

IN THE PROVINCIAL COURT OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

HER MAJESTY THE QUEEN

v.

BRADLEY EDWARD CHALMERS

Accused

P R O C E E D I N G S
E X C E R P T

Edmonton, Alberta
April 23, 2013

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TABLE OF CONTENTS

Description		Page
April 23, 2013	Morning Session	1
Speaking to Sentence by Mr. Lim		1
Speaking to Sentence by Mr. Johnson		16
Certificate of Record		20
Certificate of Transcript		21
April 23, 2013	Afternoon Session	22
Sentence		22
Certificate of Record		30
Certificate of Transcript		31

EXHIBITS

No.	Description	Page
S-1	Victim Impact Statements	4
S-2	Pre-sentence Report	5

1 Proceedings taken in the Provincial Court of Alberta, Law Courts, Edmonton, Alberta

2

3 April 23, 2013

Morning Session

4

5 The Honourable

Provincial Court of Alberta

6 Judge Stevens-Guille

7

8 C.M. Lim

For the Crown

9 J. Johnson

For the Accused

10 S. Daniele

Court Clerk

11

12

13 THE COURT:

Good morning.

14

15 MR. LIM:

Good morning, Your Honour.

16

17 MR. JOHNSON:

Sir.

18

19 THE COURT:

Mr. Lim.

20

21 **Speaking to Sentence by Mr. Lim**

22

23 MR. LIM:

Thank you, Sir. With respect to sentencing,

24 Your Honour, I can inform this Court that there is a victim impact statement filed. I

25 would ask for this Court's permission to open it and for --

26

27 THE COURT:

Yes. I will direct that the victim impact

28 statement be opened.

29

30 MR. LIM:

And I can inform this Court I have a copy of

31 the transcript filed for sentencing, Your Honour. I'd like to file it for sentencing, unless

32 this Court has a copy of the transcript.

33

34 THE COURT:

I have a copy of the transcript. Is yours

35 different from mine?

36

37 MR. LIM:

It shouldn't be, no, Sir.

38

39 THE COURT:

Okay.

40

41 MR. LIM:

All right.

1
2 THE COURT: There is only one session that was transcribed,
3 as I recall. I mean, it wasn't a separate --
4
5 MR. LIM: No, there's -- yeah, that's correct, Sir.
6
7 THE COURT: -- day that -- yeah. Okay.
8
9 MR. LIM: Right. And then I also have a couple of cases,
10 Your Honour, for the Court to look at.
11
12 THE COURT: All right. Let's deal with the victim impact
13 statement. I would like counsel to look at it and satisfy themselves that it is a proper one.
14
15 MR. LIM: Thank you, Sir.
16
17 THE COURT: Before I look at it.
18
19 MR. LIM: On the cover, Sir, those are unreported cases.
20
21 THE COURT: All right.
22
23 MR. LIM: If I may be seated, Sir, just to review these?
24
25 THE COURT: Yes.
26
27 MR. LIM: Thank you, Your Honour. Your Honour, it's
28 my understanding that my friend has no issue with the two victim statements being filed
29 to this Court as an exhibit, Your Honour. I believe that would be for sentencing, Sir.
30
31 THE COURT: Fine. I will look at it, and if I have no problem
32 with it, we will mark it. Is the author of it present in court and wishing to read it?
33
34 MR. LIM: Yes. She's asked me, Your Honour, to read it
35 out for her. She's present in the courtroom, though.
36
37 THE COURT: Thank you. She understands it is her right to
38 read it if she wishes?
39
40 MR. LIM: She does, Sir. I've gone over that with her.
41

1 THE COURT: Thank you.

2

3 MR. LIM: She has asked me to read it. Would you allow
4 me to read it, Sir, at this point?

5

6 THE COURT: I understand.

7

8 MR. LIM: Perhaps, Your Honour, we can -- I can read the
9 one, first of all, dealing with Eradia (phonetic).

10

11 THE COURT: Yes.

12

13 MR. LIM: All right, Sir. This is the victim impact
14 statement of the individual Shera Ramcharan: Emotionally, I had become very attached to
15 Eradia, female cat, as if she were my child. Although being allergic to the animals, I felt
16 it was my responsibility to care for her until she was fully healed and I could provide a
17 proper home for her care. I cry every day I think about her and the things she went
18 through, feeding her every day and seeing how sad she looked. Not having someone to
19 care for her all the time broke my heart. So finding a new home and letting her go was
20 very difficult physically.

21

22 I had to travel back and forth to a suite I had rented for the two cats to live in, and it was
23 challenging. The drive took a toll on my back and neck across the -- on my back and
24 neck across the city twice a day. I've had to travel to feed and clean up for them as well
25 as all the bending, kneeling, and stretching to get them out of hiding places if they were
26 scared or to clean up extra messes. I've also had to go through an amount of allergy pills
27 or limit my visiting time because of the allergies to the animals that I have. I spent a lot
28 of time and money as well as hours of having a stuffy nose to make sure Eradia was
29 comfortable and happy until I could find a loving home.

30

31 I have spent the last year feeding and cleaning up after her and had her fixed as well. I
32 feel that she's a little baby I had to raise and take care of because I feel it was my fault
33 for letting her be a part of a broken home where she was broken before she could even
34 grow up.

35

36 The next victim impact statement again is from Shera Ramcharan with respect to Consie
37 (phonetic). Consie, male cat, I considered my baby boy. I feel he had the most trauma in
38 his short life, and he became my special friend. I sat with him every day to watch him
39 play and make sure he was eating and playing without pain. He always knew when I was
40 there in the suite I rented for him and Eradia to spend time with. I sat through many
41 tears and apologies to Consie while I watched him very slowly heal. I felt I had to pick

1 him up and hug him. Because of his punctured lungs, he would still wheeze. It was
2 extremely hard to give him away.

3
4 Physically my body hurts and aches when I think about Consie and wonder if he's okay.
5 I was stressed every day and had to make sure twice a day that I could drive to the suite
6 to feed, clean, and visit both Consie and Eradia. I had to pick him up from the hospital
7 and see for him until I found him a home, as well as Eradia from the Humane Society. I
8 felt it was my responsibility to love and care for him as much as I could until the right
9 people could take over the care for him.

10
11 This crime has been an emotional roller coaster. I feel I was put into a position to love
12 and care for a life in which I was allergic to. I find it has been unfair to me to put so
13 much love into two loving animals in which I feel I couldn't save until the worst
14 happened to them, only to have to give them away in the end. It was unfair to them to
15 put them in a home where they were abused. I was never a cat person, but Consie and
16 Eradia were more than just cats to me, and I always think about them.

17
18 THE COURT: The victim impact statements collectively will
19 become Exhibit S-1 in this sentencing.

20
21 **EXHIBIT S-1 - Victim Impact Statements**

22
23 MR. LIM: And I'm not sure if the criminal record
24 would --

25
26 THE COURT: There is a Pre-sentence -- I'm sorry.

27
28 MR. LIM: I apologize, Sir.

29
30 THE COURT: No, you go ahead.

