

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *R. v. Doucette and Gunanoot*,
2020 BCSC 907

Date: 20200611
Docket: 26930
Registry: Quesnel

Regina

v.

Nathan Lynn Joseph Doucette (also known as Nathan Doucette) and Dawn Georgette Gunanoot

Before: The Honourable Madam Justice MacNaughton

Oral Reasons for Sentencing

Counsel for the Crown:	P. Konge
Counsel for the Accused Nathan Lynn Joseph Doucette:	A. Zipp
Counsel for the Accused Dawn Georgette Gunanoot:	K. Cronin and S. Clouston
Place and Date of Trial/Hearing:	Quesnel, B.C. June 5, 2020
Place and Date of Judgment:	Quesnel, B.C. June 11, 2020

Table of Contents

[INTRODUCTION](#)

[JOINT SUBMISSION ON SENTENCING](#)

[THE CIRCUMSTANCES OF THE OFFENCES AND THE VICTIMS](#)

[THE CROWN'S CHALLENGES OF PROOF](#)

[THE SENTENCING PROVISIONS IN THE CODE](#)

[Considerations in Sentencing Indigenous Offenders](#)

[Considerations in Sentencing for Offences Involving Vulnerable Victims](#)

[MS. GUNANOOT'S CIRCUMSTANCES](#)

[MR. DOUCETTE'S CIRCUMSTANCES](#)

[CONCLUSION](#)

Introduction

[1] This June 5, 2020 sentencing hearing occurred while this Court's operations were affected by the COVID-19 health crisis. As a result, I appeared in the Quesnel courtroom by video from Vancouver, the Crown attended in the Quesnel courtroom, Nathan Doucette appeared by video from the Kamloops Regional Correctional Centre, Mr. Doucette's counsel appeared in the Quesnel courtroom, and Dawn Gunanoot appeared in a courtroom in Terrace, accompanied by her counsel. Family members of one of the victims also appeared in person in the Quesnel courtroom.

[2] I was satisfied that Ms. Gunanoot and Mr. Doucette could hear their respective counsel, each other, me, and the Crown and that the proceedings could be heard by the family members who attended.

[3] I explained that if, at any time, the participants were unable to hear the proceedings, they should immediately let me know so that I could address it. I also explained that I would make arrangements for counsel to speak privately to their respective clients if they wished to do so.

[4] I recognize that proceeding in this manner is not our court's usual approach to sentencing and accept that it is not ideal. I understand that the family members who attended would have preferred to see Ms. Gunanoot and Mr. Doucette face to face. However, in these extra-ordinary circumstances, and in light of counsels' wish to proceed in advance of the Court's scheduled reopening, efforts were made to facilitate the hearing.

[5] At the commencement of the sentencing hearing, the Crown preferred two new indictments, and Mr. Doucette pled guilty to two offences under the *Criminal Code*, R.S.C. 1985, c. C-46 [Code]:

- 1) mischief, contrary to s. 430(4)(a); and
- 2) assault of Richard Gregorig, contrary to s. 266(a).

[6] On the same day, Ms. Gunanoot pled guilty to two offences under the *Code*:

- 1) mischief, contrary to s. 430(4)(a); and
- 2) assault of Nadine Solonas, contrary to s. 266(a).

[7] I accepted their guilty pleas after being satisfied, on inquiry, that the pleas were voluntary and made with a clear understanding of their effect.

Joint Submission on Sentencing

[8] The Crown and Ms. Gunanoot's counsel jointly submit that the appropriate sentence for Ms. Gunanoot is 56 days concurrent on both offences. Ms. Gunanoot has served 37 days, which, with pre-sentence credit, amounts to a time-served disposition.

[9] As assault is a secondary designated offence, the joint sentencing submission also requires Ms. Gunanoot to provide a DNA sample to the national data bank.

[10] Finally, the joint submission includes 12-month's probation, to be served concurrently for both offences, on terms I will set out later in these reasons.

[11] The Crown and Mr. Doucette's counsel jointly submit that the appropriate sentence for Mr. Doucette is three months of incarceration for his mischief conviction and an additional day, served concurrently, for his conviction for the assault on Mr. Gregorig. Mr. Doucette has served in excess of 60 days, which, based on credit for 90 days of pre-sentence time served, results to a time-served disposition.

[12] As assault is a secondary designated offence, the joint sentencing submission also requires Mr. Doucette to provide a DNA sample to the national data bank.

[13] Finally, the joint submission involves 12-month's probation, to be served concurrently for both offences, on terms I will set out later in these reasons.

[14] In *R. v. Anthony-Cook*, 2016 SCC 43 at paras. 35–40, the Supreme Court of Canada explained the importance of joint submissions on the proper functioning of our criminal justice system. I may not depart from a jointly proposed sentence unless doing so would bring the administration of justice into disrepute, or would otherwise be contrary to the public interest: *Anthony-Cook* at para. 32. The Court emphasized that this is “an undeniably high threshold” that would only be met where the joint submission would cause reasonable and informed persons, aware of all the relevant circumstances, to believe that the proper functioning of the justice system had broken down: *Anthony-Cook* at paras. 33–34, 42.

