

Court of King's Bench of Alberta

Citation: R v Weseen, 2026 ABKB 71

Date: 20260203
Docket: 230071524Q3
Registry: Calgary

2026 ABKB 71 (CanLII)

Between:

His Majesty the King

Crown

- and -

Nicholas Berton Weseen

Offender

Endorsement of the Honourable Justice M.H. Bourque
Fact Finding per *Criminal Code* s. 724(2)

[1] The offender was charged with 15 counts of offences committed against rabbits, namely Smokey, Loki, Chloe, and Henry, as well as multiple unnamed rabbits, by killing or injuring them (*Criminal Code*, RSC 1985, c C-46, s. 445(1)(a)), by causing them unnecessary pain, injury or suffering (*Criminal Code*, s. 445.1(1)(a)), and by failing to provide suitable and adequate food, water, shelter or care for them (*Criminal Code*, s. 446(1)(b)).

[2] A jury trial was conducted from June 16 to 20 and 23 to 27, 2025. Before the closing arguments, the Crown withdrew counts 9 and 12 (failure to provide suitable and adequate care for Chloe and Henry, respectively). On June 28, 2025, the jury found the offender guilty of 12 of the remaining counts. On count 8 (unnecessary pain or suffering against Chloe), the jury was unable to reach a verdict. The Crown has withdrawn count 8.

[3] Following a trial by jury, my task is to accept as proven all facts, express or implied, that were essential to the jury's guilty verdicts, and I may find any other fact relevant to sentencing

disclosed by the evidence at trial: *Criminal Code*, s 724(2)(a), *R v McKnight*, 2023 ABCA 72 at para 3; *R v Freer*, 2021 ABCA 155 at para 13.

[4] The Supreme Court of Canada describes my task in *R v Ferguson*, 2008 SCC 6 at paras 16-18, as doing my best “to determine the facts necessary for sentencing from the issues before the jury and from the jury’s verdict”, which does not require me to “arrive at a complete theory of the facts”, only those necessary for deciding the appropriate sentence. I am “bound by the express and implied factual implications of the jury’s verdict,” and I “shall accept as proven all facts, express or implied, that are essential to the jury’s verdict of guilty,” but I must not accept as fact any evidence consistent only with a verdict rejected by the jury. Where factual implications of the jury’s verdict are ambiguous, I am not to try to follow the jury’s logical process but instead come to my own independent determination of the relevant facts. Aggravating facts must be proven beyond a reasonable doubt; others, on a balance of probabilities. In sum, I am to “find only those facts necessary to permit the proper sentence to be imposed in the case at hand.”

[5] Subsection 723(1) provides an opportunity to the prosecutor and the offender to make submissions with respect to any facts relevant to the sentence to be imposed, and section 726.1 requires me to consider any relevant information placed before the court, including those submissions, when determining the sentence. Crown Counsel and the Offender’s Counsel (who was not the Offender’s counsel at trial) provided me with written submissions with respect to the facts of the offence as well as those relevant to sentencing.

[6] With those principles in mind, here are my findings of fact:

1. On January 22, 2023, the offender was arrested and gave a voluntary police interview to Detective Weir. The offender admitted that he put Smokey in a sock with the end cut off, with Smokey’s head out one end and his foot out the other and that he intentionally amputated Smokey’s rear back paw with a hatchet. The offender told Detective Weir that he “wasn’t gonna take him to the vet”.
2. The offender also told his then-girlfriend, AM, that he put Smokey in a sock with the end cut off. He then strapped Smokey to a board and proceeded to remove his foot with pliers, breaking the bone with the pliers, after cutting down all the way around it. This process took two to three hours, during which time the offender did not give Smokey any pain medication while he intentionally removed Smokey’s foot.
3. After the amputation, the offender zip-tied a milk crate to his and AM’s bed frame, put some hay in the bottom of Smokey’s living quarters. Blood puddled under this makeshift rabbit bed. In the days that followed, Smokey could not move and would not eat or drink. AM eventually convinced the offender to take Smokey to a veterinarian.
4. Dr. Picyk examined and ultimately euthanized Smokey. I accept Dr. Picyk’s opinion that Smokey was in significant pain due to the infected leg. I also accept Dr. Doyle’s opinion that amputating a rabbit’s foot in the manner described by the offender and AM would have caused significant pain to Smokey.
5. Cutting off Smokey’s leg was not an accident.
6. By cutting off Smokey’s leg and delaying in taking Smokey to a veterinarian, the offender intentionally injured Smokey, intentionally caused Smokey unnecessary