31
32 MR. LIM: Sorry. I'm not sure if the criminal record was
33 already marked as an exhibit.

34
35 THE COURT: I don't know either.

36
37 MR. LIM: Perhaps Madam --

38
39 THE COURT: Is there a criminal record that has been entered,
40 Madam Clerk?

41

1 THE COURT CLERK: I don't have a criminal record.
2
3 MR. LIM: Okay. All right. Then the Court's right. It
4 should be collectively Exhibit S-1.
5
6 THE COURT: Is it admitted, Counsel?
7
8 MR. JOHNSON: Yes.
9
10 THE COURT: Thank you. Exhibit S-2.
11
12 MR. LIM: And then I'd suggest the next exhibit, Sir,
13 would be the Pre-sentence Report.
14
15 THE COURT CLERK: Do you have a -- do you have a copy of the
16 record?
17
18 MR. LIM: Of the -- sorry. Your Honour, if we can orally
19 admit the criminal record. It's just an obstruction charge.
20
21 THE COURT: I think that is not necessary --
22
23 MR. JOHNSON: Yes.
24
25 THE COURT: -- to have all of that on the record.
26
27 MR. LIM: Yes, Sir.
28
29 THE COURT: Let's make the Pre-sentence Report Exhibit S-2.
30
31 MR. LIM: I agree, Sir.
32
33 **EXHIBIT S-2 - Pre-sentence Report**
34
35 MR. LIM: And the Court has also a book of photographs.
36 That's already been entered in the trial as a full exhibit, correct?
37
38 THE COURT CLERK: That is correct.
39
40 MR. LIM: Thank you, Your Honour.
41

1 THE COURT:

I will hear submissions now, Crown.

2
3 MR. LIM:

Yes. Your Honour, the Crown is dealing, of course, with the sentencing of two charges before this Honourable Court. One of them is in respect to unnecessary pain and suffering to two animals, that being two cats, Eradia and Consie, as well as the production of an illegal controlled substance, to wit: cannabis marihuana, commonly known as marihuana, Sir. There were 12 plants, as you'll note, in respect to the -- in respect to the facts here.

9
10 The Crown's position on sentencing considers the Pre-sentence Report, the accused's background, the gravity of both the offences, as well as the current case law. In respect to the actual unnecessary pain and suffering or causing injuries to Eradia and Consie, the cat, the Crown is suggesting a sentence of 9 to 12 months actual incarceration, to be followed by 15 to 18 months probation.

15
16 Your Honour, the Crown fully recognizes the Pre-sentence Report and the need for rehabilitating this individual, which is also in the provisions of the *Criminal Code*. We're suggesting, besides the statutory terms, the main terms would be assessment and treatment as directed by the probation officer, looking at psychiatric and psychological issues, anger management, substance abuse.

21
22 Your Honour, we are also seeking, pursuant to section 447.1, that is section 447.1, a lifetime pet prohibition in respect to animals. I'm going to suggest the wording to be something to the effect of the accused shall not own, control, or possess any pet, including but not limited to dogs, cats, birds, ferrets, and rodents.

26
27 Your Honour, in respect to the production of cannabis marihuana, the Crown is suggesting that the sentence which normally would be a conditional sentence order, that in this case, considering that it was dealt with, shall we say, at the arrest in dealing with the last injury of the cat, that being Eradia, that seven days concurrent to the animal cruelty charges -- charge, Sir, would be appropriate.

32
33 I am also suggesting, Your Honour, that a forfeiture order should be made, and the Crown makes that application that all exhibits be forfeited to Her Majesty the Queen. Pursuant to section 109, Sir, the Crown would be seeking a ten-year weapons prohibition and a DNA sample, Your Honour.

37
38 Your Honour, it is the Crown's position that this is a situation, because of the charge is animal cruelty or the unnecessary pain and suffering and the injuries, under the *Criminal Code of Canada* that really we're put into a situation where we have nothing but to ask for incarceration, actual gaol time, rather than any other disposition. The Crown and

1 undoubtedly mindfully is aware of the generally -- of course the favourable Pre-sentence
2 Report in respect to the accused getting some community help, and that's why we're
3 suggesting the probation order.

4
5 However, Your Honour, like the Court of Appeal has suggested, there are some cases
6 where simply a period of incarceration is required. We are suggesting, Sir, that it is
7 required in this particular situation when you look at the case law, particularly here in
8 Edmonton, Alberta, and the prevalence of this, Your Honour, on animals, and even with
9 the domestic overtones, Your Honour, that this is a situation where really the Court needs
10 to look at what kind or how long should the period of incarceration be, Your Honour.

11
12 In looking at this situation, Your Honour, and, again, specifically the animals of -- the
13 cruelty to the two pets, that being Eradia and Consie, you will need to note, Your Honour,
14 that this is the sheer brutality of an unprovoked, violent attack on not one but two
15 innocent pets who were in no shape or form able to defend themselves against or protect
16 themselves against Bradley Chalmers. This happened not on one occasion but two
17 different occasion. The results were very serious injuries, Your Honour, and I'm saying
18 serious injuries not only just on the -- shall we say the public state, but when you
19 compare it to other crimes in the past, Your Honour, all which I note at least in the
20 Edmonton area since 2010 have rendered a sentence of actual period of incarceration,
21 Your Honour, where the Courts could not give a -- felt that a conditional sentence order
22 was appropriate, considering the gravity of the offence and needing to emphasize
23 deterrence and denunciation.

24
25 It is the Crown's submission, Your Honour, that the logical deduction is when you look at
26 the case law and the facts that are here that gaol needs to be imposed, followed by
27 probation.

28
29 The Crown proceeded by indictment, Your Honour. The maximum sentence, of course, is
30 five years. We agreed, Your Honour, and of course this will be of the benefit of the
31 accused, to roll it into one charge here, but we really have two separate offences. And
32 had they been in differently -- separately, there would have been a maximum of ten years.
33 We're not suggesting, of course, Your Honour, that ten years or five years is the
34 appropriate sentence for an individual who does not have a related record. However, this
35 is a violent crime and needy and worthy of a period of incarceration.

36
37 The Court must also look at the intention of Parliament, Your Honour. I provided two
38 cases to this Honourable Court, that in the matter of the *Connors* case, Your Honour, as
39 well as the *Rodgers* case in respect to animal cruelty or unnecessary pain or suffering or
40 wounding or maiming an animal. In both cases, Your Honour, it should be very clear to
41 this Honourable Court that the focus is on deterrence and denunciation and that even

1 because of the injuries, Your Honour, and because of the vulnerability of animals that,
2 while the Court can look at a conditional sentence order, when you look at it because of a
3 need for deterrence and denunciation, the Court will conclude logically that a period of
4 actual gaol is required.

