

 **R. v. Edwards**

Alberta Judgments

Alberta Provincial Court
Judicial Centre of Calgary
Calgary, Alberta

M.C. Dinkel Prov. Ct. J.

Heard: August 29, 2022.

Oral judgment: August 29, 2022.

Action Nos.: 201148145P, 200729143P1, 201148145P1,
210043170P1, 210082285P1,
210105078P1, 210117248P1, 210194395P1,
210813333P1, 210062295P1, 210717252P1
E-File Name: CCP22EDWARDST

[2022] A.J. No. 1289

Between His Majesty the King, and Thomas Clinton Edwards, Accused

(582 paras.)

Counsel

R. Greenwood, For the Crown.

S. Leochko, For the Accused (remote appearance).

G. Lima, Court Clerk.

W. Tran, Court Clerk.

This transcript may be subject to a publication ban or other restriction on use, prohibiting the publication or disclosure of the transcript or certain information in the transcript such as the identity of a party, witness, or victim. Persons who order or use transcripts are responsible to know and comply with all publication bans and restrictions. Misuse of the contents of a transcript may result in civil or criminal liability

TABLE OF CONTENTS

Description

Plea (210082285P1)

Plea (210194395P1)

Plea (210717252P1)

Plea (210813333P1)

Admitted Statement of Facts (210082285P1)

Admitted Statement of Facts (210717252P1)

Discussion

Submissions by Ms. Greenwood

Submissions by Mr. Leochko

Sentence (200729143P1)

Sentence (210082285P1)

Sentence (210717252P1)

Sentence (210194395P1)

Sentence (210813333P1)

Discussion

PROCEEDINGS

M.C. DINKEL PROV. CT. J. (orally)

1 THE COURT: Please be seated.

2 MS. GREENWOOD: Good afternoon, Sir,

3 THE COURT: I got stuck on the phone,

4 MS. GREENWOOD: No problem.

5 THE COURT: Could not get off. Okay. We could not get the accused here?

6 THE COURT CLERK: The accused is by CCTV, Sir.

7 THE COURT: He is on the phone? Yes, I see that, but we could not get him here? We agreed he would not come or ...

8 MR. LEOCHKO: Yes, well, I think at the time this was set, it was still the protocol that CCTV was --

9 THE COURT: Well, it has been a while, has it not? Yes.

10 MR. LEOCHKO: Right.

11 THE COURT: All right, that is fine, I can see him.

12 MS. GREENWOOD: He's also in Lethbridge.

13 MR. LEOCHKO: He's in Lethbridge, yeah.

14 THE COURT: Oh, even better then, that makes more sense. Good, okay. What is the plan folks?

15 THE COURT CLERK: For the record, calling the matter of Thomas Clinton Edwards.

16 MR. LEOCHKO: Shaun Leochko, counsel for Ms. (sic) Edwards who is before the Court.

17 Master clerk, are we unmuted?

18 THE COURT CLERK: We are unmuted sir, yeah.

19 MR. LEOCHKO: Thank you. Perhaps if I could confirm, Mr. Edwards, you can see and hear, sir?

20 THE ACCUSED: Yeah, I can.

21 MR. LEOCHKO: Thank you.

22 Your Honour, as you would recall, a guilty plea had been entered on 143P1 to count 1, sometime ago before yourself. Mr. Edwards had appeared, at that time, out of custody, signed an agreed statement of facts, and --

23 THE COURT: Hang tight. I do not have a copy of the docket.

24 Right, thanks. Thank you.

25 You said 143?

26 MR. LEOCHKO: Correct.

27 THE COURT: Count?

28 MR. LEOCHKO: One.

29 THE COURT: One. The 445.1(1)(a).

30 MR. LEOCHKO: That's right.

31 THE COURT: Okay. Good. Okay, so we have got the previous guilty plea to that. That is confirmed today?

32 MR. LEOCHKO: Yes.

33 THE COURT: Okay. Anything else?

34 MR. LEOCHKO: Yes. I'm instructed to enter a few other guilty pleas. Master clerk has recorded them already. I have canvassed 606(1.1) and they -- it is a joint submission, along with the other matters.

35 THE COURT: Thank you.

Plea (210082285P1)

36 MR. LEOCHKO: They are to 285P1.

37 THE COURT: Two, eight, five.

38 MR. LEOCHKO: Counts 2 and 3.

39 THE COURT: Two, eight, five. Two is the failure to comply, what kind of breach?

40 MR. LEOCHKO: Reside or remain in Calgary.

41 THE COURT: Okay. So, we got a reside. What is 3 all about?

42 MR. LEOCHKO: Weapons.

43 THE COURT: Weapons, okay. Next.

Plea (210194395P1)

44 MR. LEOCHKO: Three, nine, five P one.

45 THE COURT: Three nine five, FTA?

46 MR. LEOCHKO: Yes, February 24, 2021, docket appearance.

47 THE COURT: Crown relying on that as the date?

48 MS. GREENWOOD: Yes, Sir.

49 THE COURT: Okay. That is admitted then, is it?

50 MR. LEOCHKO: It is.

51 THE COURT: Finding of guilt there. Next.

52 MR. LEOCHKO: Two, five -- sorry.

53 THE COURT: Go ahead.

Plea (210717252P1)

54 MR. LEOCHKO: Two, five, two P one.

55 THE COURT: Two, five two, got it, go ahead.

56 MR. LEOCHKO: Guilty plea to count 1, breach of a bail order for no contact.

57 THE COURT: Contact, okay. Next.

Plea (210813333P1)

58 MR. LEOCHKO: Triple 3P1, failure to appear.

59 THE COURT: Triple 3, oh, got it, yes.

60 MR. LEOCHKO: That was a docket appearance from August 16, 2021, which he admits to.

61 THE COURT: August 16, 2021, is that what the Crown relies on?

62 MS. GREENWOOD: That's correct.

63 THE COURT: Finding of guilt there, having been admitted. Next.

64 MR. LEOCHKO: Those are the pleas, Sir.

65 THE COURT: Okay. So, you have taken care of the two FTAs. Never did read the facts in on the animal charge, did we, or ...?

66 MS. GREENWOOD: Sorry, Sir.

67 THE COURT: Did we ever read the facts in on the animal charge?

68 MS. GREENWOOD: No, we marked it ASF.

69 THE COURT: Yes, because I went back and read something, I just could not remember if we marked it. So, that has been marked as Exhibit 1?

70 MS. GREENWOOD: It should be.

71 THE COURT: Okay. Is that correct, mister clerk?

72 THE COURT CLERK: My apologies, Sir, which Information?

73 THE COURT: On Information 143, I believe it is. It is a 445.1(1)(a) count 1. We are wondering if there is an exhibit attached to that, an agreed statement of fact.

74 THE COURT CLERK: I do not have exhibits attached to this file, Sir.

75 THE COURT: No exhibits?

76 THE COURT CLERK: No, Sir.

77 THE COURT: No indication there was an exhibit attached at some point?

78 THE COURT CLERK: If I could have a moment, Sir?

- 79 THE COURT: Yes, take your time.
- 80 THE COURT CLERK: Information file ending 145P1?
- 81 THE COURT: One, four, three.
- 82 THE COURT CLERK: Oh, 143 my apologies, Sir.
- 83 THE COURT: And the charge is a 445.1(1)(a). One, four, three should be a multi-count.
- 84 THE COURT CLERK: Yes, Sir. No indication of exhibits though.
- 85 THE COURT: No?
- 86 THE COURT CLERK: Oh, my apologies, Sir, yes there is Exhibit 1, agreed statement of facts, and a case summary.
- 87 THE COURT: Good, okay.
- 88 THE COURT CLERK: They were both carded, that's why -- there was no indication sticker.
- 89 THE COURT: Oh, there was not. Okay.
- 90 THE COURT CLERK: My apologies, Sir.
- 91 THE COURT: Well, good for finding it, thank you. Okay.
- 92 Do you want to review the ASF in any way today or?
- 93 MS. GREENWOOD: I -- I can read it out again, if that assists you, otherwise I'm fine to proceed.
- 94 THE COURT: Do you require it to be read again, Mr. Leochko?
- 95 MR. LEOCHKO: No.
- 96 THE COURT: No? Okay. If he says no, then I am okay. You do not have to do it.
- 97 MS. GREENWOOD: Okay. So, I'll just read in the facts for the pleas we've just entered.
- 98 THE COURT: Yes. One thing I am going to address right away through, is the FAOS report. We asked for one, they could not do one. Everybody is agreeing to waive that now, correct?
- 99 MR. LEOCHKO: No, it was received.
- 100 MS. GREENWOOD: This morning.
- 101 MR. LEOCHKO: My friend and I just received it, and I forwarded an electronic copy to yourself, Sir.
- 102 THE COURT: When?

