

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *R. v. Strong*, 2025 NSSC 405

**Date:** 20251216

**Docket:** CRAM-544666

**Registry:** Amherst

**Between:**

His Majesty the King

v.

Tyler Strong

**DECISION ON SENTENCE**

**Judge:** The Honourable Justice Joshua M. Arnold  
**Heard:** December 16, 2025, in Amherst, Nova Scotia  
**Oral Decision:** December 16, 2025  
**Written Decision:** December 22, 2025  
**Counsel:** Vicky Doucette, for the Crown  
Dustin Caissie and Daniel Gallant, for Tyler Strong

## Overview

[1] Tyler Strong was driving a rental car that he was unfamiliar with on a secondary highway, on a dark and rainy night, while traveling at 148 km/h in a 70 km/h speed zone. Although prohibited by a solid line, he passed a vehicle ahead of him that was traveling at the posted speed. Still on the left side, he approached an intersection where a vehicle was turning left. He t-boned that vehicle. Mr. Strong killed Ace Gabriel-Killen (two months old), Amanda Gabriel (43 years old), and Travis Killen (26 years old). He severely injured Sara Gabriel (21 years old at the time) and Kayley Bird (19 years old at the time).

[2] Following a Resolution Conference, Mr. Strong pled guilty to three counts of dangerous driving causing death (*Criminal Code*, s. 320.13(3)) and two counts of dangerous driving causing bodily harm (s. 320.13(2)). Crown and defence jointly recommend that Mr. Strong be sentenced to 4.5 years in prison, as well as a five-year driving prohibition and a ten-year firearms prohibition. For the reasons that follow, I accept the joint recommendation.

## Facts

### *Agreed Statement of Facts*

[3] An Agreed Statement of Facts was presented to the court and states:

1. On October 21, 2023, Tyler Strong, was driving a 2021 Volkswagen Golf southeast bound on Highway 2 towards the Town of Amherst.
2. This section of Highway 2 is a two-lane highway, with one lane of travel dedicated to the southeast direction and one lane of travel dedicated to the northwest direction.
3. The speed limit on this section of Highway 2 is 70 kms/hr.
4. It was raining heavily that evening.
5. At approximately 10 p.m. Mr. Strong maneuvered to overtake a vehicle traveling in the same direction in front of him. He passed this vehicle at a high rate of speed, traveling in the northwest bound lane.
6. While still in the northwest bound lane, Mr. Strong reached a speed of 168 kms/hr. He approached the intersection forming a T between Highway 2 and the on-ramp to Highway 104 eastbound.

7. Mr. Strong remained on the left side of the solid line and just as he was arriving at the Intersection, a red 2021 Mitsubishi RVR slowed down and began a left turn onto the on-ramp leading to Highway 104.
8. Mr. Strong's vehicle collided with the left rear side of the Mitsubishi, in a T-Bone fashion, at an estimated speed of 149km/hr.
9. The impact on the Mitsubishi caused it to flip several times and resulted in severe damage to the vehicle.
10. As a result of the collision, Mr. Strong's passenger and domestic partner, Kayley Bird, suffered serious injuries including:
  - a) a collapsed lung,
  - b) loss of 40% of her bowel,
  - c) loss of a section of her colon,
  - d) a broken wrist,
  - e) a broken sternum, and
  - f) seven broken ribs.
11. Also as a result of the collision, Sara Gabriel, who had been the front passenger in the Mitsubishi vehicle, was ejected from the vehicle and suffered the following severe injuries:
  - a) a broken femur,
  - b) multiple broken vertebrae in her back and neck,
  - c) nerve damage to her lower extremities,
  - d) a puncture wound to her abdomen, and
  - e) soft tissue injuries (road rash to her back, face and right arm).
12. As of the date of her statement to police in 2024, Ms. Gabriel continued to require surgeries and ongoing physical therapy.
13. Further as a result of the collision, three out of the four occupants of the Mitsubishi succumbed to fatal injuries and were declared dead at the scene:
  - a. Amanda Gabriel (43 years old), who had been the driver of the vehicle and mother to the surviving victim, Sara Gabriel
  - b. Ace Gabriel-Killen (2 months old), who had been secured in a rear facing car seat and was the infant son of Sara Gabriel and Travis Killen

- c. Travis Killen (26 years old), who was the right backseat passenger and domestic partner to Sara Gabriel.