5
6 In the *Connors* matter we turn to page 11, Your Honour, that's page 11 of the *Connors*
7 matter, paragraph number 51. That's page 11, paragraph 51. It reads:

8
9 To fulfil Parliament's intention in making these more serious
10 offences requires in this case that a longer period of incarceration
11 be imposed than the majority of cases decided prior to the
12 amendments. However, this case is also to be distinguished from
13 *R. v. Munro*, where the events occurred after the amendments and
14 the offender received a one-year sentence. In that case the
15 offender perpetrated extended multiple acts of varying forms of
16 torture on two animals over many months.

17
18 Your Honour, it's very clear here that in 2008, when the actual amendments were made
19 here, that the Court were putting a greater emphasis on the actual need for deterrence and
20 denunciation, hence why, Your Honour, the sentences increased and the charges were
21 made -- and there were additional charges put into the *Criminal Code*.

22
23 I turn to the *Rodgers* case, Your Honour, which enunciates it even further here. First of
24 all, Your Honour, on page 5 of the *Rodgers* matter, and I'm going to quote paragraph 25.
25 It states, Your Honour -- the Court concluded in citing the criminal -- looking at the
26 *Criminal Code* provisions:

27
28 In increasing the penalties, Parliament did conclude that the
29 previous maximums were wholly inadequate and failed to
30 represent the prevailing view in society as to the seriousness of
31 these offences. To fulfil Parliament's intention in making these
32 more serious offences requires in this case that a longer period of
33 incarceration be imposed than in the majority of cases decided
34 prior to the amendments.

35
36 It then goes on at the bottom of page 5, Your Honour, to cite the case of *R. v. White*.

37
38 It has been held that an increase in the statutory maximum is a
39 clear indication to sentencing Courts of the seriousness with which
40 the criminal conduct addressed by the changes is viewed by
41 contemporary society.

1
2 So, Your Honour, in considering -- looking at the -- shall we say the direction of the
3 Courts and looking at these matters here, they are to be considered certainly in a more
4 serious nature, certainly than before 2008. I note on page 10 again of this decision, of *R.*
5 *v. Rodgers*, paragraph 76:

6
7 After citing the Ontario Court of Appeal decision in *R. v. Power*,
8 176 C.C.C. (3d) 209, the Court upheld a 90-day sentence under
9 the old legislation for torturing and killing a cat, and the B.C.
10 Provincial Court decision in *R. v. Connors*, which is found in the
11 Crown's brief and which I have already referred to, he found, as I
12 have indicated, that the seven-month sentence for a first time
13 offender with the accused's otherwise impeccable antecedents
14 recognize the change in the appropriate range of sentence brought
15 about by the April 17, 2008 legislative reforms.

16
17 So, Your Honour, even a person with a very limited criminal record and basically
18 impeccable record, as a result of animal abuse, received a period of actual incarceration,
19 Your Honour.

20
21 And, finally, Your Honour, on page 11 of the same case, Your Honour, of *Rodgers*,
22 paragraph 86:

23
24 The *Criminal Code* makes it clear that the wilful infliction of
25 unnecessary pain and suffering on animals violates one of the
26 basic tenants of our society and is deserving of punishment. It is
27 also conduct which most members of our society find repugnant
28 and morally reprehensible.

29
30 I'm going to suggest, Your Honour, that doesn't even look at the fact that there were
31 overtones -- here we have two animals on two separate occasions and shall we say --
32 when I say in a domestic context, that obviously, as you can tell by the victim impact
33 statements, that an individual has been seriously affected about it. And, as we know by
34 the facts, she witnessed, that being Shera Ramcharan, the assault or the attack, the violent
35 attack, on Eradia and practically tried to stop the choking of Eradia as it was underneath
36 the tap, Your Honour. I think those are very significant considerations that we look at in
37 respect to sentencing.

38
39 To assist this Honourable Court here, I have provided the Court an outline of all the cases
40 since the Crown's office here in Edmonton has created the animal protection portfolio.
41 The animal protection portfolio was created in September of 2010. It does take a while

1 for cases, of course, to go to court. I can inform this Honourable Court that every single
2 decision that has been a *Criminal Code*, whether it be unnecessary pain and suffering or
3 wounding a maiming an animal under the *Criminal Code*, has led to a period of
4 incarceration.

5
6 Now, I certainly wouldn't just say that's the reason why the Court should give a period of
7 gaol, actual gaol, to Mr. Chalmers because of that, but when you look at the decisions and
8 the logic behind it, Your Honour, here, you'll see situations which are far less -- not as
9 violent and not with as serious injuries. And I would point out to this Honourable Court,
10 Your Honour, as we go through them, there's the case of *Cardinal*, first of all. *Cardinal*
11 there was a situation where it was an aboriginal individual. There was some type of
12 domestic argument, if I use the term, Your Honour. There were these two Chihuahuas that
13 were ready to basically go out shopping with the -- with the wife or the girlfriend that
14 were in some kind of carry-all bag. The accused got mad, picked up the bag, and tossed
15 it against the wall. There were no injuries to these dogs. They were yipping or yelping,
16 as one can understand, but they were not injured. The Court in that case gave -- rendered
17 a decision of 15 days actual incarceration because they said it was a senseless attack.

18
19 Now, *Dudar* was a little more clearly -- it deals I think with the conditional sentence
20 order even more so because here have an individual who was walking his dog, Your
21 Honour, it's my understanding. This is a case before Judge Anderson, and this is about
22 two months ago. Where he was walking his dog in an area just not too far from here, the
23 Courthouse. A police officer was in his car, was my understanding, happened to look up
24 and see the accused yank at the dog's chain three times. And then the accused took the
25 leash and essentially whipped the body of the dog three or four times. The dog
26 whimpered, whined. It was noted that his tail was between his legs, so to speak here, and
27 he sort of sauntered off and was obviously cowering, was the description I think of the
28 officer. There were no injuries, certainly no broken bones or any such thing requiring
29 medical attention.

30
31 The Court in that particular situation stated that -- originally the idea was to a joint
32 submission, Your Honour, for 15 days following the case of *Cardinal*, but the Court said,
33 no, they had to set that apart, that behaviour, that it was a senseless attack on a dog that --
34 and it basically was -- the Court described it as defenceless and a vulnerable animal and,
35 therefore, a sentence of 90 days incarceration, actual incarceration, was put on that
36 particular accused. And that's in the matter of *Dudar*.

37
38 However, those cases are far less -- shall we say the gravity of the offence is not nearly
39 as bad as the situation at bar, which I would suggest to this Honourable Court, looking at
40 the cases since 2010, are the worst situation of abuse and animal cruelty that we have had
41 sentenced up to this point.

1
2 In the case of Loyer (phonetic), Your Honour, and I believe this one was also an
3 aboriginal situation here, Judge Matchett actually looked at the issue of a conditional
4 sentence order, whether it was appropriate for an individual with no criminal record. This
5 case here, again, was another domestic argument. The accused was mad and was leaving
6 the residence, and he takes the cat, family cat, and throws it out the window, breaking its
7 leg. There was a three-months period of incarceration and probation rendered on that
8 particular sentence, and that's where the Court actually looked -- considered a conditional
9 sentence order but agreed that actual gaol was required in such an unnecessary attack on
10 an innocent victim because, again, the focus was on deterrence and denunciation. And I
11 note that is following the -- of course the change in legislation since 2008.