[15] As I will explain in later in these reasons, Nadine Solonas tragically died the day after the offences occurred. Kenneth Solonas, Nadine Solonas' father, attended the sentencing hearing accompanied by his brother, Wilfred Solonas; his sister, Emily Bencher; and his granddaughter, Ms. Solonas' daughter. In advance of the hearing, I was provided with two documents written by Kenneth Solonas. I was also provided with written statements from Wilfred Solonas and Emily Bencher. At the hearing, I invited them address the court but chose to rely on their written statements and to speak through the Crown.

[16] In the statements, the writers express the impact of Ms. Solonas' death on them and their family, and their loss of faith in the criminal justice system.

[17] Kenneth Solonas described his daughter as a happy person who had many friends. Despite her ongoing struggles with alcohol, she did not take life too seriously and always liked to laugh. Ms. Bencher described Ms. Solonas as a vibrant, outgoing woman.

[18] Kenneth Solonas writes about the difficulty he had in recording his feelings about the loss of his daughter. He imagines the pain that she went through. He struggles to explain to Ms. Solonas' youngest daughter what happened to her mother. He constantly feels the pain of the loss of his daughter, and it has affected the quality of his life and his health. He writes that he cannot help but feel that racism played a role in Ms. Solonas' death. He feels that the authorities saw Ms. Solonas as "just another drunken Indian" and did not give her the care she needed. Kenneth Solonas said that he spoke to Ms. Solonas for her birthday and she was happy and excited about her pending October 2, 2017 marriage to Mr. Gregorig, which he planned to attend. Instead of attending her wedding, he was dealing with her death.

[19] I was told that Mr. Gregorig intended to write a victim impact statement, but it proved to be too difficult for him.

[20] As I proceed with delivering these sentencing reasons, I am acutely aware of the devastating impact that Ms. Solonas' tragic death has had on her family. Her father's statements were heart-wrenching.

[21] That Ms. Solonas died as a result of violence is not in dispute. The challenges facing the Crown in this case were to determine, and ultimately to prove beyond a reasonable doubt, the extent of Ms. Gunanoot's and Mr. Doucette's criminal responsibility for her death. Tragically, for her family, and her community, the circumstances which led to Ms. Solonas' head injury or injuries, and who was responsible for them, will never be known to the standard of proof required in criminal proceedings.

[22] The sentence I impose today cannot possibly remedy or make up for the family's loss. Ms. Solonas joins the number of Indigenous women and girls for whose deaths our society, and our justice system, cannot provide satisfactory answers, and the family's disappointment in the criminal justice system is understandable. I accept that for some, no penalty would be harsh enough.

[23] It is with that in mind that I now turn to look at the circumstances of the offences, the victims of the offences, and the offenders in this case.

The Circumstances of the Offences and the Victims

[24] The charges to which Ms. Gunanoot and Mr. Doucette have pled guilty arise from interactions between the two of them and Ms. Solonas and Mr. Gregorig in the early morning hours of October 1, 2017.

[25] As I have said, Ms. Solonas died on October 2 because of head injuries, caused by blunt force trauma, which resulted in subdural hemorrhaging.

[26] Ms. Solonas was born on October 1, 1977; she had just turned 40 when she died. She was born in Fort St. James, B.C. Her mother is Louise Johnnie of the Tl'azt'en First Nation and her father, Kenneth Solonas, is of the Nak'azdli Whut'en First Nation. Ms. Solonas was the mother of five

children. Her youngest was a toddler and her oldest a young adult. She was planning to marry Mr. Gregorig on the date of her death.

[27] On October 1, 2017, Ms. Solonas and Mr. Gregorig were living in Unit 31 of the Gold Pan Motel in Quesnel. Ms. Solonas and Mr. Gregorig had met in Fraser Lake about a year before. They moved to Quesnel in June or July 2017.

[28] The Gold Pan is a two-level motel, and Unit 31 is directly above Unit 7, where Ms. Gunanoot and Mr. Doucette were staying. An outdoor staircase beside Unit 7, leads to the door of Unit 31. Photographs of the Gold Pan were marked as part of Exhibit 1 on this sentencing.

[29] The Crown obtained the Gold Pan's video surveillance, which did not have audio recording. According to the submissions, it shows some of the interactions between Ms. Solonas and Mr. Gregorig and Ms. Gunanoot and Mr. Doucette in the early morning hours of October 1, 2017. The content of the video surveillance was described to me in the joint submissions.

[30] Ms. Gunanoot and Mr. Doucette were upset about noise coming from Ms. Solonas and Mr. Gregorig's unit. In a 60-page statement Mr. Doucette gave to the police immediately following the events of October 1, he said that in the few days preceding October 1, he and Ms. Gunanoot heard loud noises coming from Unit 31, which appeared to be from fighting, and that they heard Ms. Solonas screaming.