### ***Presentence Report***

[4] A presentence report was prepared in relation to this matter. It recounts an unstable home and family life when Mr. Strong was growing up, with addiction issues in the household:

Tyler Joseph Strong is the son of Peter Roberts, age 59, of River Hebert, Nova Scotia and Gail Strong, age 49, of Springhill, Nova Scotia. His parents never married but their relationship spanned eight years. They separated when the subject was in preschool. According to Tyler Strong, his mother was an unfit parent due to her struggle with drug and alcohol addiction. She sought custody, which he feels was motivated by financial gain, but he and his brother, Mark, who is three years older, remained with their father. He stated his father provided adequate parental care for a few years but fell into severe substance abuse when the client was 11 years old, after which, the children were severely neglected. The subject has a paternal half sister, Savannah, age 29. Savannah did not live with them but visited occasionally.

The subject's formative years were spent in River Hebert, and locals were aware of his family situation. His parents didn't attend school or community functions and didn't care for their home. He was often embarrassed and always worried about his family. His father had no other romantic partners, and his mother had a series of bad relationships. He and his brother were briefly in foster care soon after his parents separated, which he alleged stemmed from allegations his mother made during the custody dispute. The foster home was in their community, though he has only a vague memory of that period.

As children, Tyler Strong reported a good relationship with his brother, Mark. However, as they aged, he suggested his brother resented that the subject was 'a goody two shoes.' The subject described his brother as an angry and abusive person. They grew farther apart as his brother's lifestyle devolved into substance abuse.

The subject recalled an unstable home, largely due to serious addictions impacting his entire family. He reported no guidance, structure or discipline, and his father's primary mode of communication was yelling. He identified as having been verbally and emotionally abused by his parents and physically abused by his brother. He offered that his mother moved whenever rent was due and was not a source of support. It should be noted his great aunt, Teresa, consistently checked in and provided the family with food. The subject commented, that without her, his life would have been much more difficult.

The subject stated he had been a sensitive and emotional child. He recounted being bullied for his 'strange' nature and being overweight, which he attributed to lack of

adequate nutrition. He recalled having a lot of empathy for people who were struggling, and he was a caretaker at home at an early age. He reported his father rarely left his bedroom. He recalled preparing food for the family and having to empty dishes and urine filled containers from his father's room. He noted his father lost his leg due to intravenous drug use 10 years ago but did not change. The family was supported on income assistance. Tyler Strong suggested he was shaped by childhood trauma. The subject also recalled his brother being engulfed in flames when they were very young after they played, unsupervised, with a lighter. He advised he often felt helpless and responsible for himself and others. He also recounted having full access to recreational vehicles very young and being permitted to use the car on the streets around the age of 13. He suspects this contributed to a false sense of confidence and maturity. The subject also shared he'd had a month-long sexual relationship with a 28-year-old woman at the age of 16 or 17. At the time, he considered himself willing but in hindsight, believes he was sexually exploited. He left home at the age of 18, couch-surfing with friends in Amherst, Nova Scotia for months. He started work at Westco Poultry Ltd., where he found structure and support through his boss and a friend who worked there. He shared an apartment with a coworker before moving out on his own.

The subject cut ties with his parents and brother five years ago. It's been two years since he attended his father's home to collect mail and was saddened at the home's state of disrepair. His parents are aware of his matters before the Court via his great aunt, but he has not talked to them. His mother sometimes messages, asking him for money, and he has a distant relationship with his paternal grandmother. He reconnected with his half sister, suggesting they identify with each other's trauma. He identified his childhood friend, Josh, as having had a significant positive impact on him. The subject claimed he stopped stealing food as a child after he started spending a lot of time at Josh's home. He also credited his friend with broadening his social connections. The subject's employer, Pierre Cyr, for whom he has worked for seven years, has been a mentor; teaching him the value of productivity, personal responsibility, respect, discipline and a strong work ethic. He noted Mr. Cyr has supported him, attending all his court dates since the collision underlying the offences.