12
13 In the case of *Johnny St. Laurent*, which is another unreported decision here again in
14 Edmonton in the last two years, in that case the accused, for whatever reason, out of
15 anger, sprayed the dog with bleach in the eyes. It actually required treatment to flush out
16 the irritants out of the eye. The dog actually had to be anesthetized to get the actual
17 bleach out of his eyes. But, again, in rendering a decision with respect to a period of
18 incarceration of three months and probation, the Court considered the vulnerability of the
19 dog and deemed that it actually had to be a gaol sentence.

20
21 The case of *Bull*, Your Honour, is -- I believe it's Charles Bull. In that particular case
22 here we're dealing with an aboriginal individual, and in this case here he did have a
23 criminal record, not related, though, I should note. And he got six months' incarceration
24 for bashing a bottle over a dog's head that required stitches because of multiple cuts.
25 Again, an actual period of incarceration was deemed required.

26
27 This is not me picking and choosing. These are all the cases that we have had, Your
28 Honour, at least that I've had, since the portfolio has been created. So I'm suggesting
29 that, Your Honour, that they're also, like in this case here, in some cases positive
30 Pre-sentence Report, *Gladue* influences, and certainly people here who admitted -- all of
31 them had pled guilty. And I notice that I believe all of them had pled guilty, Your
32 Honour, whereas in the case at bar here we actually have the accused pleading guilty on
33 one charge or part of it, sort of the facts during -- midway during a trial after the witness
34 had testified.

35
36 But that being said, Your Honour, the Crown doesn't have to rely upon that for a reason
37 why gaol should be appropriate when you consider this case law, Your Honour, the
38 intentions of Parliament, and even the weighing of, shall we say, the mitigating and
39 aggravating factors. And that's considering the lack of criminal record of the accused,
40 considering the guilty plea on -- essentially to the charges, and considering the positive
41 Pre-sentence Report, that this is a situation where gaol is required.

1
2 I will admit, Your Honour, that had this been only a charge of the production and the
3 amount that we're dealing with of marihuana that a conditional sentence might -- would
4 be appropriate. However, because of the animal cruelty, the animal abuse, and clearly,
5 Sir, you know, this situation here where it is quite a horrific and vile attack on two
6 innocent animals here, that was what takes the situation where we basically are looking at
7 how much gaol is appropriate.

8
9 This Court may note that we're often dealing with cats and dogs, and there have been
10 some comments I know in the past about how to treat them or almost value them. The
11 case of *Pappa* and *Henkel*, is a Provincial Court unreported decision here in Edmonton,
12 Alberta. That was under the *Animal Protection Act*, but it was very clear that the Court
13 had considered, Your Honour, that ferrets at least and cats and dogs should all be treated
14 in respect to the gravity of offence on them as equal. We are not to value a cat more
15 than dog or a dog more than a cat or such, and that's -- so, Your Honour, you'll note that
16 we're dealing with all cat and dog cases, but I'm saying that there's no -- that the cat
17 should be treated -- or these two cats, actually, should be treated with fairness and not
18 considered lower or higher than any of the other sentences involving dogs.

19
20 In looking at the sentencing, certainly we see the Pre-sentence Report and looking at the
21 background of this accused here. This Court -- and I do have some cases, but it's well
22 aware the Courts -- the Court of Appeal in Alberta here has looked at -- and there's some
23 situations where a non-custodial or -- shall we say a conditional sentence order is not
24 adequate to deal with the actual offence, and that's what the Crown was saying here. And
25 when you look at that, Your Honour, here it says, you know, sometimes the circumstances
26 are not that unusual enough to warrant a CSO, in other words, out of consideration for the
27 accused that it's something so unique that needs to be considered here.

28
29 Your Honour, it's not uncommon that people have hard lifestyles or life backgrounds with
30 their family. There's nothing really particularly unusual in this particular case here.
31 Certainly he's had some challenges, but the problem is that, Your Honour, you'll note that
32 in these other cases here which often have aboriginal backgrounds and unique
33 challenges -- in the case of *Bull*, for example, Your Honour, and in the case of *Cardinal*,
34 both of them had hard backgrounds, not only because of their aboriginal background but
35 also just because of their life situations.

36
37 The Court still said that the paramount need and requirement was deterrence and
38 denunciation, that meaning gaol time, even on the case where there's absolutely no
39 injuries on one animal. Those cases that I've talked to you about, the two cases of
40 *Rodgers* and *Connors*, they deal with one animal. I would suggest, Your Honour, when
41 you look at the actual injuries to the animals, to Eradia, first of all -- Eradia is the cat that

1 was allegedly -- or that was thought by the accused -- appears that may have been on the
2 countertop and broke something and he wakes up. Your Honour, you have to consider
3 the fact that he was choked and put under water here, and despite the attempts by
4 Ms. Ramcharan to get him to stop, the accused didn't stop. And he actually tossed the
5 cat 15 to 20 feet into a wall.

6
7 We know by the end result that that was enough force to cause this cat to have a broken
8 leg or arm, depending what you want to call it. But certainly that required surgery and a
9 pin.

10
11 In the case, Your Honour, of Consie, again, a second case involving the same accused
12 here, so we're not just talking a momentary lapse of judgment here -- and the first one
13 where he had time to stop when Shera Ramcharan tried to get him to stop, he didn't do
14 that. Here we have a situation where he hit the dog (sic) three times into the wall, Your
15 Honour. And you'll -- and if you look at the actual photographs between 43 and 52 of
16 the actual book of photographs, you will clearly see the progression, if you want to call it
17 that, of the actual amount of force that was obviously applied because it actually breaks
18 the drywall. You'll see, shall we say, as we go to the second hole or damage to the wall
19 that there's more blood and more fur in the actual damaged drywall. And finally,
20 according to the evidence -- or according to the agreed statement of facts, that the cat is
21 found just a couple feet from the last hole here, Your Honour. You'll see the blood
22 splatter in those pictures.

23
24 So this is obviously of an extreme nature here. He could have stopped after one time.
25 He didn't, Your Honour. This is not simply a one shot or a one-punch thing here, and
26 that's something that also needs to deal, I'd suggest, in sentencing here. That's what
27 makes it so serious and so violent, Your Honour, and particularly disturbing, Your
28 Honour, here, that the public demands justice. And the public need to know that this is
29 not acceptable behaviour.

30
31 One can also argue, Your Honour, furthermore, that this is a situation because we have
32 two very violent attacks on basically -- very violent and cowardly attacks on innocent
33 little animals, Your Honour, that it's a situation here where you have a pattern of abuse.
34 It wasn't just simply I got made one day, which we're not -- of course the Crown is not
35 advocating, and it was just one quick slap or punch. And there were, of course, very real
36 consequences.