[31] Ms. Gunanoot and Mr. Doucette went up to Unit 31 because of the noise. Mr. Gregorig acknowledged in his police statement that Ms. Gunanoot and Mr. Doucette went to Unit 31 to complain about noise, but he denied that he and Ms. Solonas made any. Ms. Solonas told family members, in the days leading up to October 1, that she was having conflict with another tenant over noise.

[32] On their first visit to Unit 31, Ms. Gunanoot and Mr. Doucette spent just over ten minutes in Unit 31. They left after Ms. Solonas called Ms. Gunanoot a derogatory name and the two began fighting. Mr. Gregorig attempted to intervene, and Mr. Doucette prevented him from doing so. Ms. Gunanoot and Mr. Doucette left Unit 31 at 2:24 a.m.

[33] Mr. Gregorig had a pre-existing injury to his jaw for which he had had surgery and, after the altercation with Ms. Gunanoot and Mr. Doucette, he went to the hospital to have it examined. The video shows the parties exchanging words as he was leaving.

[34] The video then shows that, within minutes of Mr. Gregorig leaving, Ms. Gunanoot and Mr. Doucette went back up to Unit 31 where Ms. Solonas was now alone. They appeared to try to get into the unit. Mr. Doucette tried the door handle, and Ms. Gunanoot stood behind him or crouched under the window. At times, it appears that Ms. Gunanoot was trying to conceal herself; at others, she was looking in the window and appeared to be speaking. They did not get in and returned to Unit 7.

[35] They went twice more during the approximately 45 minutes in which Mr. Gregorig was at the hospital. Each time, they appeared to be trying to get in by knocking, trying the door handle and, in one case, kicking the door.

[36] Mr. Gregorig returned to the Gold Pan at 3:30 a.m. Less than two minutes later, Ms. Gunanoot and Mr. Doucette went up to Unit 31. The door to Unit 31 closed within seconds of them getting to it. Ms. Gunanoot began kicking the door, and the door opened, either because Ms. Gunanoot kicked it, or because Mr. Gregorig opened it.

[37] Once the door opened, Ms. Gunanoot went in, followed by Mr. Doucette who was not far behind. Ms. Gunanoot assaulted Ms. Solonas. Mr. Doucette stood at the threshold to the unit to prevent Mr. Gregorig from intervening. Ms. Gunanoot and Mr. Doucette were in Unit 31 for less than three minutes before leaving. In his police statement, Mr. Doucette said that Ms. Gunanoot knocked or punched Ms. Solonas in the face.

[38] Mr. Gregorig called 911, and the RCMP arrived at 3:53 a.m. Constable Jennifer Tate was the first officer to arrive. She spoke with Mr. Gregorig who initially claimed that Ms. Solonas was on her way to the hospital. Constable Tate could see a female in the unit. Mr. Gregorig let Constable Tate into the unit. Ms. Solonas identified herself as Marcy Johnnie (her mother's surname). She declined medical attention. Police checks revealed that Ms. Solonas was the subject to the terms of a peace bond, which required that she have no contact with Mr. Gregorig, and the RCMP arrested her for a breach of that order and removed her from the unit.

[39] Before removing her, Constable Daniel Stone took a photograph of Ms. Solonas, which was marked as part of Exhibit 1. In it, Ms. Solonas' face is visibly swollen. She has a significant bruise or scrape on her left cheek, her left eye is almost completely swollen shut, and there is a dark bruise underneath it.

[40] The RCMP took Ms. Solonas to the detachment where she provided a promise to appear on the breach charge. She was released to the care of paramedics and taken to hospital where the extent of her injuries was realized. She was flown to Vancouver and died in hospital the following day.

[41] Ms. Gunanoot and Mr. Doucette were arrested at 3:45 a.m. on October 1. They were eventually charged with breaking and entering, and committing an assault under s. 348(1)(d) of the *Code*. At sentencing, they maintained a plea of not guilty to that offence but, as set out above, pled guilty to mischief and assault.

[42] The RCMP's arrest of Ms. Solonas, and her treatment while in their custody, were the subject of an investigation. In particular, the investigation considered the appropriateness of Ms. Solonas' arrest; why she was taken to the RCMP detachment instead of the hospital, particularly because they drove past the hospital on the way to the detachment; and how Ms. Solonas was treated in custody. I understand from the submissions that one officer said that Ms. Solonas had been "manhandled" during the arrest but he later resiled from that statement.

[43] The investigation concluded that there was no wrongdoing by the RCMP. As disappointing as this result may be for Ms. Solonas' family and her community, on considering the joint submission before me, I must only consider the actions of Mr. Doucette and Ms. Gunanoot and the blameworthiness of their conduct, rather than that of the RCMP.

The Crown's Challenges of Proof

[44] There were a number of significant challenges facing the Crown in proving Ms. Gunanoot's and Mr. Doucette's criminal responsibility in this case. Those challenges were important considerations for the Crown and the defence counsel in agreeing to the joint sentencing submissions, and for me in assessing whether acceding to the submissions would bring the administration of justice into disrepute or would not be in the public interest.