103 MS. GREENWOOD: Sir, I was going to suggest Sir, that could enter the pleas for the--

104 THE COURT: Yes.

105 MS. GREENWOOD: -- new counts that we're dealing with today and then take -- take a few minutes so you can have an opportunity to read, and I think we're both trying to finish it ourselves.

106 THE COURT: Okay. Yes, I got it at 1:58, I must have been getting changed to come down here or something so. Yes, great. Well, I would like to see that. We went through the trouble of getting it, I would certainly like to see it, joint submission or not. Okay, so let us get the facts on everything else, please.

Admitted Statement of Facts (210082285P1)

107 MS. GREENWOOD: I'll begin with Information ending 285. It's alleged that on August 26 of 2020, Mr. Edwards was released on conditions including residing at transitional housing, in -- remain in Calgary, and no weapons.

108 On January 24, 2021, while still bound by these release conditions, Steven (phonetic) -- at 4:51 PM Steven Cezary (phonetic) called police to report a male in his house in Edmonton causing problems and trying to start a fight. Police responded and arrested the male identified as Mr. Edwards. He was arrested for outstanding warrants. Search incident to arrest, they found a folding knife in his jacket pocket, and Mr. Edwards admitted to the police he was supposed to be living in Calgary at the time. He had been living at the -- that address in Edmonton for the past 3 days. Those are the allegations.

109 MR. LEOCHKO: So, admitted.

110 THE COURT: Sorry, so he is in somebody's house where he does not belong or ...?

111 MR. LEOCHKO: I don't think that's the allegation, but --

112 THE COURT: He was residing there and somehow something happened and --

113 MS. GREENWOOD: Started a fight, and police were called.

114 THE COURT: And he just happened to have a knife on him?

115 MR. LEOCHKO: Right.

116 THE COURT: Knife was not used in the fight?

117 MS. GREENWOOD: No.

118 THE COURT: Okay, makes more sense. Thank you. Those facts are admitted?

119 MR. LEOCHKO: Yes.

120 THE COURT: Finding of guilt on each.

Admitted Statement of Facts (210717252P1)

121 MS. GREENWOOD: And then Information ending 252. It's alleged that on July 21st of 2021, RCMP conducted

R. v. Edwards

traffic stop near Fort McLeod, Alberta. Mr. Edwards was driving the car and did not have a valid driver's license. In the passenger seat was Kalli Bastien, and Mr. Edwards was on a release order at the time to have no contact with her. Those are the allegations.

122 MR. LEOCHKO: Admitted.

123 THE COURT: Was that a domestic or what?

124 MS. GREENWOOD: Yes.

125 THE COURT: Not a co-accused, was domestic?

126 MS. GREENWOOD: No.

127 THE COURT: Okay. Okay, finding of guilt there.

128 MS. GREENWOOD: And so those are all the facts to deal with the pleas that my friend has just entered. So, should we take 10 minutes so we can all review the report, Sir?

129 THE COURT: Yes, I am just going to sit here and read it.

130 MS. GREENWOOD: Sure.

131 THE COURT: So if we all just want to go off the record.

132 Mr. Edwards, if you want to step out and grab a seat --

133 Or do we not want to lose him, what is the answer to that?

134 MR. LEOCHKO: I -- I don't think we're going to lose him, because they regularly connect to Courts.

135 THE COURT: Okay.

136 MR. LEOCHKO: It's a Remand Centre that he's at.

137 THE COURT: Sometimes there is a lineup and you can not get him back though.

138 MR. LEOCHKO: Right.

139 THE COURT: Yes. I just want to be more comfortable.

140 Yes, Mr. Edwards, step out for a sec and see if you can get a place to sit, we will call you back, okay?

141 THE COURT CLERK: Disconnect then?

142 THE COURT: Yes, we will go off the record, thanks.

(ADJOURNED)

143 THE COURT: Mr. Edwards, you are back in, you can see us and hear us still?

144 THE ACCUSED: Yeah.

145 THE COURT: Okay, great.

146 MR. LEOCHKO: Yes, so we had left off, Sir, with the facts being accepted and the report now before the Court, perhaps that ought to become the next exhibit?

147 THE COURT: Okay. Exhibit 1 was the ASF, Exhibit 2 will be the psych report.

148 MS. GREENWOOD: I believe we marked the veterinary report last date --

149 THE COURT: Oh.

150 MS. GREENWOOD: -- as Exhibit 2. Could you just double check? I believe that's what master clerk said earlier.

151 THE COURT CLERK: Was this exhibited today or previously?

152 MS. GREENWOOD: No, previously.

153 THE COURT: Yes, but it was not marked apparently, madam clerk, the way it is normally marked with a tab. That is what the other clerk said.

154 THE COURT CLERK: Yes, from what it looks like the next exhibit to be labeled is S-3.

155 MS. GREENWOOD: And just to confirm, was S-2 a case summary?

156 THE COURT CLERK: Yes.

157 MS. GREENWOOD: Okay, thank you.

158 THE COURT: Okay, exhibit 3 is the psych report, the FAOS report.

EXHIBIT S-3 - FAOS Report

159 MS. GREENWOOD: And then Exhibit 4 would be the criminal record.

160 THE COURT: Record's admitted?

161 MS. GREENWOOD: And madam clerk, if you could provide the -- the top one should go to Judge Dinkel. There's a few redactions on it.

162 THE COURT: That is admitted, right?

163 MR. LEOCHKO: Yes.

164 THE COURT: Thank you, sir.

EXHIBIT S-4 - Criminal Record

Discussion

165 MR. LEOCHKO: I think there -- there may be a few small errors, but it's not a big issue given we have a joint.

166 THE COURT: Well, we should clear up the record anyway, though. Why do we not start with that? What are the errors?

167 MR. LEOCHKO: So, where it doesn't prescribe with a joint printout is the May 22nd, 2020 entry.

168 THE COURT: May 22nd, 2020, May 28th?

169 MR. LEOCHKO: No, right above the May 22nd.

170 THE COURT: May 22nd, I got it. There is an FTA there?

171 MR. LEOCHKO: Yes, and it would reflect as though he got 20 days in goal on his first fail to appear charge, but in fact it was 20 days global with other breach charges, and because he's being sentenced on a fail to appear today, I think that's --

172 THE COURT: Relevant.

173 MR. LEOCHKO: -- relevant.

174 THE COURT: So, it may have been a case where they missed the FTA, and then it came in another day and they just added it to a previous sentence? What are you saying? That would not have made sense.

175 MR. LEOCHKO: It's not --

176 THE COURT: Because there is --

177 MR. LEOCHKO: -- that it was missed, it's that --

178 THE COURT: There is no other entry on that day, is what I am saying.

179 MR. LEOCHKO: Right, and that is where CPIC has made an error, I believe.

180 THE COURT: Oh, you think it was another day?

181 MR. LEOCHKO: -- at least compared to the joint --

182 THE COURT: You think it was the 21st?

183 MR. LEOCHKO: No, I -- I do believe it was on the 22nd, the only thing is it's -- it wasn't just the fail to appear.

184 MS. GREENWOOD: I'm just double checking the tracking sheet which will --

185 THE COURT: Sure.

186 MS. GREENWOOD: -- tell us. What's the date again, please?

187 MR. LEOCHKO: May 22nd, 2020.

188 MS. GREENWOOD: He had two counts under the *Protection Against Family Violence* -- oh no sorry, one count that he pled guilty to under the *Protection Against Family Violence Act*, 13.1(1)(a), and three failures to appear. Does that sound right?

