to start, but you should at least cover those two issues.

10 MR. BOSS: Yeah, I had lengthy submissions, but I will try to focus them, Your Honour. With respect to the - a sentence for the breach of the prohibition on owning animals, I don't want to relitigate our case from seven years ago. I would disagree that it was the worst animal abuse case in Ottawa, but it certainly attracted a lot of media attention. I would maybe suggest that if the presentence custody that he's served perhaps could be attributed to that, that might be a simple way of doing it, and then any prospect of jail could be attributed. I don't know if my friend considers that to be an appropriate amount of time to be reflected on that breach.

15 THE COURT: Forty - so let's deal with that right now, so 48 days.

20 MS. DOBEC: Your Honour, I would think that would be fair.

25 THE COURT: Okay, so excellent, so we've worked that out, so 48 - so presentence custody on the breach of the animal prohibition would be basically, he'd

30

receive....

COURT CLERK: 72?

THE COURT: Sorry?

COURT CLERK: 72 days? 48....

5 THE COURT: No, no, it's 32 days time 1.5 for 48.

So it's 48 days, so that basically is, we'd say, one further day - we'd have to do something, so one further day there.

MR. BOSS: Sure.

10 THE COURT: Okay? So in light - on that count, in light of the enhanced 48 days, one further day, and that deals with that one. Then that would leave - so that comes out to 49 days, I guess, so 365 minus 49, do the math, guys, 'cause I'm going to mess this up, you know that. So it leaves 316 days, by my count, to serve.

MR. BOSS: That's right.

20 THE COURT: Alright, so - and I'm just going to - at this juncture, unless someone convinces me otherwise, it'll just be 316 days to serve on the - whichever the worst of the assaults was, and then everything else concurrent. It's - it's - they're all sort of inter-tied and it's a course of action. I think Ms. Dobec's point that this is an ongoing course of action I think is well founded. So....

25 MR. BOSS: Yeah, that makes sense, certainly sounds simple. I'm not sure that - I'm not sure that necessarily all of the counts would warrant that much jail time, is my only thought, without looking back at it.

30 THE COURT: Okay, well, why don't we take a look at - why don't you just say which ones you don't think

would, and then we'll see what Ms. Dobec - and then give me a quantum and we'll see whether Ms. Dobec agrees.

5 MR. BOSS: I would say that his unlawfully in a dwelling, perhaps - I would ask that that perhaps just be a suspended sentence and probation to apply on that count.

THE COURT: I'd have a bit of difficulty with that, given what happened with his presence there.

10 MR. BOSS: Just to be clear, Your Honour, I'm referring, that's the one where he's in the residence of the - of the....

THE COURT: Oh, the....

MR. BOSS: ...embassy of Niger.

15 THE COURT: Niger, oh, I'm sorry. Yeah, that's a stronger point. Ms. Dobec, what do you say there?

MS. DOBEC: I don't really have anything to say about that, Your Honour.

20 THE COURT: Yeah, the building, if the building's abandoned and he's living rough, okay, so - no, fair enough, on that one, suspended sentence. And I'm going to say - I'm going to say, and help me here, what I don't want is the probation order to start running, the 18 months to start running before he gets out. So if I give this - if I give this - because then he's going to need all the help he can get. So if I do the 18-month probation starting today, effectively, if it's a suspended sentence, he's not getting out for several months, that's time
25
30 I'd rather he had with the probation service. So all I'm going to say is suspended sentence and one day probation on that. That would be a separate

order.

5 MR. BOSS: To perhaps put Your Honour's mind at ease on that point, when he was sentenced in April, he was given - April of this year, he was given a two-year probation that started immediately, and that included counselling conditions. So that will run as long, if not a little bit longer, I think, than this - or roughly about as long as this probation, even if it starts after his release.

10 THE COURT: Okay. Well, still, I'd like to do it this way, just for clarity's sake. So on the unlawfully at large at the embassy, or the residence, suspended sentence and one day probation. Okay, alright, any others, Mr. Boss?

15 MR. BOSS: No, I don't think the other counts, I think it's fine to proceed in the way that Your Honour has suggested.

20 THE COURT: Okay, that leaves the issue of written revocable consent, and quite frankly, whereas I am usually loathe to separate a family, members of a family when they wish to be together, it strikes me that this is extremely volatile situation, an extremely dangerous situation for Madam I [REDACTED] and Monsieur I [REDACTED], and I was wondering something like this: No exception, no written revocable consent, but at the six-month point of his probation order, if things are going well, if he has - if the probation officer's saying he hasn't been charged again, his living situation is stabilised....

30 ...INTERRUPTION FROM REMOTE SYSTEM

5 THE COURT: Okay, sorry, that just keeps coming, that thing. So what I was thinking of, at the six-month point of his probation order, if the probation officers say he's doing well, and if the mum wishes it, at that point I'd be willing to consider, once again no promises, an exception with a written revocable consent. Ms. Dobec, what do you think about that?