[45] First, the majority of the evidence indicate that Ms. Solonas' injuries to her left cheek and eye predated her interactions with Ms. Gunanoot on October 1, and there was no consistent evidence about how she sustained them. The RCMP, medical personnel, and Mr. Doucette were all expected to testify that her injuries predated her altercation with Ms. Gunanoot. Mr. Doucette was expected to say that Mr. Gregorig told him that Ms. Solonas's injuries were caused by a fall. Ms. Solonas told medical personnel that she sustained the injuries in the days before October 1 and that she had been "getting beaten on too much lately". The Crown acknowledged that it would be unable to prove, beyond a reasonable doubt, the nature of the force Ms. Gunanoot applied to Ms. Solonas or whether it resulted in any injury.

[46] Second, Mr. Gregorig was expected to testify that Ms. Solonas had not sustained injuries prior to October 1 and that, when Ms. Gunanoot entered Unit 31 the second time, she "stomped" on Ms. Solonas' head a number of times. Despite the consistency of his evidence in that regard, there was no evidence to corroborate his statement, and there were relevant inconsistencies in other areas of his evidence, which would call into question his evidence as a whole. For example, although admitting in his initial statement that Ms. Solonas had a pre-existing head injury, in later statements, and at the preliminary inquiry, he said that she did not. Those inconsistencies would require the trier of fact to be cautious about relying on Mr. Gregorig's evidence. The Crown also indicated that Mr. Gregorig's evidence would possibly require a *Vetrovec* warning.

[47] Third, Mr. Gregorig had a motive to lie to hide the violence in his relationship with Ms. Solonas. Police records reveal that there was a history of violence between Ms. Solonas and Mr. Gregorig. On some days, there were four or five calls to the RCMP by Ms. Solonas and/or Mr. Gregorig complaining about the other's behaviour. The police records indicate that Ms. Solonas rarely provided the RCMP with a statement against Mr. Gregorig. However, Mr. Gregorig had cooperated in the RCMP investigations of Ms. Solonas' behaviour and, as a result, Ms. Solonas was subject to the existing peace bond requiring her to have no contact with Mr. Gregorig. She continued to reside with him. Constable Lorne Smith thought that Mr. Gregorig might have been responsible for Ms. Solonas' injuries, but there was no indication that his involvement was investigated.

[48] Fourth, the inferences that could or should be drawn from the video surveillance was expected to be a hotly contested issue if the matter went to trial. The surveillance had no audio recording and only recorded events at the door of Unit 31, not what happened inside.

[49] Finally, had the matter proceeded to trial, Ms. Gunanoot is expected to have said that she had complained repeatedly about the noise from Unit 31. She was concerned, as she believed that Mr. Gregorig was physically abusing Ms. Solonas, and she initially went to Unit 31 out of a concern about Ms. Solonas' well-being. Ms. Solonas was not receptive to her concern, but Ms. Gunanoot did not call the police because of a fear of involving them. As I discuss later in these reasons, fear of involving the police is a result of Canada's colonial history with Indigenous communities and, in Ms. Gunanoot's case, is part of her family's particular history with the police.

The Sentencing Provisions in the Code

[50] The sentencing principles to be considered by the court are established by Parliament in the *Code*. Section 718 provides that the fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful, and safe society by imposing just sanctions.

[51] Section 718 then lists a number of sentencing objectives which further that purpose:

- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

[52] Sections 718.1–718.2 of the *Code* set out a number of sentencing principles intended to guide judges in crafting a fit and proper sentence that will give meaningful effect to one or more of the sentencing objectives set out above. The relevant sentencing principles applicable to this case are:

718.1 A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender ...
- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
- (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
- (e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community

should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

[53] When determining a fit and proper sentence, a sentencing judge must consider all relevant factors. Not surprisingly, offenders and their circumstances are infinitely variable.

Considerations in Sentencing Indigenous Offenders

[54] In 1996, the *Code* was amended to introduce s. 718.2(e). As explained in *R. v. Gladue*, [1999] 1 S.C.R. 688 and *R. v. Ipeelee*, 2012 SCC 13, s. 718.2(e) is a remedial provision intended to deal with the crisis of over-representation of Indigenous offenders in the Canadian criminal justice system. The statistics regarding that over-representation have not improved since the implementation of s. 718.2(e), and the statistics with respect to the over-representation of Indigenous female offenders is even more concerning. In the 2019 Annual Report to the Minister of Justice, the Office of the Correctional Investigator wrote:

... Indigenous peoples continue to be increasingly over-represented in our federal correctional system. Over the last decade, while admissions to federal jurisdiction have decreased, the number of Indigenous offenders has increased. In 2016-17, while only accounting for approximately 5% of Canada's overall population, Indigenous offenders represented 23.1% of the total offender population (26.8% of the in custody population and 17.2% of the community population). Over-representation is even worse for Indigenous women, who as of March 31, 2019, accounted for 41.4% of all federally incarcerated women. In terms of release, Indigenous offenders serve a higher proportion of their sentences before being released on parole.

