

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. MacNeil*, 2025 NSSC 132

Date: 20250315

Docket: *Syd.*, No. 522299

Registry: Sydney

Between:

His Majesty the King

v.

Tyler Anthony MacNeil

Judge: The Honourable Justice Patrick Murray

Heard: December 12, 2024, and February 21, 2025, in Sydney, Nova Scotia

Oral Decision: March 13, 2025

Counsel: Katherine Pentz, KC and Lisa MacPhee
Chris Conohan and Steve Jamael

By the Court:

Introduction

[1] This is my sentencing decision, in respect of the Defendant, Tyler Anthony MacNeil. Following a trial, Mr. MacNeil was found guilty and was convicted of the second-degree murder of Leonard Groves, contrary to s. 235(1) of the *Criminal Code*. The offence was committed at Beech Street, in Sydney Mines, NS, on or about the 14th day of June 2022.

[2] Under section 235(1) of the *Criminal Code*, everyone who commits second degree murder, is guilty of an indictable offence and shall be sentenced to imprisonment for life.

[3] Section 745(c) of the *Criminal Code* states that a person shall not be eligible for parole until he has served at least 10 years of his sentence or such greater number of years, not being more than twenty-five (25), as has been substituted therefore pursuant to s. 745.4 of the *Criminal Code*.

[4] Section 745.1 of the *Criminal Code* sets out the factors to be considered by the sentencing judge in deciding whether to extend the period of parole eligibility beyond the statutory minimum of 10 years.

[5] In the leading case of *R. v. Shropshire*, [1995] SCJ 52, the Supreme Court of Canada set out factors to be considered in finding whether an extended period beyond the 10-year minimum is warranted. These are: 1) the character of the offender, 2) the nature of the offence, and 3) the circumstances surrounding the commission of the offence.

[6] These factors together with the principles of sentencing outlined in the *Criminal Code* at sections 718 and 718.2 serve as a guide to the Court in exercising its discretion to impose a period of parole ineligibility of at least 10 years but not more than 25 years, as the Courts deems fit in the circumstances.

[7] In calculating the period of parole ineligibility to be served for the purpose of s. 745 and s. 745.4, there shall be included any time spent in custody, between the day the person was arrested and taken into custody in respect of the offence (for which the person is sentenced for life) and the day the sentence is imposed.

[8] It must be remembered that the sentence that will be imposed on Mr. MacNeil is one of life imprisonment. The Court is not determining when in fact Mr. MacNeil will be released, but is establishing the minimum amount of time Mr. MacNeil must serve before he is able to apply for parole.

[9] The leading case on parole ineligibility in Nova Scotia is *R. v. Hawkins*, 2011 NSCA 7, where our Court of Appeal provided guidance on the proper ranges for second degree murder.

[10] The setting of the appropriate period is often a difficult exercise. Each sentence is specific to the facts of the case and the individual circumstances of the offender.

[11] The broad range recognizes that within the offence of Second-Degree Murder there can be varying degrees of seriousness and moral culpability. The determination as set out in the leading cases is a very fact sensitive process.

[12] Consideration must also be given to a review of the comparable cases where possible. However, no two cases are identical, as stated by Chipman, J. A. in the case of *R. v. Doyle* (1991), 108 NSR 1.

“in exercising the discretion under s. 744, now s. 745.4 of the Criminal Code, other cases are no more than a rough guide for the sentencing judge in identifying the types of aggravating and mitigating circumstances that other courts have relied on as relevant in applying the guidelines.”

[13] Before turning to the facts, I shall adopt for my decision, those further principles of sentence as set out by Justice Christa Brother’s in the case of *R. v. Beckett*, 2023 NSSC 145 (see paras. 5 to 20).

Facts

[14] On June 14, 2022, Tyler Anthony MacNeil was visiting at an apartment on Beech Street, Sydney Mines. He had arrived on his motorcross bike which he left outside the residence. Present at the apartment were Mr. MacNeil, Shavon MacFarlane, Fred Pye and Justin LeBlanc.