Tyler Strong has been in an intimate partner relationship with Kayley Bird, age 21, for three years. He described a healthy relationship with Ms. Bird; acknowledging she was the passenger in his car and was seriously injured in the collision. They remain together, and he has assisted her through her recovery. Her family has also been supportive. He cited his legal situation, uncertainty of their future, pending incarceration and threats from a victim's family member as his biggest sources of stress.

Kayley Bird spoke with me on November 26, 2025. Ms. Bird confirmed an intimate relationship with the subject for almost three years, two of which they have lived together. Ms. Bird also confirmed she was Tyler Strong's passenger during the collision and sustained serious injuries. She advised a difficult recovery has been compounded by her partner facing incarceration. She has not accessed

support to process her feelings, advising same has not been offered, though she indicated she has not responded to Victim Services. She believes what happened was an unfortunate accident, and the subject had no intent to hurt anyone.

Ms. Bird stated the subject experienced difficult formative years. He has no family support, but he has support from her family. They like to stay at home, and she considers the subject a nurturing partner, a hard worker and good person. She reported he did not leave her side during her recovery from her injuries, stating she could not have made it without him. They have both been off work for the past few weeks to move her back to her parents' home and spend time organizing their affairs before the subject is incarcerated. They intend to continue their relationship. She believes he will try to improve himself while in custody and noted he feels terrible for what happened. She does not consider him a risk to anyone, and she opined he learns from mistakes. She commented he has heeded advise to have no contact and respect the victims' and families' feelings.

[5] As to Mr. Strong's educational background, the report states that he completed high school:

The subject graduated from River Hebert District High School in 2017. He repeated no grades but did not enjoy the school atmosphere as he felt picked on. He was not a strong student, but his best subject was English. He was first in his family to achieve a high school diploma, and he reported no literacy deficiencies. He was not engaged in extracurricular activities or sports and cited lack of family support and neglect as negatively impacting his opportunities to learn.

Tyler Strong described himself as being a chatty student who was sometimes hyperactive. He considers himself someone who feels deeply; a trait which sometimes made him a target for other students. He had mostly positive relationships with administrators and teachers. A couple of teachers made efforts to look out for him; one of whom quietly paid for his school lunches after noticing he never had money for same.

He recalled missing 136 days of school in 10th grade, after his father's leg was amputated. The subject is unsure what his future goals are for education. However, he wants to access any educational opportunities that may be available upon incarceration.

[6] The report went on to address Mr. Strong's employment history:

Tyler Strong was employed with Westco Poultry Ltd. for over seven years. He typically worked 40-50 hours weekly and earned \$20.53 per hour. He took a leave at the end of October 2025 in effort to organize his affairs prior to sentencing in December. He noted he will move his girlfriend into her parents' home as she is unable to maintain their apartment without his income. He enjoyed his work and is grateful for the structure, camaraderie and personal growth it provided.

Pierre Cyr, the subject's employer spoke with me on November 26, 2025. Mr. Cyr confirmed Tyler Strong has been in his employ since April 2019. Mr. Cyr stated the subject has been a reliable, hardworking employee who gets along well with peers and coworkers. He considers Tyler Strong likable, quiet, easygoing and down to earth. He is aware of the matters before the Court and noted the subject tried to reach him on the night of the collision. He acknowledged the subject made bad decisions while driving that resulted in the matters before the Court. He described the consequences of the collision as shocking, and the subject has shared his regret and remorse many times. Mr. Cyr confirmed he has been the subject's primary support throughout the court process, noting he has had little to no support from family throughout his life. Mr. Cyr advised Tyler Strong became a friend over the years. He noted the subject likes adrenaline, ATVs, motorcycles and cars, as is typical of many young men and likely did not recognize the risk in his actions on the night of the collision. He indicated the subject was beat up but not seriously injured. The subject was off work for two weeks afterward, most of which was spent caring for his girlfriend who had been seriously injured. He encouraged Tyler Strong's return to work as it offered something positive during an extremely difficult time. Following his last Court appearance, the subject took a leave to get his affairs in order prior to sentencing as he is expecting a significant period of incarceration. Mr. Cyr opined the subject is a good person who made bad decisions that led to terribly tragic outcomes for all victims, their families and himself. He does not believe the subject had any malicious intent, and has expressed deep regret for his actions.