10 MS. DOBEC: I think that would be fair, Your Honour.

15 THE COURT: Alright, so it's be - there'll be a separate condition. At this point, it's no contact with R [REDACTED] I [REDACTED], directly or indirectly, by any physical, electronic or other means, and also F [REDACTED] I [REDACTED]. Then there would be another condition at the six-month anniversary of this probation order.

COURT CLERK: Okay, wait, Your Honour, I'm going to write that. After six months....

20 THE COURT: Anniversary of this probation order, Justice Berg will consider a variation allowing contact with written revocable consent. Now, I want to be clear, that is not going to be with him attending at 30 Blackburn or living there.

25 MS. DOBEC: Your Honour, the Blackburn address is actually the residence of the unlawfully in a dwelling.

30 THE COURT: Oh, sorry. The address, what is the correct address - okay, so not at, okay, 30 Blackburn. I see. I just assumed it was the mum's residence. Okay, so no contact. Is there a radius that is being asked for with respect to Madam I [REDACTED] and Monsieur I [REDACTED]?

MS. DOBEC: I'd say 100 metres.

5 THE COURT: Okay, not be within 100 metres of any place you know them to be. And at the time of any potential variation, we will consider that, but at this juncture I do not see myself allowing him at the time, while he's on probation, allowing him to live with her, I just don't see that.

10 MR. BOSS: What I was going to submit, I agree that the problems with Mr. Helfer and his mother always seem to arise when he goes to her house. He has an issue with homelessness, and that's part of why he sometimes ends up at her house. What I was going to suggest, I certainly agree that there should be a - he should not be allowed to attend at her residence. What was done on the last probation order, there was actually an exception for written revocable consent. I won't ask for that, given Your Honour's comment, but there was also an exception allowed for telephone contact. As far as I know, there hasn't been a problem with them, you know, in terms of like making threats or anything over the phone, or having electronic communication, so I was going to suggest that might be an exception, considering his mother is kind of his only real....

25 THE COURT: Well, with respect, that last probation order didn't work out all that well. That's why we're here today. So I think not, no contact, pure and sweet. It's six months, you know, when he gets out of jail, he works hard with the probation service, and he's doing - and he's stabilised his life, and if his mum is willing, I will then consider it, the types of contact, but I - the

30

situation is just too volatile.

MR. BOSS: I understand.

5 THE COURT: You know, you hit somebody in the head, you know, and you start using an arm - heavy, hard objects on them, you could kill them, even if you don't intend to.

...INTERRUPTION FROM REMOTE SYSTEM

10 MR. BOSS: Did Your Honour intend to put the address of his mother in the order as a - as an address to stay away from, or were you just going to leave it as the radius? Because I'm not sure whether the Crown actually has the current address.

15 THE COURT: So the Crown didn't ask me for it, so....

MR. BOSS: Okay.

MS. DOBEC: And I wouldn't ask for the specific address, Your Honour, just in case they do move.

20 THE COURT: Okay, fair enough.

MR. BOSS: Further to that, I think that the address of the embassy was actually 38 Blackburn, I think I heard Your Honour say 30.

25 THE COURT: Yeah, it's not surprising I got the address wrong, given I thought it was something else too, but alright. No, that's fine. Alright, is there anything else?

30 MR. BOSS: So Mr. Helfer also has no income. He's been experiencing homelessness for quite some time. In view of that, he has no income, I'd be asking Your Honour waive the surcharges.

THE COURT: Ms. Dobec, do you wish to make a futile

attempt to change my mind on that?

MS. DOBEC: No submissions, Your Honour.

5 THE COURT: I don't want to - I don't want to give you any indication that I pre-decided that of course. Alright, yeah, we'll waive the victim fine surcharge. Now, with respect to the DNA order, is he - could you look on the criminal record, see whether it's already there? Up at the top, turn around, why don't you hold it up to the glass so I can read it very quickly. No, his DNA has already been taken, but is this a primary order or...

MS. DOBEC: It is.

10 THE COURT: ...secondary? Primary? Okay, well, Mr. Boss, do you wish to - is there any argument you can make to dissuade me?

15 MR. BOSS: Not that I'm aware of.

THE COURT: Me either, alright, so there'll be a primary DNA order, which should be on the - the - the assault, assaultive behaviours there. There is a weapons' prohibition I think I was being asked for, for how long?

MS. DOBEC: I don't know if we actually did a number; I would suggest ten years.

THE COURT: Mr. Boss, seems about right?

25 MR. BOSS: Yes, is that a - is that a 109? I'm asking my friend.

MS. DOBEC: I think it's a 110.

MR. BOSS: On these? Okay.

MS. DOBEC: Assault with a - assault cause bodily harm.

30 MR. BOSS: And I'm assuming that DNA order, Your Honour, was on the assault causing bodily harm, I

think...

THE COURT: Yes.

MR. BOSS: ...is the more serious of the....

THE COURT: Yeah, that makes sense.

5

COURT CLERK: So 110, ten years?

THE COURT: Section 110, ten years, alright, are there any other bits of fine-tuning from either Mr. Boss or Ms. Dobec?

MS. DOBEC: No.

10

THE COURT: Mr. Boss?