37
38 Unlike the case in *Cardinal*, Your Honour, where there were no injuries, or in the case of
39 Dudar, which he had 90 days' incarceration, we have a situation here where we have very
40 serious injuries that required medical attention. In the case of Consie, we had internal
41 injuries, Your Honour, we had injuries to head, we had broken bones, Your Honour. We

1 know that even afterwards, according to the victim impact statements, the cat was still
2 having trouble breathing because of the punctured lung. It was so much force, Your
3 Honour, it caused internal injuries.

4
5 Likewise in the case of Eradia, I think the most disturbing here is the issue of power,
6 Your Honour, here in the domestic context. There was a domestic argument, again, much
7 like the other cases that I have said it to you, Your Honour, with some domestic
8 overtones. And that's something that's in the provisions of the sentencing provisions of
9 the *Criminal Code* as well. We have to look at it as a domestic, shall we say, context.
10 But what's disturbing is that Shera Rancharan is trying to get the accused to stop from
11 choking this cat under water, and he didn't stop. Instead, he then tosses it.

12
13 The Court, I'm going to suggest, not only needs to look at -- when you're looking at the
14 aggravating and the mitigating circumstances, but look at the aggravating factors here are
15 now -- we actually have repeated offences, very serious injuries, in a domestic situation.
16 And perhaps one of the most significant things which the Courts have been looking at, I
17 would suggest, Judge Matchett and Judge Anderson in Dudar particularly looked at that, is
18 the trust or the dependency situations. This is a situation where it was the owner who is
19 basically like a lifegiver, the caregiver to these two animals. These animals are not even
20 like children, which are vulnerable enough. They cannot talk and they cannot call for
21 help. They cannot take themselves to a vet and get medical attention.

22
23 And what's recently more, shall we say, amplified, the horrificity of the situation is
24 screaming out for deterrence, I'm going to say specific deterrence because it happened
25 twice, is that you have a situation where the -- at least on the second occasion with Eradia
26 you have Shera Ramcharan watching that. And, as you can tell, she has been affected by
27 the loss and injuries to the cat. There's been guilt on her as a result of these injured cats
28 here. These are things that I know that are not lost on this Court.

29
30 And so while we need to show humanism and be somewhat understanding of the
31 accused's situation and certainly consider the Pre-sentence Report, we cannot forget that
32 these are two real lives that are unable to stand up for themselves, in many ways literally
33 in this case, Your Honour, here. We need to make sure that justice is served properly, so
34 even though we want to of course really look at the sentencing provisions, try to avoid
35 gaol time, to look to see if there's something else that can deal with it here, however,
36 when you look at the cases here, Your Honour, specifically the ones here in Edmonton
37 that are most recent here, it is clear that cases with injuries -- and here we have two cases
38 with severe injuries, I'd say the worst situation -- to the worst of even one of those
39 situations at the very best, but we have two of them with major injuries here, we have to
40 look at almost each situation where it's not an issue of is this a conditional sentence
41 order. The issue is how much time, gaol time, actual gaol time, is going to be done to

1 get that message clear, which Parliament has invoked in 2008.

2
3 Your Honour, in closing here, I'm suggesting to this Honourable Court here is that we
4 need to take this matter really seriously. I recognize -- or we recognize as the Crown
5 fully that the accused has his rights, and I understand why he wants to avoid gaol time.
6 And maybe he even has employment opportunities here, but we need to stand up here and
7 make a clear statement to the communities that abusing -- in this case not just abusing,
8 violently attacking two animals unproved who were unable to defend themselves needs to
9 be taken seriously and that it is a violent offence and we will not tolerate this in our
10 society. As a result, a period of incarceration is required to make that point clear. That
11 gets out deterrence, that gets out denunciation, and that gets out justice.

12
13 Those are my comments, Your Honour, unless you have any questions.

14
15 THE COURT: Where are these cats now, Crown?

16
17 MR. LIM: Your Honour, the cats were -- as you may
18 recall by the victim impact statement, they were eventually put up for essentially
19 adoption. They found suitable homes for the cats.

20
21 THE COURT: That is what I took from it.

22
23 MR. LIM: Right.

24
25 THE COURT: I just wondered if there was information beyond
26 the victim impact statement that the cats are alive, if not well, somewhere.

27
28 MR. LIM: I can inform you I spoke to complainant. The
29 cat Eradia with the broken leg, it took a while for her to obviously stop from limping, but
30 she's doing better. The cat Consie apparently had changed quite a bit. It was quite afraid
31 and cowering, which often happens, Your Honour, by the way for animals like this, and
32 had trouble with his lungs for quite some time. So you should be aware of that. But
33 certainly, Your Honour, it wasn't simply that it just went away. As you can appreciate,
34 this required medical attention.

35
36 The Crown is not seeking any financial restitution. As you know, there's sections to deal
37 with the animal protection or cruelty. That's because mainly the complainant had paid for
38 them. She just wants the cats -- she just wants the cats to have a good home. She could
39 not basically look after the cats because of her allergies, Your Honour.

40
41 THE COURT: I never thought that it was anything but

1 marginalizing these kind of offences when somebody says, well, I'm sorry to beat up on
2 your animal, I will pay the vet bill.

3

4 MR. LIM: And I'm just saying that they just had that on
5 there, and that's not -- I'm not seeking that.

6

7 THE COURT: I don't think I need to go on. Let me hear
8 from your friend.

9

10 **Speaking to Sentence by Mr. Johnson**

11

12 MR. JOHNSON: Thank you, Sir. Sir, we have a well-enunciated
13 Crown position on that one, and we've also had the benefit of previously reading the
14 Pre-sentence Report. What you'll get from that, and I'll pick out highlights, is -- what I
15 really do pick out is that the accused is shamed. He himself is remorseful. My friend
16 refers to a message to get out there and be clear. Well, the message is clear to him. He
17 understands it's him that's the problem. He understands that -- what he did, but he also --
18 and we have to look at this as part of your consideration. He did more than learn from
19 that. He's improved on that. He's picked up his act. He's turned himself around. He
20 discovered the enemy, and the enemy was him.

21

22 It's -- what we have to also look at here is that the community, as my friend refers to,
23 doesn't look at this just in what you're doing to these poor animals. They also say, all
24 right, let's send him to gaol. Well, if you just send him to gaol, I would submit that that
25 is not where the community view is likewise. Yes, there should be a message sent that he
26 goes to gaol, but do we just take him and put him away and let him sit there and fester on
27 that? I'm looking at the -- what in your deliberations are the balancing act, and rather
28 than go on, I'm looking at the fact that we have somebody here who is capable of being
29 rehabilitated. He knows what the problem is. And, again, he is recognizing that.

30

31 And he also has picked up his own personal act. He's got out of the -- the drugs that he
32 was into and the alcohol and the quasi steroids, and he's got himself straightened out.
33 Now, it's been two years since this happened. He's got himself, yes, the job. It's right
34 there in the Pre-sentence Report, and he's got himself in a situation where he can move
35 forward. And do we want to take that away from him?

