

# ONTARIO COURT OF JUSTICE

Citation: *R. v. Carr*, 2023 ONCJ 22  
DATE: 2023 January 17  
COURT FILE No.: College Park, Toronto  
21-75004276

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

**HIS MAJESTY THE KING**

**— AND —**

**JOSHUA CARR**

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## **Sentencing Judgment**

Before Justice B. Jones

Heard on February 25, 2022 and January 13, 2023  
Reasons for Judgment released on January 17, 2023

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**C. Glaister .....counsel for the Crown**  
**.....No one appearing for J. Carr**

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**Jones J.:**

### **Introduction**

[1] For approximately six months in 2021, Ursula-Marie Nippard and Joshua Carr were in an intimate partner relationship. The relationship was marred by repeated acts of physical and emotional abuse. While Ms. Nippard was the primary victim of Mr. Carr's cruelty, she was, unfortunately, not the only one. Mr. Carr's own children were exposed to the violence that he inflicted upon Ms. Nippard at least once. On the final night of their relationship, Mr. Carr also claimed yet another victim – Ms. Nippard's loving pet dog, which he needlessly threw to its death, marking the culmination of his anger and callousness.

[2] On February 25, 2022, Joshua Carr entered guilty pleas to the following three counts: assault with a weapon (*Criminal Code* section 267(a)), assault (*Criminal Code* section 266), and wilfully causing unnecessary suffering to an animal (*Criminal Code* section 445.1(1)(a)). Each of these offences took place in the context of his intimate partner relationship with Ms. Nippard.

[3] The Crown proceeded summarily. The parties agreed that Mr. Carr would undergo a psychiatric assessment. An order for examination was issued on consent pursuant to

section 21 of the *Mental Health Act*. Dr. Alina Iosif of the Centre for Addiction and Mental Health (“CAMH”) met with Mr. Carr and prepared a formal psychiatric report which was provided to the court.

[4] Sentencing submissions were scheduled to be heard on June 29, 2022. Mr. Carr did not attend. Mr. C. Morris, his lawyer at the time, had no information concerning Mr. Carr’s whereabouts and lost communication with him. I issued a bench warrant for Mr. Carr’s arrest. At Mr. Morris’ request, I removed him as counsel of record.

[5] As of today’s date, Mr. Carr has not been located by the authorities. His sentencing hearing was conducted in absentia.

### **Nature and Circumstances of the Offences**

[6] Mr. Carr and Ms. Nippard began dating in January 2021. Mr. Carr has two children, aged seven and four years old, from a previous relationship. Mr. Carr, Ms. Nippard, and the children lived together at Mr. Carr’s residence located on the 11<sup>th</sup> floor of an apartment complex in Toronto.

[7] Sometime during the month of April 2021, the couple was in their residence when Mr. Carr selected a wet t-shirt and whipped it about Ms. Nippard’s face. She experienced pain and sustained minor facial redness.

[8] On May 15, 2021, Ms. Nippard and Mr. Carr argued. Mr. Carr grabbed Ms. Nippard by the arm as she tried to pull away from him. He used enough force to cause a large bruise on her left arm.

[9] Between Saturday June 19, 2021, and Sunday June 20, 2021, Mr. Carr, Ms. Nippard, and his two daughters attended Centre Island in Toronto. At approximately 5 pm, they returned to Mr. Carr’s apartment and an argument ensued. Mr. Carr locked Ms. Nippard out of the apartment and told her to stay outside. She demanded to be let back inside. Mr. Carr responded by pushing Ms. Nippard while she attempted to re-enter the apartment several times until she fell to the ground.

[10] Ms. Nippard eventually re-entered the apartment and their argument continued in the presence of Mr. Carr’s daughters. At one point, he threatened to commit suicide. He threw Ms. Nippard forcefully to the floor causing her to sustain significant bruising to her left elbow. Ms. Nippard told the children – which she now considered to be her step-children – to go out onto the apartment’s balcony as she did not want them to witness what was happening. The children screamed and cried as they held each other. Ms. Nippard was very concerned for the children’s safety.

[11] Ms. Nippard did not seek medical attention that evening, but she did take photographs of her injuries. Those photographs were admitted on consent and form part of Exhibit 1. They depict multiple areas of bruising on her left arm with significant injury noticeable to her elbow, as well as scratching and bruising on one of her legs.