[55] There is a correlation between Canada's legacy of colonization – poverty, lack of education, disconnection, instability, and the severing of family ties – and involvement with the justice system. Scholarly research confirms the implications of historic trauma visited on Indigenous peoples on the health and welfare of subsequent generations, fostering a constellation of intergenerational effects. Five of these factors are strongly correlated with reduced life chances and enhanced likelihood of conflict with the law. They include early exposure to violence and substance abuse, high residential mobility and insecurity, dissolution of family, placement in foster care, and early departure from school.

[56] The crisis described by the Supreme Court of Canada in *Gladue and Ipeelee* is a result of the alienation, poverty, substance abuse, lower educational attainment, lower rates of employment, racism, and bias experienced by Indigenous Canadians because of Canada's colonial history and assimilationist policies, including the operation of Indian residential schools. While these are broader societal issues, the Supreme Court of Canada recognized that sentencing Indigenous offenders has a role to play in addressing their over-representation in the criminal justice system. Indigenous offenders are different from other offenders because, in the words of the Supreme Court of Canada, they “are victims of systemic and direct discrimination”.

[57] To help address the crisis, *Gladue* and *Ipeelee* changed the approach to sentencing Indigenous offenders, though not necessarily the result. In sentencing an Indigenous offender, a sentencing judge must consider two factors:

(a) the unique systemic or background factors which may have played a part in bringing the particular ... offender before the courts; and

(b) the types of sentencing procedures and sanctions which may be appropriate in the circumstances ...

[58] A sentencing court must take a holistic approach to imposing a fit sentence. A fit sentence is one that is proportional and appropriately balances the seriousness of the offence with the moral blameworthiness of the offender.

[59] In striking the appropriate balance, the unique systemic or background factors that may have played a part in bringing the particular offender before the court speaks to the moral blameworthiness of the offender. While a causal connection between the systemic and background factors need not be established, a link may be important or helpful in finding a fit sentence. Restorative and rehabilitative sentences may be more appropriate for Indigenous offenders.

[60] On September 19, 2019, s. 718.04 of the *Criminal Code* came into effect. It provides:

718.04 When a court imposes a sentence for an offence that involved the abuse of a person who is vulnerable because of personal circumstances - including because the person is Aboriginal and female - the court shall give primary consideration to the objectives of denunciation and deterrence of the conduct that forms the basis of the offence.

Considerations in Sentencing for Offences Involving Vulnerable Victims

[61] Section 718.04 was a legislative response to the Final Report of the *National Inquiry into Missing and Murdered Indigenous Women and Girls* (the “Report”).

[62] The Report identified four “pathways” which have resulted in disproportionately high rates of oppression and violence towards Indigenous women, girls and 2SLGBTQQIA people. They are:

- Historical multigenerational and intergenerational trauma;
- Social and economic marginalization;
- Maintaining the *status quo* and institutional lack of will; and
- Ignoring the agency and expertise of Indigenous women, girls and 2SLGBTQQIA people.

[63] Sections 718.04 and 718.2(e), both of which are, at their root, aimed at the particular disadvantageous circumstances facing Indigenous victims and offenders, may appear difficult to reconcile in assessing the proposed sentence for Ms. Gunanoot. Ms. Solonas is an Indigenous female victim, and s. 718.04 directs me to consider, primarily, the sentencing objectives of denunciation and deterrence in assessing the joint sentencing submission with respect to Ms. Gunanoot. At the same time, Ms. Gunanoot is an Indigenous offender; s. 718.2(e), and the cases applying it, direct me to consider a more rehabilitative and restorative approach in assessing the joint sentencing submissions.

[64] Balancing these objectives will form part of my overall assessment of the joint submission. I will first outline the *Gladue* factors as they apply to Ms. Gunanoot.

Ms. Gunanoot's Circumstances

[65] I did not have the benefit of a *Gladue* report with respect to Ms. Gunanoot. When asked, she expressly waived the preparing of a report. Her counsel that she could adequately address the disadvantages Ms. Gunanoot has faced as an Indigenous person.

[66] Ms. Gunanoot is 45 years old and is from the Gitksan First Nation near Hazelton, B.C. She is the great-granddaughter of Simon Gunanoot, a prosperous Gitksan rancher, who, in the early 1900s, was hunted by the police for 13 years until surrendering to stand trial for murders for which a jury acquitted him. The Gunanoot family was affected by their interaction with the criminal justice system and the Canadian government.

[67] Ms. Gunanoot's parents separated when she was six years old, and her mother raised her in Hazelton. Both of her parents attended residential schools and struggled with the impacts of their attendance. Her mother turned her life around and worked as a health director for various reserves in the Hazelton area. She currently suffers from various health issues and has diminished mental capabilities.

[68] Ms. Gunanoot was devastated by the March 7, 2019 death of her father. She was very close to him, which caused tension in her relationship with her mother. She had a number of older brothers and half-brothers, a number of whom died in unfortunate circumstances.

[69] Ms. Gunanoot has a Grade 8 education but has tickets as a Red Seal chef, flagger, and heavy equipment operator. She has a 27-year-old daughter and a 24-year-old son. She is separated from her children's father who was physically abusive to her. To support her family, she worked for 12 years in camps in northern B.C. as a baker in a fire camp and as a landscaper. She has experienced both physical and sexual abuse.