36

37 Now, he served two weeks approximately from the time of the incident on or about the
38 14th of that month until, as I understand, the 30th of that month. That's basically 15
39 days. Now, so he knows what the inside of a gaol cell is, and he's reflected at the time
40 upon that, and he's acted upon it. I mean, this was in the middle of a domestic dispute
41 with the -- Ms. Ramcharan. We get that. And this was -- this is a feature of his

1 personality that came out that he probably wasn't aware of or he should have learned
2 better, but he's definitely learned from it.

3
4 Where we're coming here from is let's do justice but let's look at what we got to do for
5 the accused here. We don't have to do anything, but recognize that on his own he's
6 picked it up and he's learned from this incident.

7
8 Now, I can sit here and argue for a CSO, and I'll put that down that, yes, the defence
9 requests a CSO. The case law here from your brothers here in Alberta makes that a hard
10 row to hoe. However, let's be clear, is that a CSO, a conditional sentence order, is
11 available. It should be considered, and we would say that, based upon the Pre-sentence
12 Report, based on the fact that he's done some time, based on the fact that, yes, we're
13 going to have to send a message out that this kind of offence is not to be tolerated, but in
14 the total circumstances we got to remember he's going to be under house arrest and it's
15 going to be for a longer time than go to gaol, do whatever time, then they let you out
16 whenever. He's going to have to go with conditions. He's going to have to come back
17 every night and sit in the house. He's going to be restricted in his freedoms. So he will
18 be serving but serving in his home.

19
20 Now, I would ask you -- invite you to consider the fact that he can do intermittent
21 sentences. He does have a Monday, Friday. His boss, employment, is onside, and we do
22 have the restriction of 90 days. That's just -- that's the way it's set up. That's the way
23 the legislation is set up. There's other legislation that we could refer to, but let's look at
24 the totality of it all, and I would make the submissions that in the -- all the circumstances
25 of this particular case that an intermittent sentence is appropriate and that it's doable. It
26 sends a message to society that here's a person who has done his short
27 (INDISCERNIBLE), here's a person that has had two years of supervision, here's a
28 person that actually is going to be going to gaol in the future.

29
30 It also serves the purpose of, in this particular person, continuing his good behaviour. I
31 mean, it's part of the sentence. It's a penalty. Call it what you wish. Punishment. I'm
32 going to search for a word, and I'm not going to find it, okay.

33
34 Now, we then take a look at these particular cases here in Alberta, and, I mean, I can get
35 into the exercise of perhaps distinguishing them. This is what I'm dealing with, basically
36 the submissions of the Crown, and I respect that. But if we take a look at something like
37 *Dudar* where, again, it was referred to -- that's the one where the police are yelling at this
38 person to stop and then he -- so what? I'm going to whip my dogs anyway right in front
39 of the police. Now, that is -- that's above the board. I mean, to be given a sentence of
40 three months in gaol, well, that's basically he's snubbing his nose at everybody, and that's
41 a factor that should have been considered, that probably was considered by Judge

1 Anderson.

2
3 Next I'll take a look at the case of R. v. Loyer, your brother Judge Matchett. Now, that
4 one has some similarities with this particular case as it's set out by my friend. It's a
5 sympathetic background. Well, I'm not submitting a sympathetic background, I'm
6 submitting a positive Pre-sentence Report that this person -- he came out of this thing
7 changed. He came out of this thing remorseful. It's kind of hard to believe that he's
8 capable of doing it, the beast within. Okay. That -- he turned it around, and, again, that's
9 the favourable report.

10
11 We're talking about his probation officer, who has seen this person over the last two
12 years. He knows this person. This person here is somebody that will learn from it. He
13 knows that he's going to be punished, but yet, all things considered, a conditional
14 sentence is appropriate in the circumstances there. And I'm going back to R. v. Loyer.
15 Again, what we have here is a -- I'm going to use the word favourable Pre-sentence
16 Report, and I would say that that should be largely considered in your deliberations.

17
18 Now, we have one count, and we have the marihuana. The marihuana in the home of the
19 complainant -- not the -- well, I'll call her the complainant, and the accused. He accepts
20 responsibility that, yes, the marihuana was there. He's pleading guilty. My submissions
21 there with that would be this would be an appropriate place for a concurrent sentence. It
22 was in the home, but it was not out in public or in any manner affecting the public.

23
24 I further -- so I'm saying in your deliberations consider, well, whether or not this person
25 can have anything less than 90 days. That's the cut-off on the intermittent. Now, if it's
26 going to be over, greater than 90 days, he's going to gaol. The job's gone. He's got to
27 go out and find something new to set up, a new place to live, get re-established. Is that
28 the message we want to send? I think we want to send the message of he's got it. He
29 did wrong. He admits it. Broadcast to the world. He's guilty. He will serve time. He
30 has served time. He's done two years under interim release. He's going to probably do
31 another two years. This is going to be affecting him greatly. What more does the
32 community want?

33
34 As for the other matters such as not owning an animal, I do believe the case law here
35 says five to ten years for much worse than this. We don't take a position on that. I'll say
36 five years.

37
38 As far as anything else, well, we can bring that up when the time comes.

39
40 Those are my submissions. Thank you.

41

1 THE COURT: Is there any *Gladue* principle that I need to
2 consider in this situation?

3

4 MR. JOHNSON: No.

5

6 THE COURT: Thank you. This is a serious matter and there
7 is much to be considered, and I don't plan to take any less time than I ought to take with
8 it. I am going to suggest, gentlemen, that I will give you my decision at 2:00, okay.

9

10 MR. LIM: Your Honour, I'll just inform the Court that in
11 respect to my friend's comments about the prohibitions, actually on the ones where there's
12 injuries or broken bones, we've been standardly getting anywhere from 10 to 25 years to
13 lifetime on those matters, Sir.

14

15 THE COURT: Okay.

16

17 MR. JOHNSON: Frankly, my -- I take no position on that.
18 That's not why we're here.

19

20 THE COURT: Very well, gentlemen.

21

22

23 PROCEEDINGS ADJOURNED UNTIL 2 PM

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1 Certificate of Record

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I, Samantha Daniele, certify that the recording is the record made of the evidence in the proceedings in Provincial Court, held in courtroom 354 at Edmonton, Alberta on the 23rd day of April, 2013, and that I was the court official in charge of the sound-recording machine during the proceedings.

1 Certificate of Transcript

2

3 I, Brandy Coyes, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best
6 of my skill and ability and the foregoing pages are a complete and accurate transcript of
7 the contents of the record, and

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10 is transcribed in the transcript.

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1 Proceedings taken in the Provincial Court of Alberta, Law Courts, Edmonton, Alberta

2
3 April 23, 2013 Afternoon Session

4
5 The Honourable Provincial Court of Alberta
6 Judge Stevens-Guille

7
8 C.M. Lim For the Crown
9 J. Johnson For the Accused
10 S. Daniele Court Clerk

11
12
13 THE COURT: Good afternoon.

14
15 MR. LIM: Good afternoon, Sir.

16
17 MR. JOHNSON: Good afternoon, Sir.