[12] On July 20, 2021, Mr. Carr went out drinking with some friends and family members. They returned to his apartment at approximately 10:30 pm. He was intoxicated.

Ms. Nippard had been waiting for him. She went out on the balcony to smoke a cigarette. Mr. Carr located her there and tried to give her a hug. She refused his embrace. He became upset and an argument ensued yet again. After some time passed, he walked to the balcony. Ms. Nippard's dog, Chula, followed Mr. Carr onto the balcony. Mr. Carr threw Chula over the balcony, and she plunged eleven stories to her death.

[13] Initially, Ms. Nippard did not realize what had happened to Chula. She could only sense that something was wrong. Mr. Carr tried to rush Ms. Nippard out of the apartment. This caused her some confusion and she questioned Mr. Carr about why he was acting strangely. She eventually determined that Chula had been thrown over the balcony. She was able to observe her deceased dog on the grass below. She was distraught. She confronted Mr. Carr who denied that he was responsible. Mr. Carr then threatened to commit suicide by jumping off the balcony himself. Ms. Nippard physically prevented him from gaining access to the balcony and harming himself. She called the police.

### **Victim Impact Statement**

[14] Ms. Nippard filed a lengthy victim impact statement ("VIS"). The VIS indicates that the past year was "the most traumatic and difficult period" of her life. She was forever altered when Mr. Carr killed her pet, which she described as her "little best friend." What happened was simply unimaginable, and she still cannot understand how he could have committed this particular offence. He knew that it would destroy her. She feels that a huge void remains in her life.

[15] Ms. Nippard has attended therapy and counselling for depression and anxiety. It has been difficult to obtain appropriate mental health resources, posing a barrier to her recovery.

[16] She is plagued by recurring thoughts about the event and finds herself reliving it, to her physical and emotional detriment. She has nightmares that are violent, frightening, and ruin her ability to enjoy each day. She has difficulty maintaining close relationships. She suffers from panic attacks. Tragically, she often feels hopeless and has intense feelings of sadness that can overwhelm her.

[17] For three days, Ms. Nippard could not see out of her right eye due to a physical injury that she suffered from Mr. Carr's abuse. She has a great deal of sensitivity in that eye to this day.

### **Sentencing In Absentia**

[18] An accused who has absconded waives his right to be present throughout his trial: see *Criminal Code* section 475. In *R. v. Mitsakis*, 2022 ONSC 5390, Justice Schreck held at para. 14 that for a court to conclude that an accused has absconded, it must be established that "the accused has voluntarily absented himself from his trial for the purpose of impeding or frustrating the trial, or with the intention of avoiding its consequences": *R. v. Garofoli* (1988), 1988 CanLII 3270 (ON CA), 41 C.C.C. (3d) 97 (Ont. C.A.), at p. 141 (aff'd on this point, 1990 CanLII 52 (SCC), [1990] 2 S.C.R. 1421, at p. 1469).

[19] Mr. Carr has not returned to court in over half a year. He was informed of the sentencing date on the record and had an experienced criminal lawyer at the time. He knew of the date for the hearing and chose not to attend. I conclude that he intentionally failed to appear in order to avoid being sentenced. His decision to abscond does not absolve a sentencing court of its obligation to impose a fit sentence where it has sufficient information to do so: see *Mitsakis* at para. 19; *R. v. Singh*, 2015 ONSC 904 at paras. 9-10.

[20] Section 475 of the *Criminal Code* permits but does not require a court to continue the proceedings where an accused has absconded. In this case, I have a complete record with which to conclude the sentencing proceeding. I have the benefit of a comprehensive report prepared by Dr. Iosif. It contains a detailed history of Mr. Carr's childhood and family history, educational history, vocational history, and relationship history. It also contains a full psychiatric assessment and Dr. Iosif's opinions and recommendations.

[21] I am satisfied on the basis of the record before me that I am able to determine a fit and proportionate sentence. The administration of justice is best suited by the completion of the sentencing hearing. *Criminal Code* section 720 instructs that a court "shall, as soon as practicable after an offender has been found guilty, conduct proceedings to determine an appropriate sentence to be imposed."

[22] I am mindful of Justice Pomerance's caution in *Singh* that absconding behaviour is not an aggravating factor. Rather, it may negate certain mitigating factors: see para. 19. Mr. Carr's absence from this proceeding will be treated accordingly.

### **Circumstances of the Offender**

[23] Mr. Carr is twenty-eight years old. He was employed full-time as a general labourer. His children normally live in Toronto with their mother. He sees them every other weekend.