189 MR. LEOCHKO: Yes, that's admitted. And it's noted in the report, which I think is correct, that the CPIC -- so it's noted in the FAOS report. CPIC shows three counts of uttering threats from December 9, 2020, but I believe there's only one.

190 MS. GREENWOOD: There's three. Oh, okay. So, you're saying that the assault charges that are listed in the FAOS report were not -- were not actually guilty pleas.

191 MR. LEOCHKO: Yes, and in the FAOS report they say that CPIC shows he has three previous uttering of threats, but in fact there's only one. I think (INDISCERNIBLE) join it -- it appears that's correct but there's one conviction for uttering threats, December 9, 2020. However, this record says that there's -- there's three.

192 MS. GREENWOOD: Oh, you're seeing the tracking sheets at this point. Oh, I see. And I'll agree with my friend on that, we're looking at -- the tracking sheets. It's not going to change what we're doing today.

193 THE COURT: Okay, but I think it is relevant for me to hear that.

194 MS. GREENWOOD: Right. So, for the December 9, 2020 count 3, it's just one charge not three.

195 THE COURT: Right. Go ahead.

196 MS. GREENWOOD: Thank you, Sir. So, I'll just go through, before I get into the submissions, with respect to the animal count, and again, as we indicated last week, the position is 18 months and a lifetime ban, and we'll also be seeking 1 year of probation. And then, with respect to the counts that we dealt with today, so Information ending 285 count 2, 30 days.

197 THE COURT: And you are saying these are going to go --

198 MS. GREENWOOD: This is all to joint.

199 THE COURT: But concurrently?

200 MS. GREENWOOD: Yes, concurrent --

201 THE COURT: For a total --

202 MS. GREENWOOD: -- concurrently to --

203 THE COURT: Okay.

204 MS. GREENWOOD: -- the 18 months --

205 THE COURT: Okay.

206 MS. GREENWOOD: -- and then -- so Information ending --

207 THE COURT: I am going to ask you about that though. My tendency is make it just one global sentence, but I am concerned that you might want to have the animal charge reflect 18 months itself.

208 MS. GREENWOOD: Yes.

209 THE COURT: So, I think in this case, it is better to break it down.

210 MS. GREENWOOD: Right.

211 THE COURT: Give it the 18 plus, plus, plus, but all concurrent.

212 MS. GREENWOOD: Right.

213 THE COURT: Okay. So, you want 30 days total on 285, correct?

214 MS. GREENWOOD: So, yeah. Count 2, 30 days and then count 3, 30 days, however, that'll be served concurrently.

215 THE COURT: Okay.

216 MS. GREENWOOD: And then Information ending 395, 10 days.

217 THE COURT: Three, nine, five, hang on.

218 MS. GREENWOOD: That's a FTA.

219 THE COURT: That is a guilty plea on FTA, yes.

220 MS. GREENWOOD: Information ending 252 count 1, 60 days, six zero.

221 THE COURT: Sixty days on 252, that is the no contact.

222 MS. GREENWOOD: Correct. And then Information ending triple 3 which is another FTA, 15 days, one five.

223 THE COURT: That is that, that's that, those two, got that, 252 did that, good, okay.

224 MS. GREENWOOD: So, that takes us to 115 days, however, given totality but also some very unfortunate Remand conditions that Mr. Edwards was in during COVID, we're proposing a 60-day global sentence for all the counts apart from the animal charge.

225 THE COURT: So, you want to reduce the 115 to 60?

226 MS. GREENWOOD: Correct.

227 THE COURT: Concurrent.

228 MS. GREENWOOD: Correct, concurrent to the 18 months and then with the year probation.

229 THE COURT: You want a year probation on all of that stuff?

230 MS. GREENWOOD: Yes, I mean, we could -- you could put it on the animal charge as well if -- if --

231 THE COURT: Well, my tendency would be to prefer that, because of the nature of the charge.

232 MS. GREENWOOD: Right.

233 THE COURT: Okay.

234 MS. GREENWOOD: I don't think my friend has an issue with it--

235 THE COURT: I would not want to put probation on breaches and FTAs.

236 MS. GREENWOOD: Right, okay, then we'll attach that to the animal charge, Sir. And then in terms of orders, there is a lifetime ban on animals. I've provided madam clerk with two copies of the ban. The --

237 THE COURT: Mr. Leochko, you are good with that?

238 MR. LEOCHKO: Yes.

239 THE COURT: Lifetime ban a go.

240 MS. GREENWOOD: There is a -- and then it's a secondary designated offence for the animal charge, but the Crown is seeking DNA, as well as a section 110 weapons ban for 10 years.

241 THE COURT: You okay with the DNA?

242 MR. LEOCHKO: Yes.

243 THE COURT: Good, go, secondary DNA is done, what is it 110 weapons ban. And you want the DNA on the animal charge, you want the 110 on the animal charge.

244 MS. GREENWOOD: Yes.

245 THE COURT: And you want 10 years on the weapons?

246 MS. GREENWOOD: Yes.

247 THE COURT: You good with that?

248 MR. LEOCHKO: Yes.

249 THE COURT: That will go as well, madam clerk. All on the animal charge. To be clear, madam clerk you came in halfway through this, not very fair to you, but the animal charge is on 143 count 1, the 445.1(1)(a).

250 THE COURT CLERK: Thank you. And that's a secondary DNA order, Your Honour?

251 THE COURT: Correct.

252 THE COURT CLERK: Thank you.

Submissions by Ms. Greenwood

253 MS. GREENWOOD: So, my submissions today won't be as lengthy as they normally are on these files, given that we have a joint -- a true joint recommendation for your consideration. I'll begin --

254 THE COURT: Tell me about the quid pro quo up front.

255 MS. GREENWOOD: Right, that's what I was going to address first. So, Ms. Bastien, as you'll recall from the agreed statement of facts, she is -- was the girlfriend of Mr. Edwards. It was her kitten who was left with Mr. Edwards over the weekend while she went camping.

256 THE COURT: Yes.

257 MS. GREENWOOD: And she was a key witness for the prosecution.

258 We could not proceed without her evidence, given that the -- the argument would've been exclusive opportunity for Mr. Edwards to have done what he did to the kitten. The Crown and police were in regular contact with Ms. Bastien since the laying of the charges, and then about 2 weeks before the trial was set to begin, which was at the end of last August, she -- her phone was out of service, and she disappeared. So, all attempts we made, including conversations I had directly with her mother, lead us to believe that she was abating us contacting her.

259 So, I was put -- or the Crown was put in -- in a situation where I was going to be prepared to seek a witness warrant for her arrest if we could locate her. Good chance she's not going to be a cooperative witness for the Crown. We did have a KGB statement, however, so the Crown was prepared if we couldn't locate her or if she did a 180 on the stand, we would've had to deal through -- go through the hoops of either getting the Court to agree that the statement could go in --

260 THE COURT: And he gave no statement?

261 MS. GREENWOOD: No, Mr. Edwards did not.

262 THE COURT: Okay.

263 MS. GREENWOOD: No. So, this was true quid pro quo in the sense that there was a risk with respect to going ahead with trial. Had the -- there not been true quid pro quo here, the Crown would be seeking a higher sentence, somewhere in the 2- to 3-year range on a guilty plea.

264 So, those are my --

265 THE COURT: Based on those cases that you provided?

266 MS. GREENWOOD: Correct. And also, the fact that with the *Friesen* and also *Chen* there -- we're looking to the Court to increase sentences, and there's a trend that that is indeed happening.