[7] As to Mr. Strong's health history and lifestyle, the report states:

Tyler Strong considers himself to be in good health. He has asthma and environmental allergies for which he uses puffers as needed and has dealt with migraines since childhood. He had a Nurse Practitioner until she closed her practice a couple of years ago. He has no current primary health care provider. The subject believes his mental health has been good, considering his current circumstances. He feels sentencing may bring a sense of relief. He struggled with suicidal thoughts when he was younger and still experiences passing thoughts of suicide, though he denied current suicidal ideation. He does experience some depressive symptoms and did exhibit traits of hyperactivity when he was young, but he has not been assessed or diagnosed with a mental illness or mental health issue. He is unaware of diagnosed mental health problems within his family or a family history of suicide.

According to Tyler Strong, he drinks alcohol most days since the collision central to these proceedings. He indicated he drinks to excess occasionally and prior to the accident, he drank socially. He first drank alcohol at the age of 18 and drank excessively with friends for a brief period. He suggested alcohol makes him more relaxed or bubbly, noting he does not become angry or confrontational. He denied current or recent use of illicit substances. He stated he dislikes drugs as he saw

people close to him abuse speed, heroin and meth much of his life and he is aware of the destruction caused by same. He admitted experimentation with some drugs as a teen, noting it was pursued by his peers, and he had access through his father, who did not disapprove. The subject also acknowledged cocaine experimentation around the age of 22, which continued for almost two years after he was introduced by friends. He reported quitting 'cold turkey' when he realized it was becoming a problem, and he distanced himself from people who used drugs. He denied use of illicit substances in over two years, and stated he was unproductive when using and slept too much, even when under the influence of amphetamines.

The subject denied a history of gambling. He enjoys being outdoors and much of his free time is spent gaming on his personal computer. He has been an avid gamer since adolescence and primarily plays World of Warcraft. He does not consider himself to be an excessive gamer as his hobby does not interfere with obligations or responsibilities including work, appointments, and other commitments. He has a small peer group; reaffirming he cut ties with friends he considered to be negative influences.

Chris Rayworth spoke with me on November 6, 2025. He has known the subject over six years. They met when Tyler Strong was working as a labourer on a crew contracted to the farm for which he worked, Westco Poultry Ltd., and the subject was hired full time afterwards. He stated the subject took initiative and was an excellent employee. They became friends quickly. Mr. Rayworth offered to share an apartment with Tyler Strong when he learned the subject had been sleeping in a friend's closet. They got along well, and he became familiar with the subject's independent nature. He added that Tyler Strong likes to stay home, watch TV and play video games. He cited difficult family circumstances during the subject's formative years. He noted Tyler Strong's mother, father and brother have severe substance use problems and offer no support. He noted a great-aunt was very helpful but became less available as she aged. He does not consider the subject to be a risk to anyone in the community. He believes the collision that forms the basis of these matters was an accident for which the subject is 'hugely remorseful.' He opined Tyler Strong is never angry, doesn't speak ill of anyone and has never wanted to hurt someone. Mr. Rayworth believes the subject has handled his situation well, despite his deep remorse and being threatened at each court appearance. He advised Tyler Strong has a job waiting with an uncle upon his release from custody, and he will offer any support he can to help the subject move forward.

[8] The report concludes that Mr. Strong has indicated that he accepts responsibility for his actions, and has expressed remorse:

...