[15] In the early morning hours, the persons in the apartment noticed someone taking Mr. MacNeil's bike, subsequently identified as the victim, Leonard Groves. Mistery MacNeil, Pye and LeBlanc chased after him. Mr. LeBlanc retrieved the bike and returned to the apartment. Mr. Pye also returned shortly thereafter. Mr. MacNeil did not leave immediately and became involved in an altercation with Mr. Groves which culminated in Mr. MacNeil kicking and jumping on Mr. Groves head multiple times, inflicting injuries, which lead to his death. Mr. MacNeil then left the scene and was arrested by police a couple of blocks away.

[16] The following findings among others were made by me at trial:

- (i) Having weighed and considered the accused's evidence with all of the evidence, I found that Mr. MacNeil inflicted multiple kicks to the head of Mr. Groves by jumping on him.

- (ii) The opinion of the expert Dr. A. Edgecombe, was that the death of Mr. Groves was caused by multiple blows/impacts to the head.

Position of Crown

[17] The Crown points to the gravity of this offence, a crime where lifetime custody is mandated. This was a violent offence, with devastating consequences.

[18] The Crown refers to the Court's finding that Mr. MacNeil, acted decisively to eliminate the threat by striking Mr. Groves repeatedly. The blows inflicted says the Crown, were with hard moto cross boots. It was a disproportionate response says the Crown, one that resulted in blunt force head trauma to the victim.

[19] The Crown refers to Mr. MacNeil's criminal record, which it says is significant, and includes crimes of violence. It does acknowledge that they are more dated than many of the other offences, which include breaches of probation and court orders, mischief, damage to property, and uttering threats.

[20] The Crown further acknowledges there are some positive features to the Pre-Sentence Report (PSR), Mr. MacNeil's current relationship with Meaghen Cox for the past 3 ½ years, and that he does struggle with mental health. Further that he had

a difficult childhood and was placed in foster care. He is closest to his mother. He currently has no relationship with his father.

[21] The Crown submits there are numerous factors present that are aggravating. Mr. MacNeil left the scene, he provided false information to police. He has had twenty (20) incidents during his time in custody. In terms of rehabilitation the Crown submits he has a lot of work to do, that he has had chances but has not taken advantage of them.

[22] The Crown says Mr. MacNeil's history, and time in custody shows that he cannot seem to follow rules, and this impacts on his prospects for rehabilitation.

[23] The Crown submits the caselaw supports its position that parole ineligibility, should be at the higher end of a 10-to-15-year range. The caselaw provided by the Defence, it says can be distinguished.

[24] The Crown seeks two Ancillary Orders.

1. A lifetime Firearms Prohibition Order pursuant to s. 109(1)(a) of the *Criminal Code*, and
2. A mandatory DNA Order pursuant to s. 487.051 of the *Criminal Code*.

These Orders are not contested by Defence.

Position of the Defence

[25] The Defence agrees with the principles of sentencing, outlined in the Crown's Brief, as well as the factors the Court must consider.

[26] The Defence differs with the Crown on how these principles and factors should apply to Mr. MacNeil.

[27] In citing *R. v. Hawkins*, the Defence refers to the three (3) ranges for parole ineligibility for second degree murder, outlined in that case.

[28] The Defence agrees with the Crown that their client, should fall into the first category which is 10 to 15 years, but the Defence argues that Mr. MacNeil should be eligible to apply for parole after the minimum of 10 years is served, rather than the 14-15 years recommended by the Crown.

[29] The Defence submits, unlike the Crown that there are mitigating factors in the case of Mr. MacNeil. These are:

- 1) Based on the PSR, Mr. MacNeil is committed to any treatment necessary or recommended. The Defence points to the positive recommendation of the Forensic Social Worker, for EMDR therapy, and the open, honest, and respectful manner Mr. MacNeil has conducted himself.

2) That Mr. MacNeil has a high probability of rehabilitation. They argue for the last several years Mr. MacNeil was living a normal life. In terms of being in custody, and dealing with impulse control issues, not a lot of weight should be accorded to the twenty (20) or so incidents in a prison environment, says the defence.