[24] In 2018, Mr. Carr was involved in an altercation with his brother. Mr. Carr was stabbed in the chest and had to undergo open heart surgery. He continues to experience chest pain related to this injury. The incident caused considerable tension in the family, and Mr. Carr no longer has a meaningful relationship with his parents or brother.

[25] Mr. Carr has a prior criminal record consisting of 14 convictions. In 2011, he was convicted of assault and received a suspended sentence and one year of probation, in addition to four days of pre-sentence custody. In 2012, he was convicted of carrying a concealed weapon, failing to comply with a probation order, and possession of a schedule II substance under the *CDSA*. He was sentenced to one day jail, in addition to 45 days of pre-sentence custody. In 2013, he was convicted of using a firearm in the commission of an indictable offence and failing to comply with a probation order. He was sentenced to 10 months jail, in addition to 8 months pre-sentence custody, and an 18-month probation order. Between 2014 and 2019, he was convicted of further fail to comply charges, a weapons charge, mischief under \$5000, and breaking and entering into a non-residential address. None of these subsequent convictions resulted in any significant periods of incarceration.

[26] Dr. Iosif interviewed Mr. Carr for the purposes of the court-ordered *Mental Health Act* report. Mr. Carr has no history of mental illness and had never seen a mental health professional previously. He acknowledged that he needed to “work on [his] anger”. However, while Mr. Carr admitted to some of the intimate partner violence that resulted in the findings of guilt, he would not accept full responsibility. He stated to Dr. Iosif that he “accidentally” hit his partner when he tried to pull away from her on one occasion. He wanted Ms. Nippard to leave his apartment on another date and pushed her, causing a bruise on her arm. He denied that he hit her in the face with a wet t-shirt. He blamed being intoxicated by alcohol for his actions. His remarks to Dr. Iosif stand in stark contrast to his complete acceptance of the facts at the time of the guilty plea.

[27] He recalled arguing with Ms. Nippard and being very intoxicated on the night that he killed her dog. He claimed to have loved the dog. He had no explanation for why he acted as he did, but he remembered throwing the “innocent” dog over the balcony.

[28] Dr. Iosif’s opinion is that Mr. Carr likely meets the criteria for a diagnosis of antisocial personality disorder and alcohol use disorder. It is not clear whether he meets the criteria for a post-traumatic stress diagnosis, although he does show some symptoms consistent with such a diagnosis. Dr. Iosif recommended counseling for anger management, intimate partner violence, and post-traumatic stress.

### **Position of the Crown**

[29] Ms. Glaister seeks an upper reformatory jail sentence. She submits that Ms. Nippard suffered greatly from these offences. She was a victim of repeated acts of intimate partner violence. One of these incidents was committed in the presence of Mr. Carr’s own children. The violence inflicted upon Ms. Nippard was extremely serious and caused significant physical injuries and emotional trauma. Mr. Carr’s decision to kill Chula was reprehensible. Ms. Nippard loved Chula and Mr. Carr knew that nothing would ever be able to replace her.

[30] The degree of intimate partner violence present in this case, coupled with the act of animal cruelty, demands a sentence that adequately reflects the sentencing principles of deterrence and denunciation. These crimes represent the nexus of violence, coercion and control commonly associated with prolonged domestic abuse.

[31] Furthermore, Ms. Nippard suffered financial losses as she could not work for over two months. A restitution order should be issued to compensate Ms. Nippard for her lost income.

### **Applicable Sentencing Principles**

[32] In *R. v. Suter*, 2018 SCC 34, the Supreme Court of Canada held that proportionality is the fundamental principle of sentencing. A sentence must be “proportionate to the gravity of the offence and the degree of responsibility of the offender”: para. 4. Sentencing “is a highly individualized process” requiring “a delicate balancing of the various sentencing principles and objectives”: *Suter*, *supra*. Individualization requires the sentencing judge to consider all of the relevant facts before the court, including the “status and life experiences” of the offender: *R. v. Parranto*, 2021 SCC 46 at para. 44.

[33] The nature and circumstances of the offences and their impact on the victim will also play an important role in the proportionality analysis. The severity of a sentence will thus depend “not only on the seriousness of the crime’s consequences, but also on the moral blameworthiness of the offender”: *R. v. LaCasse*, 2015 SCC 64 at para. 12.