[70] Ms. Gunanoot has struggled with substance abuse issues including with alcohol, marihuana, cocaine, and methamphetamine. Despite her history and challenges, Ms. Gunanoot is a first time offender.

[71] Ms. Gunanoot expresses great sadness in her heart because of what happened to Ms. Solonas. She was living in Quesnel with Mr. Doucette at the time of the offences. She was in the throes of addiction and was not doing well. She says that she thought there was a potential kinship with Ms. Solonas as they were the only Indigenous women living at the Gold Pan. She describes Ms. Solonas as always appearing hungry, and she shared food with her. She believed that Ms. Solonas was suffering physical abuse at the hands of Mr. Gregorig, and said she and Mr. Doucette could hear her screaming.

[72] Ms. Gunanoot said that she reached out to the management of the motel for assistance in dealing with Mr. Gregorig. She did not call the police because of the distrust Indigenous people generally have of the police and because of her particular family history.

[73] Ms. Gunanoot says that her first visit to Unit 31 on October 1 was an attempt to assist Ms. Solonas. Mr. Gregorig denied that Ms. Solonas was screaming and said what they were hearing were noises from the pipes. Ms. Gunanoot understood, from her own experience of physical abuse, that Ms. Solonas was not in a position to seek assistance or to have a conversation. Ms. Solonas did not want anyone to interfere with her life and called Ms. Gunanoot a derogatory term. They scuffled, and Ms. Gunanoot and Mr. Doucette left.

[74] By her guilty plea, Ms. Gunanoot acknowledges that on her second visit to Unit 31, she kicked at the door and it opened and that she went in and assaulted Ms. Solonas. Her guilty pleas are mitigating factors in sentencing.

[75] Ms. Gunanoot has been on bail since October 1, 2017. For four days in April 2019, because she was in financial difficulty, she hitchhiked to Quesnel from Hazelton along the Highway of Tears to attend the preliminary inquiry. She slept in a lit bathroom area at a pullout on the highway. In the efforts she made to attend the preliminary inquiry and to attend this sentencing hearing, she demonstrated her respect for and understanding of this Court process.

[76] She continues to suffer financially, and she says she is cut off from her family due to misinformation about her role in Ms. Solonas' death. She has been unsuccessful in finding work and currently resides in a transition house operated by the KSAN Society in Terrace, B.C. She can remain there for up to 30 days and hopes to move into a modular housing development for the homeless in Terrace until she can return to her home community.

[77] I am satisfied that there are a number of mitigating *Gladue* factors with respect to Ms. Gunanoot. She has experienced poverty, lack of education, physical and sexual abuse, and the intergenerational trauma of Canada's residential schools and other colonial policies. These factors suggest that her sentence should prioritize restraint and rehabilitation, as does the fact that she is a first time offender who has pled guilty.

[78] I am also satisfied that Ms. Gunanoot is remorseful about her interaction with Ms. Solonas. Ms. Gunanoot was physically and emotionally unable to address the court or the Solonas family. She understands that, in many respects, her life trajectory has parallels to Ms. Solonas' and, through her counsel, expressed the pain she felt in her heart for the family's loss of a daughter, mother, and niece.

[79] Taking into account Ms. Gunanoot's circumstances, most particularly her Indigenous background, the circumstance of the offences to which she has pled guilty, her status as a first time offender and balancing that against Ms. Solonas' vulnerability as an Indigenous woman, I accept the joint recommendation of the Crown and Ms. Gunanoot's counsel with respect to the appropriate sentence.

[80] I conclude that the jointly-proposed sentence does not bring the administration of justice into disrepute and is not contrary to the public interest.

Mr. Doucette's Circumstances

[81] A *Gladue* report, prepared in 2018 for another proceeding, was filed with respect to Mr. Doucette.

[82] Mr. Doucette was born on November 1, 1985, and is 34 years of age. His parents, Charmaine Heaton and Mel Doucette, separated when he was about five. After the separation, he had a relationship with his father, and visited him in the Yukon during the summer months. His mother remains an important part of his life.

[83] Ms. Heaton is Cree. Her paternal lineage is from the Mikisew Cree First Nation from Fort Chipewyan in northeastern Alberta. Ms. Heaton's mother was of Metis ancestry. Ms. Heaton lived in the Northwest Territories until she was about five or six years old when she relocated to Peace River. She was the youngest of ten children.

[84] Ms. Heaton, and one of her sisters, described to the *Gladue* reporter what was like growing up with their father, an alcoholic who was violent when drinking. Both described their father's alcoholic rages and the abuse of their mother and brothers. Their mother, Mr. Doucette's maternal grandmother, attended residential school from the age of four until she was 16. She was addicted to prescription drugs. Ms. Heaton's parents separated when she was about six or seven years old.

[85] When her parents separated, Ms. Heaton and two of her siblings went to live with her mother and her mother's new partner. She was the victim of repeated sexual abuse for a number of years by her mother's new partner, and by a foster parent after she was placed in care when she was about 11.