MR. BOSS: I don't believe so, but there are some other charges remaining.

THE COURT: Okay, well, we're not quite there yet. Okay, Mr. Helfer...

15

THE ACCUSED: Yes?

THE COURT: ...so the conditions are this. You have, on the breach of the possession of animals, it's 48 days and one further day on that. And listen to me, please, you're not allowed having animals for 25 years, a quarter of a century. I don't care if your mother gives you permission in the house, if you ever get back to live with her and she says no, it's fine by me, I don't care. She's not the one telling you, don't possess them, the court is.

25

THE ACCUSED: Yes, Your Honour.

THE COURT: No excuse. You've gotten 49 days this time, the next time it'll be something like six months, probably, and the time after that it'll start crawling up. Even if you're treating the animals well, you have no right to have an animal or live in a place where there are animals; do you

30

understand?

THE ACCUSED: Yes, I understand.

5 THE COURT: On the unlawfully in a dwelling, which is the abandoned embassy building, the passing of sentence will be suspended and you'll be placed on probation for one day. So that matter is dealt with.

10 You have 316 days left to serve on the remaining counts to which you pleaded guilty. That'll be followed by....

...PROBLEMS WITH THE REMOTE CONNECTION

15 THE COURT: Yeah, that message is really getting old very quickly. So you'll be followed by 18 months probation. You're to report within 48 hours of your release. You're to have no contact, directly or
20 indirectly, by any physical, electronic or other means, with R [REDACTED] I [REDACTED] and P [REDACTED] I [REDACTED]. You're not to be within 100 metres of any place you know them to be.

25 There will be that condition that I mentioned, an exception that you can seek after six months of being on probation, speak to Mr. Boss, and that will require - it might require you getting the
30 transcript of this proceeding, Mr. Boss, just to bring me back up to date, because I can't take notes and do these video things, it just doesn't work well. So you might want to get the transcripts,

just to remind me what it is I've been saying, and you would have to get a probation report, getting their feedback.

5 You are not to attend at 38 Blackburn. You're not to possess any weapons as defined by the *Criminal Code*. You're not to possess any animals whatsoever or reside in any residence where animals are present. You are to attend for counselling as
10 directed by the probation officer as per the s.21 *Mental Health Act* report of Dr. Ward.

Did I miss anything, folks?

15 MR. BOSS: I don't see anything that Your Honour's missed.

MS. DOBEC: I don't think so either, Your Honour.

THE COURT: Okay. Mr. Helfer?

THE ACCUSED: Yes.

THE COURT: Did you understand those conditions?

20 THE ACCUSED: Yes.

THE COURT: Will you comply with them?

THE ACCUSED: Yes, I do.

THE COURT: Okay. I have to remind you that if you don't, you'll be facing new criminal charges, and
25 unfortunately, quite likely to be back in jail.

THE ACCUSED: The only thing I would ask my lawyer would be if I could write letters, but that's the only thing I'm not clear - no letters, no contacts?

THE COURT: You mean to your mother?

30 THE ACCUSED: Yeah, letters?

THE COURT: I want no communication whatsoever.

THE ACCUSED: Okay.

THE COURT: Nothing.

THE ACCUSED: Okay.

5 THE COURT: When you get out, you do well for six months, you get yourself an address, you deal with your issues, you don't get charged any more, you impress the probation officer, you come back before me with Mr. Boss and then we'll take another look at it, but enough is enough.

THE ACCUSED: Yes.

10 THE COURT: Okay, other charges, Ms. Dobec?

MS. DOBEC: They can be marked withdrawn.

15 THE COURT: Okay. Now, Mr. Helfer, because you're over there and the probation papers are here, copies will be sent to you at the jail, but they have to get signed, so do you give me permission to order my staff to sign them for you, sir?

THE ACCUSED: I consent.

20 THE COURT: Thank you very much, so those papers will be signed, and what about the DNA, how does that get done since he's in custody, folks?

COURT CLERK: We send the order to the jail.

25 THE COURT: Okay, so that'll get done over there. Okay, Mr. Helfer, thank you very much, you're free to go. Mr. Boss, thank you very much; Ms. Dobec, likewise.

MR. BOSS: Thank you, Your Honour.

THE COURT: Alright.

30 ...COURT ADJOURNED

R. v. Steven F. Helfer
Certification

CERTIFICATE OF TRANSCRIPT
EVIDENCE ACT, subsection 5(2)

5

I, **Elizabeth Logan**, certify that this document is a true and accurate transcription produced to the best of my skills and ability of the recording of R. v. Steven F. Helfer in the Ontario Superior Court of Justice held at 161 Elgin Street,
10 Ottawa, Ontario, taken from Recording No. 0411-25-20210624, which has been certified in Form 1 by Despres.

Date

Elizabeth Logan

15

**PHOTOCOPIES OF THIS TRANSCRIPT ARE NOT CERTIFIED UNLESS AFFIXED
WITH THE ORIGINAL SIGNATURE OF THE REPORTER.**

20

Ontario Regulation 158/03 - Evidence Act

25

30