[34] The principle of restraint must also be considered, even for an offender with a prior criminal record: *Criminal Code* section 718.2(d). In *R. v. Romano*, 2021 ONCA 211, the Court of Appeal indicated that this requires a sentencing court to only impose a sentence of incarceration where there is simply no other reasonable alternative available and that any term of incarceration should be as short as is “reasonable given the circumstances”: see para. 64.

### **Aggravating Factors**

[35] Section 718.2(a) of the *Criminal Code* requires that a “sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender.” The following aggravating factors are present in this case:

- These events took place in the context of an intimate partner relationship;
- Mr. Carr abused Ms. Nippard through repeated acts of intimate partner violence;
- One of these assaults occurred in the presence of his children;
- Ms. Nippard’s physical and emotional injuries were significant;
- The final incident was committed while Mr. Carr was intoxicated from alcohol;
- The death of Ms. Nippard’s dog was also as a result of another intimate partner dispute that occurred between her and Mr. Carr; and
- The act of throwing the dog over the balcony created the risk that an innocent person on the ground near the apartment building could have been struck by the falling animal, or at least been traumatized by seeing it fall to its death.

### **Mitigating Factors**

[36] I consider as mitigating that Mr. Carr entered an early guilty plea, sparing Ms. Nippard from having to testify, and that he expressed remorse regarding his decision to kill her dog.

### **Intimate Partner Violence**

[37] Section 718.2(a)(ii) of the *Criminal Code* directs a sentencing court to treat as an aggravating factor “evidence that the offender, in committing the offence, abused the offender’s intimate partner or a member of the victim or the offender’s family”. The Ontario Court of Appeal has stressed on multiple occasions that domestic violence remains a serious problem in Canadian society and that the principles of deterrence and denunciation must be given paramountcy: see *R. v. Inwood*, 1989 CanLII 263 (ON CA) at p. 181; *R. v. Bates*, 2000 CanLII 5759 (ON CA) at para. 30; *R. v. H.E.*, 2015 ONCA 531 at para. 41.

[38] Appellate courts across the country have expressed similar sentiments. In *R. v. Butcher*, 2020 NSCA 50, the Nova Scotia Court of Appeal stated that “violence perpetrated in the context of intimate relationships requires emphatic denunciation”: see para. 136. The Quebec Court of Appeal has noted that “the perspective and trauma suffered by the victims of domestic violence are aggravating contextual factors that must be taken into account by sentencing judges”: see *R. c. L.P.*, 2020 QCCA 1239 at para. 74. In a separate recent decision, the court also held that it was imperative for sentencing courts to emphasize the principles of denunciation and deterrence when addressing intimate partner violence offences to “enhance the confidence of the victims and the public in the administration of justice”: see *R. c. Davidson*, 2021 QCCA 545 at para. 32. The Saskatchewan Court of Appeal has characterized domestic violence as “pernicious and widespread”, and emphasized the importance of courts addressing it “through the lenses of denunciation, deterrence and protection of the public”: see *R. v. Dustyhorn*, 2019 SKCA 93 at para. 49.

[39] A modern understanding of the harm caused by intimate partner violence is therefore of fundamental importance in order to fully appreciate the gravity of the offences before the court: see *R. v. Somers*, 2021 BCCA 205 at para. 10; *R. v. Vasquez Martinez* 2022 QCCQ 61 at para. 32.

[40] *Criminal Code* section 718.201 states a court “that imposes a sentence in respect of an offence that involved the abuse of an intimate partner shall consider the increased vulnerability of female persons who are victims, giving particular attention to the circumstances of Aboriginal female victims.” This section must be considered in cases of intimate partner violence: *R. v. Pereira*, 2019 ONSC 6751 at para. 5. Similarly, *Criminal Code* section 718.04 requires a sentencing court to give primary consideration to the objectives of denunciation and deterrence for an offence that “involved the abuse of a person who is vulnerable because of personal circumstances – including because the person is Aboriginal and female.”

[41] Rehabilitation, while still an important principle, cannot be given equal weight with these other sentencing principles for crimes of severe intimate partner violence. Even where an offender has demonstrated encouraging progress towards his own rehabilitation, that must not be allowed to take precedence over the primary sentencing objectives of deterrence and denunciation: *Davidson, supra*, at para. 34. The focus of the sentencing court must remain on the offences committed, rather than the offender and his personal circumstances: see *R. v. Letkeman*, 2021 MBCA 68 at para. 51.