[86] Ms. Heaton and her sister were significantly impacted by the alcoholism and violence in their home, and the violence they experienced during their time in care. Ms. Heaton told the *Gladue* reporter that there is a lot of her past that she does not want to, or cannot, remember.

[87] After what she described as troubled youth, Ms. Heaton moved away from her community when she was about 14. She began a relationship with Mel Doucette, who was more than 20 years her senior. After she separated from Mel Doucette, she married Ron Heaton and had two daughters.

[88] From about the age of five to the age of 15, Mr. Doucette lived with his mother and his stepfather. According to Ms. Heaton, he was repeatedly kicked out of the house. He began smoking drugs and stealing. Mr. Doucette describes tensions between him and Mr. Heaton, and he does not have any relationship with him or his step-sisters.

[89] After Mr. Doucette's mother separated from Mr. Heaton, she drank heavily, repeating the pattern of her parents and many of her siblings.

[90] Mr. Doucette remembers living on his own from about the age of 15. He left high school after grade 10 because he was drinking and smoking cocaine. He has since completed grade 11. He moved around a lot, couch surfing, drinking, and doing drugs. He worked at various construction jobs

but did not stay in one place, or at any job, for long. He has a nine-year-old daughter with whom he does not have a relationship.

[91] He has worked as a roofer, flooring installer, tree faller, and dry waller. He has taken training to secure tickets in areas such as first aid, forklift operation, travelling with dangerous goods and with workplace hazardous materials.

[92] Mr. Doucette maintains contact with his mother and his maternal aunt, who is a social worker, but has no association with his father's family. He was close to his father until his father's death in October 2017. Mr. Doucette returned to drugs after his father's death.

[93] Mr. Doucette does not know about his family's history and roots. He does not have Indian status nor is he registered as a member of the Mikisew Cree First Nation. He has been disconnected from his heritage and his family.

[94] As the *Gladue* reporter describes:

Disconnect [from his Indigenous history], as well as residential instability as a youth, early exposure to substance use, family breakdown, and a legacy of trauma are unfortunate themes in [Mr. Doucette's] life.

[95] Mr. Doucette suffers from depression and anxiety but does not take any medications. He says he drinks to avoid feeling and remembering.

[96] Mr. Doucette has a lengthy criminal record. His JUSTIN conviction record was filed as Exhibit 3. Between 2006 and 2018, Mr. Doucette was incarcerated for drinking and driving offences, thefts, and repeatedly breaching the terms of undertakings given to the police or of bail. He was also convicted of obstructing a peace officer, mischief, and driving while suspended. He has never previously been convicted of a violent offence.

[97] Mr. Doucette's efforts to maintain sobriety have been largely unsuccessful despite attending at residential treatment facilities. As a result, I would give less weight to the principle of rehabilitation with respect to him.

[98] I am satisfied that the *Gladue* factors evidenced in Mr. Doucette's background are mitigating and serve to reduce his moral culpability. I am also satisfied that, from the time Mr. Doucette made his police statement and up to his guilty plea, he has consistently shown remorse for his involvement in the events of October 1. I note that Mr. Doucette was not involved in the assault on Ms. Solonas except to the extent that he accompanied Ms. Gunanoot. He was not involved in kicking the door to Unit 31 and has consistently said that he had no idea that an assault would occur.

[99] Taking into account Mr. Doucette's circumstances, the circumstance of the offences to which he has pled guilty, and most particularly, Mr. Doucette's Indigenous background, I accept the joint recommendation of the Crown and Mr. Doucette's counsel with respect to the appropriate sentence.

[100] I conclude that the jointly-proposed sentence does not bring the administration of justice into disrepute and is not contrary to the public interest.

Conclusion

[101] I am satisfied that the joint submissions with respect to sentencing for both Ms. Gunanoot and Mr. Doucette should be accepted. The joint submissions were the result of extensive communications between their respective counsel and the Crown. Counsel considered the thorough investigations, including the internal investigation of the RCMP conduct, Mr. Doucette's video-recorded statement, and Mr. Gregorig's statements over time. The joint submissions were arrived at taking into account the significant difficulties of proof in this case and the *Gladue* factors that apply to Ms. Gunanoot and Mr. Doucette, balanced against the circumstances of the offence and of Ms. Solonas as set out in s. 718.04 of the *Code*.

[102] Intellectual rigour must be applied in sentencing Ms. Gunanoot and Mr. Doucette to ensure that they are only sentenced for the offences to which they have pled guilty, despite knowing of the tragedy of Ms. Solonas' death. Although the causes of Ms. Solonas' death are not legally at issue in my consideration of these joint submissions, it is clear that the legacies of colonialism, and its ongoing impacts, are implicated in her death. We grieve the loss of her life and the lives of the many other Indigenous women who our systems have continually failed to protect.

[103] Ms. Gunanoot, will you please stand.

[104] Having pled guilty to the offences of mischief and assault on Ms. Solonas, I sentence you to 56 days concurrent on both offences. Because you have served 37 days, with pre-sentence credit, this amounts to a time-served disposition.