267 THE COURT: Yes, I was thinking something around 2 years might be appropriate, but you think 2 to 3?

268 MS. GREENWOOD: Potentially, yes. It -- it's again, this was the -- probably something closer to 2 years given the case law that we have would be an appropriate sentence in terms of parity

269 THE COURT: Yes, those were good cases. They were very relevant I will say.

270 MS. GREENWOOD: Yes, and recent, as well.

271 THE COURT: Okay.

272 MS. GREENWOOD: So, those are my submissions on quid pro quo, unless my friend has anything to add.

273 THE COURT: That is fine. I am good with that.

274 MS. GREENWOOD: Okay. At -- so, as I know you were well aware with -- you're very familiar with the case law that I've provided you with the case summaries. I'll just read what the cases are into the record. *Miller*, [2020] A.J. No. 660, *Camardi*, [2015] A.J. No. 341, *Helfer* (phonetic), *Alcorn*, [2015] A.J. No. 583, *Morgan*, *Geick*, and *Ehbrecht*. Now, while I recognize that the sentencing -- sentencing is an inherently individualized process, however, these cases do assist in -- in some respects. The case I would suggest is closest here would be the *Morgan* case, which is where he killed a kitten by slamming it against the wall and burnt the whiskers and fur of another -- another kitten that was in the home.

275 THE COURT: Very similar to what happened here.

276 MS. GREENWOOD: So, in terms of the case law that I provided, I -- I -- I give it to you in providing context to the -- the rising sentences that we're -- we're seeing from the Bench, and this is a direct recognition of how serious these cases are, and how seriously they're being taken by the Court.

277 Of note for the cases that I've provided, four of these cases were decided pre-*Friesen* and one was argued pre-*Friesen* and the decision was given post *Friesen*. And again, of course, *Friesen* is -- is a Supreme Court of Canada decision that sets out a direction that sentences for child sex -- sex assault need to go higher. And the Crown, as you know, argues that *Friesen* also is equally applicable to animal cases. And this is because animals, like children, are at most vulnerable and at risk at home by people who they trust, and also like child sexual abuse, animal cruelty can all too often be invisible from society. So, this is why we need to offer better protection in terms of sentences that are imposed.

278 THE COURT: I think I talked about all those things in *Chen*.

279 MS. GREENWOOD: You -- yes, yes. And I don't intend on covering any more about the sentencing principles -

280 THE COURT: And I am not suggesting you cut it short, but I am agreeing with you is what I was trying to say.

281 MS. GREENWOOD: Yes, Sir, and I -- and I don't intend to go further. That -- that -- those -- that concludes my submissions with respect to the principles part. I know you're very familiar with it -- the case laws all covered, and you -- you have covered it yourself in -- in written decisions.

282 THE COURT: There is nothing to disagree with in there, so good.

283 MS. GREENWOOD: So, I'll just turn to the -- in terms of mitigating factors here, of course, we have the guilty plea, we have the quid pro quo, and we have details in the FAOS report that sounds like Mr. Edwards had a bit of an unfortunate childhood, and that he was exposed to domestic violence between his mother and his father.

284 THE COURT: Well, as much as that is a factor, it is the other things that are in there that have me more concerned.

285 MS. GREENWOOD: Right, and so turning to the -- the aggravating factors here. So, first off, madam clerk, if

you could provide Judge Dinkel with he photobook which is the binder, and you'll need to mark another copy in the sentencing, please?

286 THE COURT: Thanks.

287 MS. GREENWOOD: So, these photos really do speak for themselves, Sir, and as detailed in the report of Dr. Doyle, which is marked as Exhibit 2. Mr. Edwards caused significant injury to this kitten over the course of a weekend, and then didn't do anything about it. We know that Ms. -- Ms. Bastien is the one that rushed the cat -- or kitten to the hospital when she -- she came home from camping.

288 THE COURT: Do you know what the status of the cat is today?

289 MS. GREENWOOD: He's doing well, today. He did go through a significant amount of surgeries and veterinary care, and there is ongoing veterinary care, but he -- he is in -- in very good hands today, Sir.

290 THE COURT: How many surgeries did he have?

291 MS. GREENWOOD: According to Dr. Doyle's report, he had eight full general anesthetics, but I believe he's had a couple more since then, as they've had to do some operations on his feet. And there's a possibility they may have to do some skin graft surgery depending on -- the skin heals very tight, so they're -- it's a -- he's -- he's very expensive in terms of vet care, I'll put it that way.

292 THE COURT: But he's living with a new family now?

293 MS. GREENWOOD: Yes, he's doing very well.

294 THE COURT: One thing I was not clear was, everything seemed to suggest there was a liquid of some sort poured on the animal. There was a talk of the bleach, was anybody ever make a connection between the bleach itself and the injuries?

295 THE COURT: Dr. Doyle's report indicates it was either something corrosive like bleach or something extremely hot. She was, like --

296 THE COURT: Yes.

297 MS. GREENWOOD: -- unable to determine which, and -- and we don't have a statement from Mr. Edwards on the point, so we -- we don't know for sure.

298 THE COURT: So, no one can say for sure, when it comes to this sentencing, whether it was the bleach or not even though he was found with a towel doused in bleach, it was on his pants, it was all over the place by the sounds of it.

299 MS. GREENWOOD: Right.

300 THE COURT: There is no admission there, certainly from him directly or at this time, that the bleach was the cause of it, correct?

301 MS. GREENWOOD: Correct.

302 THE COURT: Okay. Just a substance very similar to bleach or that would act like bleach, correct?

303 MS. GREENWOOD: Either a corrosive substance, or a very hot -- very, very hot water.

304 THE COURT: All right. Well, and there was obviously the fact that he was putting the cat in the hot water and then the cold water, or visa versa, so that could have caused those injuries as well --

305 MS. GREENWOOD: To the feet.

306 THE COURT: -- is what I am saying.

307 MS. GREENWOOD: Yes.

308 THE COURT: Okay.

309 MS. GREENWOOD: Yes. And there's also the tail had to be amputated -- I'll just touch on a portion of Dr. Doyle's report. So, she note -- she noted that the kitten required extensive veterinary care and surgical intervention, that the wound management required eight full general anesthetics, amputation of the tips of both ears, amputation of the tip of the tail, and amputation of all the toes on his hind feet, and amputation mid paw. And she describes it in her report as it's -- it would be like having your foot amputated at the height of your heel -- or the arch, sorry.

310 So, the kitten was, of course, as you can see from the photos, left severely scarred. Still does not have hair on his torso today. He does have to wear t-shirts so he doesn't lick the skin and cause -- cause it to -- to bleed. At --

311 THE COURT: It is interesting though, all these surgeries have changed -- all the injuries have changed the biomechanics. It says here his hind legs --

312 MS. GREENWOOD: Correct.

313 THE COURT: -- work in such a way now, predisposes him to arthritis, which will limit his lifespan, so ...

314 MS. GREENWOOD: Right.

315 THE COURT: The cat is going to suffer going forward from its injuries, it will eventually get the arthritis. His life will be cut short at some point. Great part is it is amazing the cat is alive, but it is just ongoing suffering. I am almost surprised that you are telling me today that the cat is doing okay and in another home and happily so, but I would not have been surprised if it had been euthanized.

316 MS. GREENWOOD: Right, it was an intense amount of veterinary intervention that save this kitten. I don't know if every veterinarian would've --

317 THE COURT: Yes.

318 MS. GREENWOOD: -- done what was done for this kitten.

319 THE COURT: Yes, and how old was the kitten at the time.

320 MS. GREENWOOD: Six or eight --

321 Do you have your ASF with you?

322 MR. LEOCHKO: I just need a moment.

323 MS. GREENWOOD: Around 8 weeks, I believe.

324 THE COURT: Eight weeks.

325 MS. GREENWOOD: Eight or twelve. She'd only obtained the kitten a couple weeks before this happened.

326 MR. LEOCHKO: Ten weeks.

327 MS. GREENWOOD: Ten weeks, thank you.

328 THE COURT: Okay.

329 MS. GREENWOOD: Just one other thing to note with respect to the injuries. The front feet were also burnt and when the healing process took place, several of the toes fused together as they healed, so the kitten is also permanently disfigured on the -- the front paws, as well. Dr. Doyle notes that the cat will certainly suffer long term consequences because of the injuries and will not regrow the hair over much of the torso on the left side of his body and will endure chronic pain due to nerve ending damage, as well.