- pain, suffering and injury, and wilfully failed to provide Smokey with suitable and adequate care (counts 1, 2 and 3).
7. In his police interview, the offender admitted that he intentionally castrated Loki with an X-Acto knife after Loki sprayed him in the face and arms. Following castration, Loki suffered from an infection that lasted several days. The offender then broke Loki's neck because "the vet was never an option 'cause they're so [expletive] expensive."
 8. I accept Dr. Doyle's opinion that castration is extremely painful and that Loki suffered as a result of the offender's actions.
 9. Castrating Loki was not an accident.
 10. By castrating Loki, failing to take Loki to a veterinarian after Loki developed an infection from his wound, the offender intentionally injured Loki, intentionally caused Loki unnecessary pain, suffering and injury, and wilfully failed to provide Loki with suitable and adequate care (counts 4, 5 and 6).
 11. In his police interview, the offender admitted that Chloe jumped out of his arms and that she got a wound on her leg, and that he had held Chloe by the scruff of her neck, causing the skin to separate from Chloe's neck. Because the offender believed Chloe was going to die of an infection, the offender broke Chloe's neck, resulting in Chloe's death.
 12. AM previously told the offender not to pick up the rabbits by the scruff of their necks. I also accept Dr. Doyle's evidence that holding a rabbit by the scruff of the neck, as the offender described, and causing the skin to separate from the muscle would be painful and cause suffering to a rabbit.
 13. Chloe's injuries and death were not an accident.
 14. By holding Chloe by the scruff of the neck, leading to the separation of Chloe's skin from the muscle, and by subsequently breaking Chloe's neck, the offender intentionally injured and killed Chloe (count 7).
 15. In his police interview, the offender admitted that he threw Henry around the storage room and threw Henry into things in the storage room. He also admitted to hitting Henry in the head with the butt end of a screwdriver, purportedly to stun him. He then cut Henry's throat, and when Henry started moving around and gurgling, the offender claimed to have broken Henry's back. The offender described Henry as being in agony as he skinned Henry alive.
 16. Video footage captured the last moments of Henry's life. While it captured the things the offender admitted to in his police interview, it captures more, including the offender hitting and smacking Henry with his hands and hitting Henry into shelves in the storage room, the offender suspending Henry upside-down from Henry's legs with a bungee cord and/or zip ties, hitting Henry with a screwdriver, and using a filleting knife on Henry to dismember Henry.
 17. I accept Dr. Doyle's evidence that, although the cause of Henry's death was unclear, it was due to multiple traumatic injuries involving blunt and sharp force trauma, including several *ante-mortem* (pre-death) injuries, which Dr. Doyle described in her

written report and testimony. I have decided not to list those *ante mortem* injuries caused by the offender in this endorsement due to their graphic nature, but instead, I incorporate by reference the injuries as described in paragraphs 22, 33 and 34 of the Crown's submissions. I accept Dr. Doyle's evidence that Henry would have suffered, that the injuries would have been extremely painful, and that Henry would have succumbed to the injuries in a period measured in minutes.

18. Henry's injuries and death were not an accident.
19. By inflicting the injuries on Henry, the offender intentionally injured Henry and intentionally caused Henry unnecessary injury, pain and suffering (counts 10 and 11).
20. The offender admitted to police that he intentionally also caused injury and/or death to multiple other unnamed rabbits.
21. The number of multiple unnamed rabbits is unclear, but it is well over a dozen.
22. I have decided not to list the injuries caused to these unnamed multiple rabbits in this endorsement due to their graphic nature, but instead, I incorporate by reference the injuries described in paragraphs 26 to 31, 36-37, 39-42, 44 and 45 of the Crown's submissions, and I accept that the offender intentionally inflicted those injuries. I also accept Dr. Doyle's evidence that the multiple unnamed rabbits experienced unnecessary injuries, pain and suffering.
23. None of the deaths or injuries to the multiple unnamed rabbits was the result of an accident.
24. The offender intentionally caused the multiple unnamed rabbits to experience unnecessary injury, pain and suffering.
25. The offender willfully failed to provide suitable and adequate care for the multiple unnamed rabbits.

[7] The offender also invites me to make additional findings.

[8] First, with respect to his statement to the police, counsel invites me to make findings based on what the offender told the police officer regarding his mental health issues, personal circumstances, including financial circumstances and substance abuse, and voices he says he heard in his head at the time of the offences. While I accept that the offender made statements of this nature to the police, I decline to accept them as facts at this stage, as I will be in a better position to deal with them through the Southern Alberta Forensic Psychiatry Centre Psychiatric/Psychological Risk Assessment, as well as the Pre-sentence Report prepared by the relevant probation authorities.

[9] Second, with respect to the evidence of AM, the offender's then-girlfriend, counsel invites me to consider that AM continued to speak with the offender after the charges and visited him in his trailer despite being emotionally distressed. Counsel advises that the evidence bears on ongoing human relationships, social functioning, and capacity for rehabilitation, all of which are relevant to proportionality and rehabilitation, even where denunciation is emphasized. Defence Counsel emphasizes that the evidence is not relied on to excuse conduct but to resist an irrebuttable narrative of "irredeemability". While I accept that AM testified about her post-arrest interactions with the offender, I fail to see how they are relevant to sentencing. In any event, the offender's ongoing human relationships, social functioning and capacity for rehabilitation are

likely better addressed through the pre-sentence report than by considering how AM related to the offender after his arrest. Although AM is not the direct victim of the offender's actions, she undoubtedly experienced trauma because of them. There is no unique way for a person in AM's shoes to interact, or not interact, with an offender post-offence-commission. That she interacted with the offender after that time says little about the offender's social functioning or capacity for rehabilitation.

Trial date appearances: June 16-20, 23-28, 2025

Post-trial date appearances: September 29, 2025; November 18, 2025; January 13, 2026.

Delivered orally at Calgary, Alberta, on February 3, 2026.

M.H. Bourque
J.C.K.B.A.

Appearances:

Rosalind K. Greenwood
Counsel for the Crown

Obehi Ekatah
Counsel for the accused (November 18, 2025 and January 13, 2026 only)