3) Mr. MacNeil's involvement was out of character for him, they say, based on his entire life's circumstances. His fiancé confirms this. Since being in custody, the Defence argues he has engaged in a variety of services, and programs. He has shown he is motivated and wants to improve.

[30] The Defence says Mr. MacNeil has shown remorse, and while he had a rough life in his early years, he is headed in the right direction.

[31] In terms of his criminal record, the Defence submits there are fewer offences related to violence, and many when he was a youthful offender. This is borne out by the PSR, the Defence says.

[32] The Defence also adds, it is known that alcohol and drugs were involved. In short Mr. MacNeil has the ability to rehabilitate himself.

[33] The Defence relies in particular on the case of *R. v. Meers*, 2018 BCSC 465, as instructive for this Court. A jury convicted the defendant, age 53 who stabbed

the victim repeatedly with a homemade spear, outside of her trailer. He expressed remorse and showed good prospects for rehabilitation. His parole ineligibility was set at 10 years.

[34] The Defence has also relied on the case of *R. v. Pope*, 2019 NLSC 173. In that case two men had an altercation over a small amount of money (\$60.00) handed to the victim by the accused's father. The victim attempted to fend off the accused but eventually was seen falling to the ground having been stabbed, once in the abdomen. A major vessel was wounded, causing excessive bleeding and the victim succumbed to his injuries.

[35] Mr. MacNeil's Defence has submitted that in *R. v. Pope*, the accused's criminal record was similar to Mr. MacNeil's, but that a weapon was used, a knife. The Court in *Pope* imposed a 12-year period of parole ineligibility.

[36] I have also considered the case of *R. v. MacRae*, 2021 ONCA 525, where the Defendant father plunged a butcher knife into his son's abdomen while he was sleeping. Parole ineligibility was set at 12 years. The defence argues by comparison that *MacRae* is far more aggravating, as once again a weapon was used, and it was less "spur of the moment" than the actions of Mr. MacNeil. There was no clear

expression of remorse in *MacRae*. I note the trial judge considered the appellant's age, 73 and his poor state of health, in the decision.

A. Character of the Offender

The Pre-Sentence Report

[37] Mr. MacNeil is 34 years of age and is the youngest of two children. His parents divorced when he was an infant. Mr. MacNeil has no contact with his father, they did connect when Mr. MacNeil was in his teenage years.

[38] Mr. MacNeil was born and raised in the North Sydney Area. He has rare contact with his brother age 38, who resides in New Brunswick. Mr. MacNeil was raised by his mother, Wendy Campbell. He states, "it has been me and her all my life."

[39] Mr. MacNeil described himself as a good kid in his younger years, stating that he was mischievous and spent time with his maternal grandfather. If a household rule were broken, he would be grounded and recalled having to stay in his room, "not getting things I didn't deserve," he said.

[40] Mr. MacNeil's mother confirmed that his father left when he was 18 months old, and Tyler was raised by her as a single parent. She said her parents were

involved and supportive, but disclosed that his father was an alcoholic, and the family home experienced violence, abuse, and substance abuse. She stated Tyler was supplied drugs by his father, and over time their relationship deteriorated.

[41] Mr. MacNeil spent time in Foster Care and spent time in Foster Homes from age 14 to 19 years.

[42] Mr. MacNeil advised he was relocated often to foster homes and spent time in residential centres for youth. He reported not having a father figure had a negative impact on him.

[43] Ms. Campbell stated that in his younger years her son was easily frustrated, impulsive and easily influenced by others, but that he learned to stand up for himself.

[44] Impulsivity appears to be an issue for Mr. MacNeil, and is something that is important for him to manage, as disclosed by the sources in the PSR.

[45] Mr. MacNeil also suffers from mental health issues, and states that the matter before the Court has caused his mental health to deteriorate.

[46] Mr. MacNeil's mother stated her son is intelligent and helpful to those in need. She states he had a normal life, was working, and had hobbies.

[47] She was shocked by his involvement in this matter, and there was no indicators of this behaviour. At the same time Ms. Campbell stated Tyler would blame her and wanted no rules.