### **Animal Cruelty**

[42] The *Criminal Code* provisions respecting animal cruelty offences have changed significantly over the past fifteen years. Prior to 2008, the maximum sentence for causing unnecessary suffering to an animal was six months’ custody. In 2008, Parliament passed *An Act to amend the Criminal Code (cruelty to animals)*, S.C. 2008, c. 12. The amendments increased the maximum penalty for animal cruelty offences when the Crown proceeds by summary conviction to 18 months’ imprisonment, and to 5 years imprisonment when proceeding by indictment. In 2019, Bill C-75 increased the maximum penalty for all summary conviction offences to two years less a day custody, including the penalty section for *Criminal Code* section 445.1.

[43] In *R. v. Wright*, 2014 ONCA 675, the Ontario Court of Appeal stated that the 2008 amendments “signal an added determination by Parliament to deter and punish those who would engage in acts of cruelty to animals”: see para. 1. The significance of these amendments was later thoroughly examined by the Alberta Court of Appeal in *R. v. Chen*, 2021 ABCA 382. Citing its prior decision in *R. v. Alcorn*, 2015 ABCA 182, the Court noted that the 2008 amendments were understood to “reflect the recognition that the prior sentence range for such conduct was wholly inadequate”: see *Alcorn* at para. 40.

[44] The Alberta Court of Appeal reviewed the history of the animal cruelty provisions and wrote that the “views of society with respect to animal cruelty and the harms caused by this conduct must continue to evolve”: see para. 21. It approved of the comments of Fraser C.J.A. in her dissent in *Reece v. Edmonton (City)*, 2011 ABCA 238 at para. 162 that “a civilized society should show reasonable regard for vulnerable animals”: *Chen*, *supra*.

[45] The objectives of the amendments included “to better reflect the serious nature of crimes of animal cruelty, provide better protection for animals who are the victims of such crimes, and enable flexibility in sentencing”: *Chen*, *supra*. The intentional infliction of pain, suffering or injury to an animal is properly characterized as a crime of violence. As noted by the court in *Chen*, “animals are sentient beings that are capable of experiencing pain and suffering”: see paras. 33-35. A court must focus on the nature and extent of the harm caused to the animal in question. Of importance to this case, the Court of Appeal also held that it is an aggravating factor when the killing of an animal is motivated “by a desire to assert control over or exact revenge on another person”: see para. 44.

[46] Mr. Carr’s killing of Chula was directly connected to the domestic abuse that he inflicted upon Ms. Nippard during their relationship in 2021. Chula was her dog and Chula resided with Ms. Nippard and Mr. Carr. Over the course of their relationship, Mr. Carr argued with and assaulted Ms. Nippard on multiple occasions. He killed Chula following yet another argument with Ms. Nippard. His persistent use of violence against Ms. Nippard demonstrates a pattern of controlling and abusive behaviour. The decision to kill Chula cannot be removed from this context.

[47] Previous cases of animal cruelty offences decided after the 2008 amendments to the *Criminal Code* provide some guidance on an appropriate sentence for this case.

[48] *R. v. Munroe*, 2012 ONSC 4768, involved an offender who was found guilty following a trial of four counts of animal cruelty. One of those counts involved the unlawful killing of a dog contrary to *Criminal Code* section 455(1)(a). Two other counts alleged wilfully causing unnecessary suffering to dogs, contrary to *Criminal Code* section 445.1(1)(a). The dogs belonged to his domestic partner. He had no prior criminal record. The trial judge found the abuse reflected “multiple injuries of different types inflicted at different times over a prolonged period”: see the trial decision reported as *R. v. Munroe*, 2010 ONCJ 226 at para. 96.

[49] On appeal, Justice Code of the Summary Conviction Appeal Court held that a 12-month sentence is an appropriate starting point for animal cruelty offences when the primary sentencing principles are determined to be deterrence and denunciation. However, in light the appellant’s youth and lack of a prior criminal record, the court

imposed a sentence of 6 months jail, 3 years' probation and a 25 year pet ownership ban pursuant to *Criminal Code* section 447.1: see para. 94. The principle of restraint had to be considered.

[50] In *R. v. Kennedy*, 2017 ONSC 817, the offender resided on the 10<sup>th</sup> floor of an apartment building. He had visitors over, including an eight-year-old girl, who loved to play with his pet rabbit. In a moment of anger, he took hold of the rabbit, dangled it over the end of the balcony for 3-4 seconds, and then dropped it causing its death. He was convicted of cruelty to animals contrary to *Criminal Code* section 445.1. His sentence of 9 months jail was upheld on appeal: see para. 14.