[105] The offence of assault is a secondary designated offence. After considering the factors set out in s. 487.051(3) of the *Code*, I am satisfied that it is in the best interests of the administration of justice to authorize the taking of samples of bodily substances from you for inclusion in the National DNA databank.

[106] You shall be subject to the following probationary terms for a period of 12 months:

1. You must keep the peace and be of good behaviour.
2. You must appear before the court when required to do so by the court.
3. You must notify the court or your probation officer in advance of any change of name or address, and promptly notify the court or the officer of any change of employment or occupation.
4. You must have no contact or communication, directly or indirectly, with Richard Gregorig.

5. You must not go to (or be within 50 metres of) any place where Richard Gregorig lives, works, attends school, worships, or happens to be. If you see him, you must leave his presence immediately without any words or gestures.
6. You must report by telephone to a probation officer at 1-888749-2293 (or 250-638-2161) or report in person at 102 - 2918 Eby Street, Terrace, B.C. by 10:00 a.m. tomorrow. If the office is closed, you must continue calling daily during regular business hours until you have spoken to a probation officer and received further direction to report. After that, you must report as directed by your officer.
7. You must live at a residence/ treatment facility/recovery home and provide your probation officer with your phone number. You must not change your address or phone number without prior written permission from your probation officer.
8. If you are evicted or expelled from the place where you are living, you must tell your probation officer immediately. If the office is closed, you must contact your probation officer immediately when the office opens on the next business day.
9. You must follow all the rules of your residence/ treatment facility/recovery home, as long as the rules do not conflict with the terms of this order or the directions of your probation officer. If there is a conflict, you must tell your officer about the conflict immediately.
10. For the first four months of this order, you must obey a curfew by being inside your residence between 10:00 p.m. and 7:00 a.m. every day.
11. You must present yourself immediately at the door to your residence or answer the phone when any peace officer or probation officer attends or calls to check on you during the curfew.
12. You may be away from your residence during the curfew with the prior written permission of your probation officer. Such permission is to be given only for employment or other compelling reasons. You must carry the permission with you when you are outside your residence.
13. You may also be away from your residence during the curfew hours while at, going directly to, or returning directly from, a healthcare facility because of a medical emergency. If asked, you must provide your probation officer with proof of your attendance at the facility.
14. You must attend, participate in, and complete any intake, assessment, counselling, or education program as directed by your probation officer. This may include counselling or programming for anger management, violence prevention, and/or alcohol or drug addiction.
15. Having consented in court, you must attend, participate in, and complete any intake, assessment, program, treatment or a full-time live-in treatment program as directed by your

probation officer. This may include programming or treatment for alcohol or drug addiction.

16. If you are expelled or remove yourself from the treatment centre/program/recovery home, you must tell your probation officer immediately. If the probation officer's office is closed, you must contact your officer immediately when the office opens on the next business day.
17. You must not possess, directly or indirectly, any weapon as defined by the *Code*, including:
 - a) firearms and ammunition;
 - b) cross-bows, prohibited or restricted weapons or devices, or explosive substances;
 - c) anything used, designed to be used or intended for use in causing death or injury to any person, or to threaten or intimidate any person;
 - d) any imitation of all the above, including any compressed air guns or BB/pellet guns; or
 - e) any related authorizations, licences and registration certificates, and you must not apply for any of these.

[107] Mr. Doucette, will you please stand.

[108] Having pled guilty to the offences of mischief and assault on Mr. Gregorig, I would have sentenced you to a jail term of 90 days of incarceration for the offence of mischief and an additional day, served concurrently, for the assault on Mr. Gregorig. Because you have served in excess of 60 days, with pre-sentence credit 60 days is the equivalent of the 90 days to which I have sentenced you. As a result, your sentence amounts to a time-served disposition.

[109] The offence of assault is a secondary designated offence. After considering the factors set out in s. 487.051(3) of the *Code*, I am satisfied that it is in the best interests of the administration of justice to authorize the taking of samples of bodily substances from you for inclusion in the National DNA databank.

[110] You shall be subject to the following probationary terms for a period of 12 months:

1. You must keep the peace and be of good behaviour.
2. You must appear before the court when required to do so by the court.
3. You must notify the court or your probation officer in advance of any change of name or address, and promptly notify the court or the officer of any change of employment or occupation.
4. You must have no contact or communication, directly or indirectly, with Richard Gregorig.

5. You must not go to (or be within 50 metres of) any place where Richard Gregorig lives, works, attends school, worships, or happens to be. If you see him, you must leave his presence immediately without any words or gestures.
6. You must not possess, directly or indirectly, any weapon as defined by the *Criminal Code*, including:
 - a) firearms and ammunition;
 - b) cross-bows, prohibited or restricted weapons or devices, or explosive substances;
 - c) anything used, designed to be used or intended for use in causing death or injury to any person, or to threaten or intimidate any person;
 - d) any imitation of all the above, including any compressed air guns or BB/pellet guns; or
 - e) any related authorizations, licences and registration certificates, and you must not apply for any of these.

“MacNaughton J.”