[48] She confirmed that her son lived in the New Glasgow area in foster care. In terms of his education, Mr. MacNeil possesses a Grade 11 education from North Cumberland High School in New Glasgow. He last attended school in 2009.

[49] It was then Mr. MacNeil began to incur an adult criminal record which I shall later address.

[50] There is also a medical component to the PSR. In addition to his involvement with alcohol and drugs at a young age, Mr. MacNeil was diagnosed with ADHD, and OCD, and in the past anxiety by Dr. Langley. He became addicted to opiates at the age of 25, as a result of an accident, he said. The report indicates that Mr. MacNeil was using cocaine regularly between 2018 to 2020.

[51] Ms. Bates MacDonald, a Social Worker, at Cape Breton Correctional Facility (CBCF) has known Tyler MacNeil for a considerable time. She notes with these issues, that time spent in custody will be extremely difficult, stating that rules and the prison way of life will present serious challenges.

[52] As submitted by the Defence there are positive features to the report. Laura Langille, the team leader of Forensic Social Work at the Central Nova Scotia Correctional Facility (CNSCF), has conducted therapy sessions with Tyler, following a referral from Ms. Bates MacDonald.

[53] She believes Mr. MacNeil is a good candidate for EMDR, which is an eye movement form of therapy that is an evidence-based psycho-therapy method proven to help people recover from trauma and PTSD symptoms. She suggests this may assist with some of the impulsivity and emotional issues reported by him.

[54] Ms. Langille divulges that overall Mr. MacNeil has been actively engaged in therapy, presenting as open, honest, and respectful, and looks forward to continuing to work with him.

[55] This is confirmed by Ms. Bates MacDonald who revealed that during her work with Mr. MacNeil he was extremely insightful, respectful, and worked hard to do his best everyday. She feels he knows himself well, but struggles greatly with being impulsive, noting that he has a history of struggles with mental health.

[56] Mr. MacNeil has a strong relationship with Meaghan Cox, with whom he is engaged. She states Mr. MacNeil is reliable, dependable, and generous. She reported they have a great relationship. She states Mr. MacNeil has bouts of

depression, and has abused substances while they were living together. She indicated Mr. MacNeil is not an impulsive person, but will become frustrated, and then he apologizes. She says they are supportive of each other, and that Mr. MacNeil has a strong relationship with her daughter.

[57] Mr. MacNeil has three children of his own, a son eleven (11) , a son who is eight (8), and a daughter, who is seven (7) years old. He states that he has had contact with his two youngest children and with their mothers.

[58] Mr. MacNeil had an extremely difficult childhood and upbringing. His mother said everything turned bad in junior high, he was diagnosed with a learning disability and would not want to attend. Both Ms. Campbell and Ms. Cox believe the matter before the Court is out of character for Mr. MacNeil.

Criminal Record – Tyler MacNeil

[59] As an adult Mr. MacNeil's record shows that he was convicted of 33 offences in the period from 2010 to 2023.

[60] Included in those are 12 Breach of Probation Orders, and seven (7) Mischief offences. Other offences included 2 resisting/obstructing a Peace Officer, 2 offences of uttering threats to cause death or bodily harm, and 2 offences of failure to comply with a condition of undertaking, and a failure to attend court.

[61] Additional offences include 1) Dangerous operation of a motor vehicle, 2) trespass at night, theft of a motor vehicle, and setting fire to a substance.

[62] There are a total of three (3) assaults, common or simple assault, s. 266; assault causing bodily harm, and assault of a police officer. The bodily harm offence was in 2012, and the police officer in 2010. The more serious of these occurred 10 to 12 years before the offence before the Court today.

[63] As noted by Defence Counsel, Mr. MacNeil amassed a substantial *Youth Criminal Justice Act* record. The Defence says this is in keeping with the issues faced by him as a young person.

B. The Nature of the Offence

[64] In regard to the nature of the crime I have already mentioned the findings in my decision. The Crown submits the attack was brutal and vicious. The Crown submits the caselaw for similar type offences, support the period they seek.