330 Also aggravating here, as I indicated earlier, is that Mr. Edwards let this kitten languish, as opposed to seeking veterinary help, and ultimately it was Ms. Bastien who got the cat the help that he needed, and of course, Mr. Edwards was in a position of trust in relation to this kitten.

331 The last thing I'll just touch on is the report --

332 THE COURT: Well, he tried to cover it up too though.

333 MS. GREENWOOD: Right.

334 THE COURT: Yes.

335 MS. GREENWOOD: Right.

336 THE COURT: He talked his girlfriend into giving a different story, right?

337 MS. GREENWOOD: Yes, when they -- I just need to refresh my memory from the ASF here so I'm not misspeaking

338 THE COURT: That is what happened when she goes in to see the vet, she says oh, it is my cousin. I left the kitten with my cousin.

339 MS. GREENWOOD: Right.

340 THE COURT: And then eventually, she goes back and changes her story and admits this is what actually happened.

341 MS. GREENWOOD: Right.

342 THE COURT: But it is because of his pressure that she changed her story.

343 MS. GREENWOOD: Yes, and that --

344 THE COURT: Initially told to lie, how is that?

345 MS. GREENWOOD: Right. and -- and that touches on the part of the report that I just wanted to highlight which is at page 10 where Dr. Metelitsa (phonetic) notes: (as read)

He impressed as a manipulative, egocentric individual with heightened impulsivity, poor temper control, and antisocial attitude. He demonstrated tendency to deny or minimize his own shortcomings and blame others.

346 And he was diagnosed with cannabis use disorder, with a query about past substance and induced psychotic episodes, which I believe he's referring to the times when Mr. Edwards would snap, that's referred to in the report. And he assessed him following all the actuarial testing that was done: (as read)

Mr. Edwards assessed as being a high risk for future violent behaviour and a moderate elevated risk for intimate partner violence.

347 And --

348 THE COURT: He is overall moderate to high and then moderate elevated, right?

349 MS. GREENWOOD: Yes, and I don't understand the distinction between those two, Sir, that didn't occur to me.

350 THE COURT: Let us just say, he is not a low risk.

351 MS. GREENWOOD: Right. And then finally, Sir, just in terms of -- not to look at the photos -- again, you'll -- there is a date at the bottom of the photographs there that shows when the photographs were taken. This essentially shows the -- the progression of the healing of -- of the kitten, and you'll see towards the -- I'll just use photograph number 12 as an example. You'll see the skin is beginning to slough off the kitten at that point, and that was just part of the healing process when the skin is burnt and then it -- it'll slough off because it's -- it's dead skin essentially.

352 THE COURT: I noticed something in the report that I did not understand, when it was talking about that skin sloughing in multiple locations and a large eschar -- if I am saying that right -- forming over abdomen.

353 MS. GREENWOOD: Which page, Sir?

354 THE COURT: I am not sure mine are marked. They are not. It appears on my computer as page 4 of 6 under assessments. One, two, third line down on assessments.

355 MS. GREENWOOD: I can try Googling that and see what comes up or I can text Dr. Doyle here.

356 THE COURT: I got it. Dead tissue that shreds (sic) or falls off from the skin. There you go, there is your answer. So, it is the same thing as sloughing, yes, okay.

357 MS. GREENWOOD: So, Sir, subject to questions, those are the Crown's submissions.

358 THE COURT: That is good for me.

359 MS. GREENWOOD: Thank you.

360 THE COURT: Mr. Leochko, before you start, I will say this. I am good with the joint submission. I understand the quid pro quo. I see that the penalty is being suggested on the animal charge is within the range, it is certainly appropriate. It could have gone higher, not lower, but higher. But I understand the quid pro quo and everything else involved here. But I do want to know what you know about your client that may not have come out in the reports or anything like that. I would be interested to hear what you have got.

Submissions by Mr. Leochko

361 MR. LEOCHKO: Yes, so I have represented Mr. Edwards for a number of years myself, was first retained in early 2019, so him and I do have some history together. He has never had such a significant period of incarceration as he has now. He's a young man, 26 years old.

362 You'll note, Sir, that in his record very little prior to 2020, and -- and not related. So, there is a CDSA matter, I estimate it must've been marihuana to receive a -- a conditional sentence order, and then no convictions up until 2020.

363 Now, there's only one violent related type of offence which is of threats. So, being 26, he clearly had been able to stay out of trouble up until 2019, and then he gets his first convictions in 2020.

364 He had been working at a -- a meat packing plant in Fort Macleod until September of 2019. He has goals for the future to get -- get back to work. Dr. Metelitsa suggests a life skills course or training could give him some of the stability that he would need to control the issues that had brought him before the Court.

365 Now, I appreciate that there's -- there's some risk as Dr. Metelitsa has known, and that's something that he's going to have to address. He -- Mr. Edwards had wanted the psychiatric report and, as you recall, he had entered guilty pleas from an out of custody basis in the fall of 2021. When he came into custody, he didn't wish to pursue bail. He wished to remain in custody until the matters were dealt with and to have the psychiatric assessment, so that he could make some inquiries for his own benefit.

366 Going through the process was stressful --

367 THE COURT: One thing I did not like on the report was when he said, Oh I do not want to cooperate with the report anymore. I have a deal on the table and time --

368 MR. LEOCHKO: Yes.

369 THE COURT: -- in custody and --

370 MR. LEOCHKO: I --

371 THE COURT: -- that does not make anybody look good.

372 MR. LEOCHKO: No, and I -- I spoke with him about that and I -- I guess as he was going further and further through the reports and the questioning and seeing the social worker, it became kind of a stressful process for him, and he somewhat started to disengage then, but he did wait in Remand from, I think we ordered it in December up until July to have that report. So, that was regrettable comment, for sure, and it comes from a place of stress, but he -- he makes it. But --

373 THE COURT: Well, you know, these reports just are not for the purpose of me sentencing him. They are also for his benefit to understand what is going on with him and help him deal with that in the future, maybe get some counselling and -- sort of made it sound like he was just saying, I will do this for the judge and that is it. And when he did not need to do that anymore, because there is a deal in the bag, then he was out. That does not look very good on him.

374 MR. LEOCHKO: No. It was an unfortunate comment, but it also comes in the sense that he was the one that had wanted the report as well, and had remained in custody all that time to -- to do it. So, it wasn't thought out, for sure, and I don't think it's reflective of his -- his actions overall or in the sense of -- well if he would benefit from or

engage with any supports that may be out there, but -- but certainly he -- when the prolonged time at SAFPC became stressed with going through all the stuff in -- and I'm sure one can imagine it would be a stressful period.

375 THE COURT: Oh, I have doubt about that. I mean in any type of confined environment is (sic) got to be stressful, whether it is actual gaol, or SAFPC or whatever the case may be, but he is there in that environment for a specific reason, the report. But if he needs help with is condition, his various problems, then there is no better place for him to be.

376 MR. LEOCHKO: Right.

377 THE COURT: And no better place to access that help. So, it is unfortunate he had that way of thinking at that time. I am not going to hold it against him to the point of changing the sentence in any way, but I just want him to be aware that that was not a wise decision on his behalf, okay?

378 MR. LEOCHKO: Agreed. Turning to the circumstances of his pre-trial detention. When he did come into custody in October of 2021, shortly thereafter, the Lethbridge Correctional Centre had an outbreak of COVID, and this was at the time of considerable isolation effects being put into place. So, he did have an extended period of time where he was under lockdown for 23 hours a day, and there was limited use of communal facilities such as showers, and he had endured this isolation for a number of weeks, and that's something that can -- that happened shortly after his incarceration. And I think it'd be taken into account in considering the specific deterrence that's -- that was put into place shortly after the guilty plea was accepted.