[51] *R. v. Reykdal*, 2020 NBCA 13, involved the unlawful killing of an animal in an intimate partner context. The offender, a 21-year-old university student, was bitten by his girlfriend's cat. He killed the cat in retaliation. At first, he attempted to deceive his girlfriend about what had occurred, but later confessed when the police investigated: see paras. 3-5. He was found guilty of killing an animal without lawful excuse contrary to *Criminal Code* section 445. The Court of Appeal held that animal cruelty is a "serious issue" and upheld a sentence of 4 months jail, and a five year prohibition on owning any animal pursuant to *Criminal Code* section 447.1: see paras. 30 and 46. There were no allegations of intimate partner violence.

[52] These authorities make it clear that our animal companions are valued and respected as sentient beings who deserve our love and care. Acts of cruelty to them will be met with stern punishment. When that cruelty takes place in the context of intimate partner violence and is committed with the intent to cause emotional harm to the accused's partner, or to exert control over her, the punishments will only increase.

### **Mental Health**

[53] While Mr. Carr has absconded, I have considered whether his documented mental illness should be considered as mitigating.

[54] In *R. v. Fabbro*, 2021 ONCA 494, the Ontario Court of Appeal held that in order for mental health to be considered a mitigating factor in sentencing, the offender must show "a causal link between their illness and their criminal conduct." There must also be some evidence that a lengthy sentence of incarceration would have "a serious negative effect on the offender such that it should be reduced on compassionate grounds": see para. 25; see also *R. v. McGill*, 2021 ONCA 253, at para. 171. I am required to determine if Mr. Carr's mental health contributed to the commission of these offences and if it did, what impact that finding would have on the appropriate sentence: *Fabbro, supra*, at para. 26.

[55] I appreciate that it is often difficult to establish a causal link between an offender's offences and his mental health ailments. A bright line rarely exists. In this case, however, I am not satisfied based on Dr. Iosif's report that there is any causal connection between Mr. Carr's likely diagnoses and his crimes warranting mitigation. Additionally, there is no significant mental health concern that would suggest a reduction in a period of incarceration is justified on compassionate grounds. As Mr. Carr absconded, I also have no evidence of any proposed treatment plan that could meaningfully address how he can learn to process his anger and violent impulses.

### **Credit for Pre-Sentence Custody**

[56] Mr. Carr spent 36 days in custody after his arrest before being released on bail. He is entitled to a credit of 54 days at 1.5:1 credit: *R. v. Summers*, 2014 SCC 26.

### **Credit for Restrictive Bail Conditions**

[57] Credit for time spent on bail subject to restrictive conditions may be awarded: see *R. v. Downes*, 2006 CanLII 3957 (ON CA). “*Downes*” credit is a mitigating factor which must be considered in arriving at a fit sentence: *R. v. Joseph*, 2020 ONCA 733, 153 O.R. (3d) 145, at para. 108.

[58] Mr. Carr had been subject to a release order with a house arrest condition for approximately 10 months. The condition was subject to several exceptions. It is difficult to determine what, if any, effect this condition had on Mr. Carr. It is of little, if any, mitigating value as a result.

### **Conclusions and Disposition**

[59] Intimate partner violence must be condemned in the strongest possible terms. It remains a pervasive problem in this country, predominantly affecting women: see *R. v. Sarahang*, 2021 ONCJ 223 at para. 6; *Somers*, *supra*, at para. 67. Mr. Carr’s abuse had a devastating emotional impact on Ms. Nippard and caused her serious bodily harm. Her recovery will be long and challenging. Where offences have a significant impact on a victim, particularly with respect to her health and financial situation, that is an aggravating factor: *Criminal Code* section 718.2(a)(iii.1).

[60] It must never be forgotten that intimate partner violence also affects children who are exposed to it. The long-term negative impact on their emotional well-being will be significant, but is often difficult to ascertain: *Sarahang*, *supra* at para. 8. When Mr. Carr chose to assault Ms. Nippard in front of his own children on June 19, 2021, he harmed them as well. Exposing children to an act of intimate partner violence is a stark aggravating factor: see *R. c. B.F.*, 2022 QCCQ 1719 at paras. 107-112.