[65] The Defence acknowledges the findings made by the Court, as to the level of violence, the extent of the injuries, and the tragic results in this matter.

[66] The Defence, relying on cases such as *R. v. Meers*, submits the lower end of the range is justified where there is potential for rehabilitation, as is the case here.

Victim Impact Statement (VIS)

[67] Ms. Tammy Donovan, sister of Lenny Groves provided a VIS, which she read into Court. It was heartfelt, and compelling as she described what it is like to lose her brother, who was a cherished member of the Groves family. It broke their hearts she said, including the children, her own daughter, Nicole. How much they miss him, the chores he would do, being helpful always. As a family, we always had each other, she said.

[68] Section 722 of the *Criminal Code* obliges the Court to take into account, a VIS such as Ms. Donovan, and all of the others who filed their statements.

[69] These included Katie Groves, mother of Lenny Groves, Stevie Groves, Lenny's brother. MacKayla MacLean, niece and Katie MacLean, niece and goddaughter.

C. Circumstances Surrounding the Commission

[70] I believe it is unnecessary at this point to further detail the circumstances surrounding the offence. They were extensively detailed in my decision at Trial.

[71] Mr. MacNeil inflicted extreme harm to Mr. Groves. There was no planning or deliberation. The amount of violence was excessive.

[72] It escalated from a stolen bike to a tragic death, in a quick span of time. At Trial I accepted Mr. MacNeil's evidence that matters took only seconds or minutes (he said one minute), and that the altercation was totally unexpected.

[73] Mr. Groves being left on the street is a significant aggravating factor.

Caselaw

[74] The Crown has provided substantial caselaw to support its recommendations.

[75] In *R. v. Barrett*, 2016 NSSC 107, the accused choked the victim in a fit of anger, and hid her body. A joint submission of 15 years was deemed to be within the appropriate range based on the principles of parity a relevant caselaw. The accused had an extensive criminal record for violent offences.

[76] In *R. v. Bernard*, 2017 NSSC 129, the victim was beaten about the head and neck, which assault resulted in the victim's death. Parole was set at 14 years. The crime was brutal in nature, the accused hands and feet were used to inflict violence. A Gladue report was prepared. Mr. Bernard had an extensive criminal record for further violent offences.

[77] In *R. v. Isaac*, 2020 ONSC 7882, there was a violent attack, which resulted in the victim being stomped to death. The Court found it was a brutal killing, with the

Defendant remaining in the apartment, the place of the offence for 48 hours. The attack was domestic in nature and the victim was a vulnerable. Her death had a tremendous impact on her family. The accused had an extensive criminal record, and had numerous convictions for violent offences. Parole ineligibility was set at 18 years.

[78] In *R. v. White*, 2024 (NSSC unreported), one defendant hit the victim with a chair, while a second accused stomped on the victim's head. All were partaking in the use of drugs. Blunt force injuries to the head resulted. The parole ineligibility period was set at 15 years. The deceased had a lengthy criminal record for violent offences.

[79] In *R. v. Beady*, (2013) MBQB 15, the accused was one of several offenders that committed a brutal assault, on a much smaller passive person. The victim was severely beaten by the large offenders. The period of parole ineligibility was set at 14 years. The accused had a record for numerous assaults, including assault with a weapon and assault causing bodily harm, and for uttering threats. The convictions were almost all tied to excessive consumption of alcohol by the accused.

[80] In *R. v. Bouchard*, 2016 ONSC 4484, the accused reacted violently to advances from the much weaker victim, by stomping on his head and neck,

ultimately leaving him to die from his injuries, without calling for medical assistance. Parole ineligibility was set at 15 years.

[81] The offender was on probation for an offence of violence when he killed the victim. His record included break and enter and theft, theft, impaired driving, uttering threats, and five breaches and assaults were entered on his record.

[82] Mr. MacNeil has one assault where bodily harm was caused, in 2012. As noted he has convictions for numerous other offences, including 2 other assaults.