379 In -- in terms of his goals for the future, so he does have some employment history. Perhaps at times --

380 THE COURT: Sorry --

381 MR. LEOCHKO: -- he lacked --

382 THE COURT: -- before you go on from there, what is his time in custody, total? He has got about 10 months maybe?

383 MR. LEOCHKO: Yes, and he had some time from before. So, he was arrested on July 7th of 2020, first in relation to these breaches -- other breaches. Then he was sentenced to 30 days on them, and you see that on his record. I believe it may not have been updated, but he was sentenced to 30 days. So, in any event, that took 12 days actual. He had 18 days left available from 2020 to this matter, then came back in October 14, 2021 till today. I count that as being 338 actual days, which at the 1.5 to 1 equals 507 days or just under 17 months.

384 THE COURT: Okay, say that again starting with the actual.

385 MR. LEOCHKO: Three hundred thirty-eight.

386 THE COURT: Yes, and if I give him 1 1/2 to 1, how many days do I add to that?

387 MR. LEOCHKO: Five hundred -- it -- it equals 507.

388 THE COURT: Yes, nobody ever gives me this calculation. So, I got to get half of 338, which is 115 -- or 150 and 19 which is 169, does that sound right?

389 MR. LEOCHKO: Correct.

390 THE COURT: Okay, and then that gives me 507, right?

391 MR. LEOCHKO: Yes.

392 THE COURT: Okay. And 507 and we are using 30 days in a month, so 30 gives us just over 10 months, right? So, if I give him 30 days in a month, and I give him 18 months what is that, 540?

393 MR. LEOCHKO: Eighteen is 540, yes.

394 THE COURT: Yes, okay. So, that is the sentence you want is 540 less his time in custody, which is 507, right?

395 MR. LEOCHKO: Correct.

396 THE COURT: So, he will have another 33 days to go, correct?

397 MR. LEOCHKO: Yes.

398 THE COURT: Okay.

399 MS. GREENWOOD: Sorry, isn't --

400 THE COURT: Did I do the math wrong somewhere? Feel free to check it.

401 MS. GREENWOOD: Eighteen months is 547.5 days. Right, it's all right I just -- I did 365 divided 2 plus 365 and it came to 547.5. Depends on which way -- anyway, it's just a matter of days.

402 THE COURT: Sorry, I want to hear you. What is your math?

403 MS. GREENWOOD: I just did 365 divided by 2, plus --

404 THE COURT: Yes, I am going at an average of 30 days a month.

405 MS. GREENWOOD: -- plus 365, you're doing 30 -- okay. That's -- that's why.

406 THE COURT: Yes --

407 MS. GREENWOOD: That's fine.

408 THE COURT: -- that is the difference. Are you okay with that?

409 MS. GREENWOOD: I'm okay with that.

410 THE COURT: Okay. So, he might get a break of 7 days on that, is what we are saying, so ...

411 MS. GREENWOOD: Right.

412 THE COURT: Good for him, he should know that. Okay, keep going.

413 MR. LEOCHKO: So, he does -- he does have employment history, and he had not been employed during the 2020, 2021 period where he started getting in trouble. So, I think that Dr. Metelitsa's suggestion that having some stability and work would be a benefit to him. He does have plans to pursue further employment. He's hoping to

obtain some entry level employment in the oil and gas field, to obtain work in northern Alberta, when he's ultimately released from custody --

414 THE COURT: But he has had nothing since 2019, right?

415 MR. LEOCHKO: That's right, yes.

416 THE COURT: Yes. Well, there has never been a better time to look for a job than right now.

417 MR. LEOCHKO: Right.

418 THE COURT: Every business I come across is looking for people.

419 MR. LEOCHKO: M-hm.

420 THE COURT: Go ahead.

421 MR. LEOCHKO: So, given though he has been unemployed and is going to remain in custody, it's likely an appropriate case for waiving the victim fine surcharge, and we're, of course, agreeable to the probation terms that we've outlined. I've reviewed those with him. I did ask Mr. Edwards if he wished to make a statement before the sentencing's passed, and he had told me he did not wish to do so.

422 THE COURT: That is fine. The pictures say a whole lot. The report tells me a ton, you told me a bunch. I am good.

423 MR. LEOCHKO: Thank you.

424 THE COURT: Anything else from anybody else though?

425 MS. GREENWOOD: Nothing from the Crown, Sir.

426 MR. LEOCHKO: That's everything for defence.

427 THE COURT: Okay. Well look, he has a bunch of stuff here. One, two, three, four, five different Informations that we are dealing with. I am assuming any remaining Informations are going to be withdrawn?

428 MS. GREENWOOD: Yes, Sir.

429 THE COURT: Okay, we will do that at the end, just remind me, but on those five, the one that I care about the most is Information ending 143 count 1, 445.1(1)(a), which is the abuse of an animal. And to be clear, that is a *Criminal Code* charge, it is not under the *Animal Protection Act*. It is a serious offence, and he gets full credit for entering his guilty plea on that. That is a significantly mitigating factor, especially since the Crown has explained the nature of the quid pro quo that goes along with that today.

430 He is young, he is 26 years old. He has been in custody for a good long time. He is near time in custody, he is not there, but he is near it. He has been subject to limitations in custody because of COVID. The psych report talks about him having some problems as a kid. I get that, I accept it. I bear it in mind when I impose my sentence. Also, I bear in mind his record, the one related conviction is the threats.

431 But what warrants gaol is the number of aggravating factors here, and believe me, gaol is very much warranted. Eighteen months, I am not saying that is a deal. I think it is appropriate in the circumstances, but as I said earlier, I could very easily have seen that going higher. The mitigating factors take it down to the 18 months,

but 2 years would have been an interesting starting point for this type of offence with these type of injuries bearing in mind the case law I was provided.

432 The photos are really troubling. This young man, he has got this girlfriend who goes away, and he is in care of this 10-week-old kitten, not even a cat, a kitten. He is in a position of trust. He breaches the trust to not just the girlfriend but to the kitten itself. He is trusted with caring for this animal and he does the exact opposite. He gets frustrated with it when it urinates on him, and then he proceeds to throw it against the wall. He puts it in hot water, he puts it in cold water, and it suffers injuries that are consistent with either hot water or bleach, and bleach is found at the scene by his girlfriend. It seems to be all over the place, so there is a high likelihood it was involved, but there is no actual confirmation of that.

433 So, not only did the kitten suffer at that time, I mean terribly. It really must have been in a great deal of pain from everything I have read and heard, but those injuries will continue on with this animal, and it will cause it to later on endure arthritis. Its mobility is already limited. It will get arthritis eventually, and it will cause it to have a premature death. All of those things are incredibly troubling, but looking at the *Friesen* decision and how it talks about taking certain types of offences more seriously, increasing the tariff, what amounts effectively to tariff for these types of things, and bearing in mind my decision in *Chen*. Certainly, we should be looking at higher penalties all around for these types for things, for these poor defenceless little animals.

434 I do not own a pet, I had one when I was a kid. I do not need to own a pet to know that this is a horrible, horrible offence. And these animals can not fight back, they can not take care of themselves. They are totally at the mercy of the people who are caring for them at the time. And Mr. Edwards, to be very polite, dropped the ball and in doing caused great, great harm to this animal.

435 I am very concerned that he also tried to cover it up. He asked his girlfriend to tell a story different than the one that was the truth. When she took the pet to the vet, the blame was put on a cousin. I do not know who the cousin was, or if there was a cousin, but they could have got in big trouble if the truth did not eventually come out, so that is very alarming. And it was good news to hear that the girlfriend, Bastien, came out and admitted what had really happened, and that she had been pressured by the accused into telling a lie.

436 But it is interesting how all of this relates to his personality as it unfolds through the course of the psychiatric report. He had a bad childhood, as I mentioned, but he had become a cannabis user to a very, very high degree, at least in my mind. He was doing 20 to 30 marijuana cigarettes in a day. My first thought is, where does he find the time? My second thought is, how could he function whatsoever after that? But more importantly, the doctor who saw him describes him as having a cannabis use disorder. I think that is pretty darn accurate.