18
19 **Sentence**

20
21 THE COURT: September 21st, 2012, this Court commenced a
22 trial of Mr. Chalmers on a number of charges, but as is relevant today, a charge -- two
23 charges and a charge now under section 445(1)(A) of the *Criminal Code*. I will
24 paraphrase it and not put in things that don't matter: Maim, wound, poison or injure, in
25 this case a cat. In this case there were two cats, and he maimed, wounded, poisoned or
26 injured and caused to be in pain both cats separately. That it is in one plea or one
27 circumstances of a plea does not mean he did it twice. It means that he is not going to get
28 sentenced consecutively, one after the other, but it is an aggravating factor.

29
30 The maximum punishment for what he has pled guilty to with respect to the abuse of the
31 cats, assault I call it, is five years in gaol, because it is proceeded with indictably. Had
32 the Crown opted to proceed with it summarily, it is still a fine of \$10,000 and/or 18
33 months in gaol. All this reflects how seriously the Parliament of Canada views this.

34
35 There is sort of a tendency for some to say, well, these are just animals, they are not
36 people, what's the big deal? Both the Parliament and I think the majority of Canadians
37 view the conduct that he has pled guilty to to be deserving of serious denunciation on
38 their behalf and, if not, punishment -- a sentence which will let everybody else know, if
39 he is past that and doesn't need to know it now, that if you abuse animals who are not
40 able to defend themselves obviously and not able to speak out, they are very vulnerable, it
41 is not going to be viewed as though they are just animals and you will face a significant

1 response if you are caught and convicted.

2
3 The Crown has submitted that what the Court ought to do here is to sentence him to 9 to
4 12 months in gaol, plus 15 month's probation, plus an order that he not possess animals
5 for 10 years under the provisions of the *Criminal Code*.

6
7 I will deal with the grow op plea he made separately.

8
9 The offence, as I say, is wilfully causing unnecessary pain or suffering or injury to an
10 animal.

11
12 Provisions of the -- provisions of the *Criminal Code* with respect to sentencing generally
13 are found in section 718 of the *Criminal Code*, and I think it is always useful to look at
14 them and reflect upon them before imposing a sentence. The purpose and principles of
15 sentencing are these: A fundamental purpose of sentencing is to contribute, along with
16 crime prevention initiative, to respect for the law and maintenance of a just, peaceful, and
17 safe society by imposing just sanctions that have one or more of the following objectives:
18 (a) To denounce unlawful conduct. There is no question that that factor has some
19 paramountcy here. (b) To deter the offender -- I am not so sure that that is so significant
20 anymore, from what I have heard -- and other persons, which is significant, it is called
21 general deterrence, from committing offences such as assaulting innocent animals.

22
23 To assist in the rehabilitation of the offender, and that should never be lost sight of
24 because this young man who in the evidence before me did not necessarily do this
25 because he was so drunk he didn't know what he was doing. He has got some mental
26 issues that contributed. It was what is sadly a situation akin to a lot of other cases of
27 animal abuse, that is in the context of domestic dispute, to put the last word on a
28 domestic dispute, hurt your spouse's pets, I guess.

29
30 It is to promote a sense of responsibility in offenders and acknowledgement of the harm
31 to the victims and to the community, and I accept what I have heard, that that has been
32 accomplished given his two years and a very complimentary Pre-Sentence Report.

33
34 There was a Victim Impact Statement filed that speaks for itself, and it speaks I guess for
35 everybody who has got any interest in pets and the general public because I think most
36 people like animals. Many people love them.

37
38 There is also a provision which has to be talked about here, and it is this. Other
39 sentencing principles: An offender should not be deprived of liberty if less restrictive
40 sanctions may be appropriate in the circumstances, and all available sanctions other than
41 imprisonment that are reasonable in the circumstances should be considered for all

1 offences -- all offenders, rather. The Crown is asking for incarceration. That must be
2 given heed to, those provisions of the *Criminal Code*.

3
4 Lastly, there's a provision in the *Criminal Code* having to do with conditional sentences,
5 section 742. This says this:

6
7 If a person is convicted of an offence other than a serious personal
8 injury offence --

9
10 And I do not think that covers serious personal injury to animals, although I am not sure
11 of that.

12
13 -- as defined by section 752, a terrorism offence or a criminal
14 organization offence prosecuted by way of indictment for which
15 the maximum term of imprisonment is ten years or more, or an
16 offence punishable by a minimum term of imprisonment --

17
18 Which is not the case here.

19
20 -- and the Court imposes a sentence of imprisonment of less than
21 two years --

22
23 I am not contemplating imposing a sentence of more than two years.

24
25 -- and is satisfied that the service of the sentence in the
26 community would not endanger the safety of the community and
27 would be consistent with the fundamental principles and purpose
28 of sentencing set out in section 718 and 718.2, the Court may, for
29 the purpose of supervising the offender's behaviour in the
30 community, order that the offender serve the sentence in the
31 community, subject to the offender's compliance with conditions
32 imposed under section 742(3).

33
34 The key piece of that in a case such as this is this: Would not offend the principles of
35 sentencing set out in section 718. And one of those, and what this is all about, in truth, is
36 that one of the principles is deterrence, and the other principle of great note here is
37 denunciation, but general deterrence. And you only send people to gaol, in my view, if
38 they can be proved to be dangerous to the public. If you do not, and I do not accept that
39 that is the case here, or that a message has to go forward, which I think is the case here,
40 to people who contemplate committing the same offence or are careless whether they do
41 or not, that the consequences are going to be unacceptable, and they are going to include

1 incarceration.

2
3 I do not consider a conditional sentence of imprisonment to be appropriate here.

4
5 We then come to the issue of whether or not the sentence should be such that intermittent
6 service of it is not or is available. That is that the sentence of over 90 days intermittent
7 service is not available. Under 90 days it is. It is not automatic, but it is within my
8 discretion to grant it, and, indeed, a couple of these sentences -- or at least one of them,
9 Judge Matchett's sentence in *R. v. Oyer* of three months in gaol included a provision that
10 it be served intermittently.

11
12 Judge Anderson, a fellow judge in (INDISCERNIBLE), considered that real gaol time
13 probably was more to the point. There has been a dispute, and our own Court of Appeal
14 has rendered decisions on both sides of this, as has the Supreme Court of Canada. When
15 we are talking about deterrence, it may be that a well-crafted conditional sentence order of
16 two years less a day, which is as long as it could be, is effective as time in gaol. I
17 suppose that is so unless you have ever heard the clang of the gaol door behind you in
18 terms of the difference.

19
20 All of that said, I do give credit to Mr. Chalmers for, after we started the trial but
21 nonetheless pleading guilty. I give him credit for a very positive Pre-Sentence Report. At
22 this stage he has his right to stand up and say what he wants to say to the Court before I
23 say what I am going to say.

24
25 Mr. Chalmers, have you got anything you want to say?

26
27 THE ACCUSED:

28 Yes, Sir. I'd just briefly like to say I am so
29 sorry for what I have done. I got myself into an unhealthy relationship. I didn't have the
30 tools to deal with it, and I made huge mistakes, which are going to follow me for the rest
31 of my life. And I just hope that the Court will see fit that I can continue with the positive
32 changes that I've started to make. That's all, Your Honour.