Analysis and Decision

[83] The principles of sentencing have been enunciated in the case of *R. v. Grady*, (1971) 5 N.S.R. (2d) 264, where the Court said that the protection of the public should be achieved, and it could be done either by (a) deterrence of; or (b) reformation and rehabilitation of the offender, or (c) a combination of both deterrence and rehabilitation.

[84] The Nova Scotia Court of Appeal accepted three-time frames of parole ineligibility. The first category of 10 to 15 years is reserved for offenders whom the prospect of rehabilitation appears good and for whom little would be served by extending their parole eligibility other than to further the sentencing objectives of

denunciation and retribution. The third category of 20 to 25 years is for the worst offenders who commit the worst offences. The 15-to-20-year category is for offenders who do not fall in either of the first or third categories.

[85] In this case Crown and Defence agree that the timeframe of 10 to 15 years is the appropriate category.

[86] Under s. 745.4 of the Code the sentencing judge must consider the character of the offender, the nature of the offence, the circumstances of the offence, together with the other sentencing principles.

[87] In *Hawkins* it was stated that these factors should not be narrowly construed, stating for example that “denunciation” can be considered under the nature of the offence, and concerns over possible future dangerousness of the offender may be considered under “character of the offender.”

[88] An accused’s background and character is relevant to their rehabilitation potential. I have addressed these factors already, including the circumstances of the offence.

[89] Once again, the Crown says there has been no adherence to a recovery plan, despite Mr. MacNeil being in a recovery plan. He was provided with opportunities to address this, but has chosen not to, says the Crown.

[90] In addition, Mr. MacNeil has a 20-year history of offences, and this does not bode well for his successful release to the community in the future, the Crown says.

[91] The Defence disagrees, based on the evidence provided by those closest to Mr. MacNeil, in terms of knowing his background, and being involved with his therapy and history while incarcerated.

[92] Ms. Bates MacDonald states Mr. MacNeil has shown significant improvement, since she first met him in 2016. “The future is unwritten for him” she says, and “although it will be difficult, it is essential he knows he will be the author of his own journey.”

[93] I have reviewed, considered and summarized the cases provided by the Crown, and for the time period of 14 to 15 years, the common element in these cases is the extensive criminal records held by these offenders. With the possible exception of *R. v. Bouchard*, 2016 ONSC 4484, and on average, the criminal records of the offenders in these cases were more extensive than Mr. MacNeil’s, for assaults in particular.

[94] In terms of the nature of the offence, the Crown states that Mr. MacNeil inflicted extreme harm upon Mr. Groves, further arguing that Mr. Groves had no ability to defend himself.

[95] The Crown submits that Mr. MacNeil has not shown remorse, stating that he took responsibility for the altercation, and he regrets his actions. I concur there were features in *Meers* that are not present here, such as the offender calling 911 to report the stabbing and identifying himself as the assailant.

[96] Mr. MacNeil had the right to maintain his innocence and to be tried on the charge in the Indictment. Any lack of remorse is not an aggravating factor.

[97] The Pre-Sentence Report states that Mr. MacNeil expressed remorse for his actions, that he should have handled the situation differently, and that he will use his time in incarceration to move forward in his life. This is a level of remorse, even if it is not what the Crown would consider remorseful.

Conclusion

[98] In conclusion, having considered the circumstances of the offence and the offender Mr. MacNeil, I find:

- 1) that the 10-to-15-year category put forth by the Crown and Defence is the appropriate range for parole ineligibility for Mr. MacNeil.
- 2) that the brutal nature of the attack, the impact on the victim's family, and the failure to provide assistance are all reasons to extend the period of

parole ineligibility beyond the 10-year minimum, in furtherance of the principle of denunciation of the crime.

- 3) there is some evidence that the crime is out of character for Mr. MacNeil and there is credible evidence that he has good prospects for rehabilitation.
- 4) Mr. MacNeil is solely responsible for this crime, and there is a high degree of moral culpability.
- 5) there is not a strong indication of an underlying or persistent danger to re-offend.
- 6) considering the sentencing principles under the *Criminal Code*, including s. 725.4, Mr. MacNeil's parole ineligibility is set at 12 years.
- 7) The Ancillary Orders requested are granted.

Murray, J.