[61] Tragically, in this case, the abuse also claimed the life of Ms. Nippard’s innocent, trusting, and loving dog, whose only mistake was to follow Mr. Carr onto the balcony of his apartment one night when he was intoxicated and angry. Chula fell to her death at the hands of someone she had previously known to care for her. This act of animal cruelty was an extension of the intimate partner violence that Mr. Carr continually inflicted upon Ms. Nippard over the course of their relationship. It was one final act of domination and malice.

[62] I agree with Ms. Glaister that these offences cannot be viewed as isolated events. Their cumulative harm resulted in an atmosphere of coercion and control that lies at the core of the lived reality for family violence survivors. There is simply no reasonable sanction in this case other than a significant custodial sentence.

[63] Mr. Carr expressed some remorse for his actions in the CAMH report. He genuinely regrets killing Ms. Nippard’s dog and that he knows that he must address his anger and

alcohol problems. This factor entitles him to some mitigation: see *R. v. Reeve*, 2020 ONCA 381 at paras. 11-12. However, Mr. Carr has limited insight into the nature of the intimate partner violence that he unleashed during the course of his relationship with Ms. Nippard. He would not accept full responsibility for his crimes during his discussions with Dr. Iosif and simply blamed all of his decisions on his abuse of alcohol.

[64] The two counts of assault with a weapon and assault together require an 8-month custodial sentence.

[65] With respect to the count of animal cruelty, this crime was committed in the context of repeated acts of intimate partner violence. There are more aggravating factors present than existed in the case of *Kennedy*, *supra*, where a 9-month sentence was deemed appropriate for the unlawful killing of a rabbit via similar means.

[66] Mr. Carr is not a first-time offender. While there should be credit for his early guilty plea, there are multiple aggravating factors as well. Those who abuse animals through these senseless acts of cruelty will be governed primarily by the sentencing principles of deterrence and denunciation. This was a crime of violence, and it will be treated as one accordingly. A 12-month custodial sentence on this count will be imposed. Had it not been for the guilty plea and expression of remorse, an even higher sentence would be appropriate.

[67] These sentences will be served consecutively since they occurred on different dates. The total sentence will thus be 20 months custody, prior to the implementation of any credit, as follows:

- (i) Assault with a weapon: 30 days jail;
- (ii) Assault: 7 months jail, consecutive; and
- (iii) Cruelty to animals: 12 months jail, consecutive.

[68] After applying the *Summers* credit, the remaining sentence is therefore 18 months and 6 days jail.

[69] Mr. Carr's rehabilitative needs are best served by imposing a consecutive probation order for 3 years.

[70] Following his release from custody, Mr. Carr will be placed on probation for 3 years with the following terms and conditions:

- Report by telephone to a probation officer within 2 working days of your release from custody and thereafter as directed;
- Keep the peace and be of good behaviour;
- Reside at an address approved of by your probation officer and do not change your address without the prior approval of your probation officer;
- Do not have any contact, directly or indirectly, with Ursula-Marie Nippard, without her prior, written, orally revocable consent filed with your probation officer;

- Do not attend within 250m of anywhere you know Ursula-Marie Nippard to live, work, or happen to be, without her prior, written, orally revocable consent filed with your probation officer;
- Do not possess any weapons as defined by the *Criminal Code*;
- Attend and actively participate in all assessment, counselling or rehabilitative programs as directed by the probation officer and complete them to the satisfaction of the probation officer;
- Sign any release of information forms as will enable your probation officer to monitor your attendance and completion of any assessments, counselling or rehabilitative programs as directed; and
- Do not own, control, or possess any animal.

[71] I impose the following ancillary orders. There will be a DNA order with respect to the assault with a weapon count as it is a primary designated offence pursuant to *Criminal Code* section 487.051(2). There will be a DNA order also with respect to the assault count even though it is a secondary designated offence pursuant to *Criminal Code* section 487.051(3). There will be a ten year weapons prohibition order pursuant to *Criminal Code* section 110(2).

[72] Mr. Carr is prohibited from owning any animal for 25 years pursuant to *Criminal Code* section 447.1.

[73] Finally, Ms. Nippard suffered a significant financial loss as a result of these crimes. She had to pay for the cost of disposing of Chula's remains and could not work for nine weeks. I issue a free-standing restitution order to Ms. Nippard in the amount of \$7,500.00: *Criminal Code* section 738.

**Released: January 17, 2023**

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Signed: Justice Brock Jones