437 Secondly, he describes these episodes that the accused has, Mr. Edwards, where he seems to blackout and have difficult controlling his impulses, things of that nature. And the doctor describes that as moments of drug induced psychosis. I have dealt with drug induced psychosis many, many times over my career, and certainly this is consistent with that. I am not going to pretend I am a doctor, but it is consistent with what I have experienced in terms of the accused appearing before me, and I bear that in mind when I impose the sentence I do.

438 But the one thing the report tells me at the end of the day is this. This individual, a cannabis use disorder, substance induced psychosis, who is antisocial, narcissistic and has a borderline personality disorder, is overall rated to be a moderate high to moderate elevated risk, depending on the circumstances. And that is what should concern me and does concern me. He is a very high degree of risk going forward.

439 He needs some help, and he has been in a very unsettled existence up until now. This is probably the longest time he has stayed anywhere in terms of housing. He has been in gaol for about 10 months, and before that he has been couch surfing and living on the streets. He has had a pretty miserable existence.

440 And hopefully probation will be able to help him sort out a place to live, get him into some counselling, and do

things for him that he could not do for himself, but if he chooses not to take advantage of that, then he will be in breach of probation, and that would not be a good set of circumstances for him to come back on this charge with not having done counselling or anything of that nature, because he certainly needs that, in my mind. And if anybody pulls a transcript on this, they will see that comment.

441 So, in all the circumstances, what do I think about the sentence? I think it is appropriate in all the circumstances, as I have already said. Eighteen months on a what effectively amounts to a global basis, plus 12 months probation is the right thing to do. In addition, the lifetime ban, of course, and we have done DNA and weapons already. So, this is what we are going to do. Follow along with me, and if I happen to get something wrong here, please correct me, do not hesitate.

Sentence (200729143P1)

442 THE COURT: On Information ending 143 count 1, this is the 445.1(1)(a) charge, the abuse of the animal, a *Criminal Code* charge, I am going to impose a sentence of 18 months, but I am going to do it by imposing days. I am going to use 30 days in a month, so I am going to say 540 days, madam clerk. I am going to say less time in custody. According to Mr. Leochko, he has 338 days of time in custody. I would therefore give him another 169 days, madam clerk, at 1 1/2 to 1 for a total of 507 days. And I take the 540 originating sentence less the total time in custody of 507, that leaves him with a net sentence or time left to serve of 33 days. He will continue to serve that straight. There is no application for intermittent time, so that will be the case there.

443 In an attempt to separate that one charge from the others, I choose not to do a global sentence on this. So, I will impose sentences as follows.

Sentence (210082285P1)

444 THE COURT: On Information 285, there was 2 counts of breach. I believe the Crown wanted 30 days on each, concurrent to one another and concurrent to the 18 months on the 445.1, correct?

445 MS. GREENWOOD: Consecutive to the 18. No, sorry, concurrent.

446 THE COURT: Correct. We are not going over 18, correct?

447 MS. GREENWOOD: Right.

448 THE COURT: Right. So, 30 days on each of those two charges, madam clerk, concurrent to one another, and concurrent to the 18 months I have already imposed.

449 MS. GREENWOOD: Sorry, it's my -- a Monday for me apparently. So, the -- the sentences will be consecutive to the 18 month sentence for the animal charges is what we had agreed to.

450 MR. LEOCHKO: That -- that is what we discussed.

451 MS. GREENWOOD: So --

452 THE COURT: That is not what I heard. If that is what you want to do, I am fine.

453 MS. GREENWOOD: That's what we agreed to, yes. So --

454 THE COURT: Yes, and --

455 MS. GREENWOOD: -- they're -- they're -- the --

456 THE COURT: -- that is why I asked.

457 MS. GREENWOOD: -- 285 is -- they're 30 days concurrent to each other, but consecutive to the 18 months --

458 THE COURT: Okay --

459 MS. GREENWOOD: -- animal sentence.

460 THE COURT: -- that is fine. That is fine.

461 MS. GREENWOOD: -- so he'll have a bit more time to serve.

462 THE COURT: Yes, again, the issue here was the 445.1.

463 MS. GREENWOOD: Right.

464 THE COURT: And we have already set out the sentence. He has 33 days left on that. Now, let us go back, madam clerk, to 285. On that Information, the Crown wanted 30 days on each charge.

465 You want those concurrent to one another for a total of 30 days, but consecutive to the 18 months, correct? So, he had 33 days, I give him another 30, he is up to 63 days.

Sentence (210717252P1)

466 THE COURT: Now, we are at 252, and again, my apologies for not hearing that correctly. On 252, it is a 145(a) that is the no contact on the domestic, out of Lethbridge, and on that there will be an additional 60 days. So, now he is up to 123 days. To be clear, madam clerk, on 252 that is 60 days is consecutive to anything I have already imposed. Again, we are up to 123 days.

Sentence (210194395P1)

467 THE COURT: Next, I look at 395 which is an FTA. Crown was seeking an additional 10 days. Well, everybody was seeking an additional 10 days consecutive. That is now 133 days.

Sentence (210813333P1)

468 THE COURT: Finally, if I am seeing this right, we have got Information 333. The Crown and defence are jointly suggesting an additional 15 days for 148.

469 So, madam clerk, does that math make sense to you?

470 THE COURT CLERK: Yes.

471 THE COURT: Okay. So, we have got the sentence on the 445.1 18 months and everything, which is broken down into days, and everything from that per Information is consecutive, 30 days on 285, 60 days on 252, 10 days on 395, 15 days on 333. The total time now left to serve is 148 days.

472 MR. LEOCHKO: And my friend and I had discussed reducing for totality 60 days on the other matters consecutive to the 18.

473 THE COURT: That's where you gave me the 115 days less the 60. And I again, I assumed that was all concurrent, but I was incorrect on that. So, we will knock off 60 from the 148 that leaves 128 days. Is that your number, give or take?

474 MR. LEOCHKO: Just a moment.

475 MS. GREENWOOD: It should be 600 days, 540 plus 60.

476 MR. LEOCHKO: So, 600 take away 507 equals 93 left to serve.

477 THE COURT: Let us do the math. You started with how many days?

478 MR. LEOCHKO: Six hundred, being 540 days for the 18 months, and 60 days consecutive, equals 600.

479 THE COURT: Okay.

480 MR. LEOCHKO: And then I reduced that by the 507 days of pre-trial credit.

481 THE COURT: Okay.

482 MR. LEOCHKO: Which leaves 93 days left to serve.

483 THE COURT: Okay. I am happy to go with that math if the Crown is content.

484 MS. GREENWOOD: Yes, Sir.

485 THE COURT: Okay. I am not sure how doing the same math came out with 128 days, but it just does not matter. That is how time in custody works its funny ways sometimes.

486 Madam Clerk, are you with me on that?

487 THE COURT CLERK: Yes.

488 THE COURT: Five hundred forty is the total sentence on Information 143. All of the other Informations have been reduced on the basis of totality to 60 days. So, I am adding 540 plus 60 days, that gives me 600 days. I am going to reduce that by his time in custody, which gives him 507 days on that. So, 600 minus 507 leaves a net sentence of 93 days. You good with me on that?

489 THE COURT CLERK: Ninety-three, yes, (INDISCERNIBLE).

490 THE COURT: Good, and if you have any questions, we will talk after, okay?

491 So, that is the balance of the sentence time to serve. Assuming 30 days in a month, he has got about a little more than 3 months to go. And hopefully he will use that time wisely to prepare a place to go and have a little more stability when he gets out.

492 Victim fine surcharge, it is waived. He will be in custody, it would be a hardship.

493 In terms of the balance of the charges, and there are a number remaining on the docket, they are to be withdrawn, correct?