33 THE COURT:

34 Thank you. I respect that. Nonetheless, I am
35 driving, in my view, by established authority to interfere with your recovery to this extent.
36 The Crown has sought 9 to 12 months of incarceration followed by 15 months' probation,
37 and that is because of the aggravating factor of two cats and the unspeakable, unspeakable
38 pain which, for whatever reason, you inflicted on these two animals, which the people
39 would want me to tell you was so unacceptable that I should do something of some
40 significance.

41 What I am going to do, Sir, I am afraid, is to sentence you to some time in custody.

Stand up, please. I think that I accept your remorse. I think it is honest. You had been in a bad place. I don't know if you have mental issues that need to be dealt with or other issues that need to be dealt with. I am inclined at the lower end of the Crown's recommendation, and I sentence you to 9 months in gaol.

I give you credit for what I understand to be about half a month, so making the net sentence for pre-trial custody time as a further 8 1/2 months.

In addition, because of the principle that we should help you with your rehabilitation -- you are working on it yourself, but whatever help you can get is not a bad idea -- that you be placed on probation for 15 months and that you report under that probation to adult probation in Edmonton within two working days of your release from custody and thereafter as required by probation and that you attend for and diligently follow up on such assessment, treatment, and counselling for any issues that you have. I am not going to make it any more complicated than it has to be. That you keep the peace and be of good behaviour.

I have not heard necessarily that alcohol or drugs would -- was part of this, but I do not want to set you up for failure. Have you got any issue with any drugs?

THE ACCUSED: Not at the moment, Sir, but definitely -- it definitely wouldn't hurt. I mean, I've been clean for just about two years now, but --

THE COURT: But would it help you if I told you you had better stay clean or you have to come back?

THE ACCUSED: Oh, absolutely.

THE COURT: Okay. I prohibit you, therefore, from possession or consumption of any alcohol or other substances that are prohibited under the *Controlled Drugs and Substances Act*, without a medical prescription.

Anything else you would like me to add? I am trying to help you here. This is a tough day for you, I understand that, but I am doing -- I am hopeful at the end of the day to sort of complete your exit from the other end of this tunnel.

MR. JOHNSON: I'll just interject for (INDISCERNIBLE) just getting himself ready to go away for a stint. Could this commence May 1st?

THE COURT: I am not so sure what my jurisdiction is to say that a sentence -- defer the commencement of service of sentence. Mr. Lim, can you help

1 me there? I have been asked this the other day, and I had two opinions.

2

3 MR. LIM: I think, Your Honour --

4

5 THE COURT: If it was an intermittent sentence, then I can --
6 but it is not an intermittent sentence.

7

8 MR. LIM: That's my understanding, Your Honour, correct.

9

10 THE COURT: I am afraid I will have to start now. You will
11 have to make some arrangements. I am sure that the sheriff officers will help him with
12 all of that.

13

14 MR. JOHNSON: Maybe a short discussion after you leave,
15 before the sheriff takes him away.

16

17 THE COURT: Okay. I am going to waive surcharging. Now,
18 that marginalizes a serious matter to me. I do not think he should be paying money on
19 top of the other penalty that he is paying for all of this.

20

21 And I gave him credit as well, if I did not say so, for not having any prior record. This
22 was an aberration. Unfortunately, it was one that the Parliament of Canada requires be
23 addressed this strictly and seriously as I am afraid I have had to.

24

25 MR. LIM: Your Honour, he was of course -- would you
26 consider --

27

28 THE COURT: I am sorry. I have to deal with the other
29 matter.

30

31 MR. LIM: Right. Sorry, Sir.

32

33 THE COURT: The grow op. I take the Crown's position to be
34 that the grow op was in the house. I am just going to make a sentence that I am going to
35 make concurrent, which keeps everybody happy, about sentences that grow ops need. I
36 am going to make it for one year -- I am sorry. I am going to make it for six months
37 concurrent. It will not add any time. I am going to waive surcharges on that as well.

38

39 MR. LIM: Your Honour, of course, there's the other
40 applications with respect to the forfeiture --

41

1 THE COURT: Yes. There will be an order for forfeiting of
2 everything that was seized during the course of the investigation of the grow op.
3

4 MR. LIM: DNA sample.
5

6 THE COURT: And there will be an order that he provide a
7 sample of his DNA, as required by the *Criminal Code of Canada*. Lastly, that there be a
8 ten-year weapons prohibition, as is provided by section 109 of the *Criminal Code of*
9 *Canada*.
10

11 MR. LIM: And the Court -- the Crown asks Your Honour
12 for consideration about the prohibition, which is usually 25 --
13

14 THE COURT: Well, I thought of that. I looked at that, and I
15 am prepared to do that. Have you got any problem with not being able to have any pets
16 for --
17

18 THE ACCUSED: That's fine with me.
19

20 THE COURT: You were asking for ten years. Those
21 provision --
22

23 MR. LIM: Actually, Your Honour, I'd ask for 25 years on
24 this considering --
25

26 THE COURT: 25 years.
27

28 MR. JOHNSON: I'll say 10. I think the judicial authorities --
29

30 THE COURT: 25 years is a long time, and it can be revisited,
31 but I will make the order under section 447. I think it is 7, isn't it?
32

33 MR. LIM: Point 1, Your Honour.
34

35 THE COURT: That you be prohibited in the words of that
36 section from owning, possessing any animals, domestic animals.
37

38 MR. LIM: Thank you, Sir.
39

40 THE COURT: Unless he is required -- you know, horses and
41 things, I do not know where that fits in. Part of his life isn't needing to be on the horse,

1 is it, or is it?

2

3 THE ACCUSED:

It is.

4

5 THE COURT:

Or being around cattle.

6

7 THE ACCUSED:

(INDISCERNIBLE).

8

9 MR. LIM:

10 some reason there are some exceptions, he can always apply -- contact myself and then
11 we make application --

12

13 THE COURT:

If you can't understand that, it is as is provided

14 for in the Code --

15

16 MR. LIM:

Right.

17

18 THE COURT:

-- which is sort of a blanket coverage.

19

20 MR. LIM:

Right. Thank you, Sir.

21

22 THE COURT:

All right. Thank you.

23

24

25 PROCEEDINGS CONCLUDED

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1 Certificate of Record

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I, Samantha Daniele, certify that the recording is the record made of the evidence in the proceedings in Provincial Court, held in courtroom 354 at Edmonton, Alberta on the 23rd day of April, 2013, and I was the court official in charge of the sound-recording machine during the proceedings.

1 Certificate of Transcript

2

3 I, Brandy Coyes, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best
6 of my skill and ability and the foregoing pages are a complete and accurate transcript of
7 the contents of the record, and

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10 is transcribed in the transcript.

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Order No. 41424-13-1	
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ToC Pages:	1
Transcript Pages:	31
Total Pages:	33
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ToC Lines:	11
Transcript Lines:	1271
Total Lines:	1333
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ToC Characters:	266
Transcript Characters:	51005
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