494 MS. GREENWOOD: Yes, Sir.

495 THE COURT: Okay. I have imposed all the ancillary orders.

496 Madam clerk, anything missing on your end, anything that needs to be explained?

497 THE COURT CLERK: I just need you to (INDISCERNIBLE) these boxes here, as well as the photobook was to be exhibited as exhibit --

498 THE COURT: The next exhibit.

499 THE COURT CLERK: Next exhibit?

500 THE COURT: Yes, what was that? We are on 4 now?

501 THE COURT CLERK: I believe it's Exhibit 5

502 THE COURT: Five, four, five, sure.

EXHIBIT S-5 - Crown Photobook

503 THE COURT: Anybody know what category I am attributing his DNA to?

504 MS. GREENWOOD: What category, Sir?

505 THE COURT: Oh God, yes. Normally these come prepared for me. We will talk about that off the record, that is fine.

506 Any other questions on anything else related to this?

Discussion

507 MS. GREENWOOD: Just the probation terms. And --

508 THE COURT: No, we already done that.

509 MS. GREENWOOD: And for the benefit of Mr. Edwards, I'll just read out what the wording of the ban says.

510 THE COURT: Yes, let us talk about the ban. Go ahead with that.

511 MS. GREENWOOD: So, it prohibits Mr. Edwards from owning, having the custody or control of, or residing, so living in the same residence, as any animal or bird for his lifetime.

512 THE COURT: Right. I had mentioned the ban, I did not mention the wording, thank you. Probation order.

513 This again, madam clerk will be attached to 143 count 1. It will go as follows, all standard wording. Twelve, did we say 12 months or 18? Twelve months.

514 MS. GREENWOOD: Twelve months.

515 THE COURT: Yes. Twelve months, keep the peace and be of good behaviour, appear before the Court when required to do so. Notify the Court or Probation of events that -- change of name, address, or employment.

516 Do you want a no contact on this?

517 MS. GREENWOOD: Yes, Sir. I was --

518 THE COURT: Bastien.

519 MS. GREENWOOD: -- going to propose Kalli Bastien or her immediate family. And the name is spelled K-A-L-L-I last name B-A-S-T-I-E-N. I don't know if he knows where she's living or working at the moment, so I suggest --

520 THE COURT: I can fix that with a no go.

521 MS. GREENWOOD: -- suggest a no go to any known home or work of Kalli Bastien or her immediate family.

522 THE COURT: I am just worried about the wording of immediate family, that is kind of wide.

523 MS. GREENWOOD: Perhaps we could just leave it with the mother -- her mother and father.

524 THE COURT: Okay, yes because --

525 MS. GREENWOOD: And I don't have their name off -- off the top of my head but --

526 THE COURT: I think that would be fine.

527 No issue there, Mr. Leochko?

528 MR. LEOCHKO: Yes.

529 THE COURT: Okay. Madam clerk, we will have the no contact with that named individual, and her mother or father. There will also be a no go to any known place of employment, residence, place of education, or worship of that same named individual and her mother or her father.

530 Reporting: He will report within 2 business days of his release from custody to Probation, main floor at Calgary Courts Centre. After that at first meeting, he will continue to report as directed by Probation, that may be by telephone or person, whatever Probation tells him.

531 What do you want to do for the reside, just drop in, transitional housing?

532 MR. LEOCHKO: Or -- yeah or where approved, yeah.

533 THE COURT: Yes.

534 MR. LEOCHKO: That's fine, yeah.

535 THE COURT: Always where approved. So, we will do live where approved by Probation or at the Calgary Drop-in Centre, Mustard Seed, Centre of Hope or other transitional housing in Calgary, Alberta. Any change in address must be approved in writing in advance by Probation.

536 We want assessment, counselling and treatment, correct?

537 MR. LEOCHKO: Yes.

538 MS. GREENWOOD: Yes, Sir. I was going to propose anger management, substance abuse, and psychiatric -- psychological through FAOS. The -- or as directed and the report also suggests attending AADAC.

539 THE COURT: What do you want to do about the AADAC, Mr. Leochko?

540 MR. LEOCHKO: Yes, that's agreeable.

541 THE COURT: Okay. Okay, assessment, counselling and treatment in the following areas: psychiatric, psychological. I will say substance abuse, primarily for drugs, in particular cannabis, anger manager, and he is to attend at AADAC, or -- what is the other one?

542 MS. GREENWOOD: FAOS, Sir?

543 THE COURT: No. Narcan, no not Narcan, but where they go for drugs instead of alcohol.

544 MR. LEOCHKO: Oh, Narcotics Anonymous?

545 THE COURT: Yes.

546 THE COURT CLERK: I'm sorry what was that?

547 MR. LEOCHKO: Narcotics --

548 THE COURT: Anonymous.

549 MR. LEOCHKO: Anonymous.

550 THE COURT: I am not sure if AADAC does drugs and alcohol these days, or what their deal is, but we will say AADAC and Narcotics Anonymous. Sign any release or waiver, provide proof of completion in writing.

551 Do you want a prohibition on his use, use of drugs?

552 MS. GREENWOOD: I believe the report suggests that he should. I mean, if he's planning on working when he gets out, maybe he shouldn't be smoking 20, 30 joints.

553 THE COURT: Well, he has not been smoking in gaol, so he has got a good head start on it. Did you guys discuss a possible drug prohibition?

554 MR. LEOCHKO: No. A couple factors I could see it on either side, so a good point. He's been in custody without marijuana for some time. On the flipside, if he's going to be doing treatment as directed by Probation, he'd want to be open to discuss if there's been issues. And then it was also noted in the report that some of his -- some of the times that he's had these long periods of the episodes they described where he's not awake that marijuana calms him down. But clearly, too much use has been a -- a problem as Dr. Metelitsa writes as well, so it's a -- so there's a number of factors I think to consider. One thought, if it is going to be beneficial then perhaps it could be prescribed, in which case he would be --

555 THE COURT: Yes, well that is what I was thinking, no recreational cannabis, but if he gets a prescription then we will do it that way.

556 So, he is prohibited from buying, having in his possession, using or consuming intoxicating substances, including alcohol, cannabis and any drug not prescribed by a doctor or dentist. To be clear, if cannabis is prescribed, he is allowed to have it and use it.

557 In addition, he is banned from entering any liquor store, wine shop, bar, lounge, tavern, or cannabis dispensary, or other place where their main business is the sale of alcohol, unless he has a prescription for cannabis.

558 What else do we got?

559 MS. GREENWOOD: Weapons, Sir.

560 THE COURT: He is prohibited from owning, having in his possession, carrying a weapon including knives, except those he uses for preparing or eating food, or tools while he is at work are exceptions to the ban.

561 Anything else?

562 MS. GREENWOOD: I think that covers it, Sir.

563 THE COURT: Okay, That is the probation.

564 I go back to madam clerk. Any questions?

565 THE COURT CLERK: I believe I just need a copy of the FAOS report, Sir.

566 MR. LEOCHKO: Could I submit it to the AC proxy email, PC court assignment Court?

567 THE COURT CLERK: Yes, that works as well.

568 THE COURT: Good.

569 MS. GREENWOOD: I can provide my copy. It's -- just has some underlining (INDISCERNIBLE) that shouldn't matter.

570 THE COURT: No, let us get a clean copy. It is just an email.

571 No, you hang onto yours. You hang on to yours, okay?

572 MS. GREENWOOD: Oh, sorry, I misheard you.

573 THE COURT: We will get a clean copy.

574 MS. GREENWOOD: Sure.

575 THE COURT: Okay, last call anything, anybody?

576 MS. GREENWOOD: I think that's everything, thank you, Sir.

577 THE COURT: Okay.

578 Mr. Edwards, you have heard all of this, you have been watching and listening intently, I noticed that. This was not a good situation for you, when you dealt with that animal on that day. You are paying an appropriate, but yet hefty price by spending a lot of time in gaol on this. I hope you have had a chance to reflect upon it, and you will make sure it does not happen again, correct?

579 THE ACCUSED: Yes.

580 THE COURT: Good, thank you very much, sir. You are done, you can step out.

581 Okay, I think we are good to go. Madam clerk, we can adjourn.

582 I am going to give you that document in a second.

PROCEEDINGS CONCLUDED

End of Document