In referencing the present offences, the subject offered that he did not consider the consequences that may result from driving too fast. He admitted the risk was not

even a thought at the time and suggested years of operating motor vehicles without contemplation of an accident, even before being a licensed driver, made him careless. The car he was driving was new to him, and he did not adjust appropriately to weather conditions. He indicated he accepts responsibility for his actions and he expressed regret and remorse for the outcome, which he referred to as tragic. He advised he cries daily about what happened, but knows he cannot change it, though he wishes he could. He stated he is sorry for the death and harm he caused to the victims and their families. He acknowledged he cannot gauge the feelings of the victims' families, and believes they hate him, though only one person has been openly hostile. He has not reached out to anyone impacted, aside from his girlfriend, and knows no apology will help. He expressed hope that taking responsibility will offer the families some resolution.

[9] Mr. Strong does not have a criminal record or a record of any *Motor Vehicle Act* infractions.

### ***Victim Impact Statements***

[10] Victim Impact Statements from 11 friends and family were tendered. They state:

#### **Sara Gabriel**

I don't even know where to start. In the crash I lost my mother, 2-month-old son and partner...Emotionally I am confused, mad, lost and empty. Nothing can bring them back. I will never be okay with the fact that my sweet curly headed baby boy isn't here with me today. I will forever have a emptiness in my heart, soul and mind...

...

This tragedy left me with a broken back, broken neck, broken femur, road rash from my neck to the top of my bottom, road rash on my face and nerve damage in my ankle along with abrasion scattered amongst my body. I have had multiple surgeries on my femur, and have been attending physio to try and get my leg back to its old self...

#### **Anna**

...

Travis was a loving son and devoted father. He had fought hard to get his life together for his son and was proud of the responsibility of becoming a parent. He wanted to provide a stable future and be the father his child deserved. That future was taken from him far too soon.

The loss of his baby boy is beyond comprehension. A two-month-old child never had the chance to grow, to take his first steps, or to experience life. Our family

grieves not only the loss of two lives, but the loss of all the moments and milestones that will now never happen.

This tragedy has permanently changed our family. Holidays and everyday moments are now filled with grief. We mourn who Travis was, who he was becoming, and the life his child never had the opportunity to live.

...

**Connie Carmichael**

I feel anger, hurt, sad. I no longer sleep more than 3 HRS at a time my world is gone he destroyed my whole world. I don't go out of my house anymore can't go out in public As soon as I open my eyes I see Amanda & Ace and as soon as I close my eyes I see them.

...

**Justin DiMichele**

Losing my brother and my nephew in a tragic car accident has changed my life in ways I never imagined. There is no preparing for a loss like that it hits all at once and then keeps hitting in waves. Their absence is felt in every part of my day, from the quiet moments when I wake up, to the times I wish I could call, to the nights when the memories are too heavy to carry.

This loss has affected me emotionally, mentally, physically. I struggle with grief that feels endless. I face anxiety, depression, and moments where I feel completely overwhelmed. My motivation, my focus, and even my ability to feel joy have been impacted. I find myself constantly replaying what happened, questioning the unfairness of it, and trying to accept something that will never make sense.

...

**Sheila DiMichele**

This has been a nightmare no mother or grandmother should ever have to go through. I never thought at 76 a grandson and great grandson would go before me, especially at once...It breaks my heart to think I will never see their beautiful faces or get to hug them ever again...

**Tammy DiMichele**

...

What you did shattered our families. It wasn't just three lives taken – it was countless others left broken, living with pain and a hole in our hearts that will never heal. Every birthday, every holiday, every ordinary day carries the weight of their absence.

You have taken away laughter, hugs, future milestones, and the simple joy of seeing them live and grow. My son will never get to raise his child. My grandson

will never learn to walk, talk, or say “I love you.” And a grandmother who should still be here to share in that love is gone forever.

The pain you caused is not temporary. It will live with me for the rest of my life. I will never stop mourning them. I will never stop wishing they were here.

...

### **Adam Troy Robert Gabriel**

At this point my life style is shit, I can't sleep at night anymore. I quit all my activities, Soft Ball, Darts, and hanging out with any friends, I hide from the world. I can't eat and go to family gathering anymore, I drink and get high everyday now and shake so bad I can't carry a cup of coffee to the table because it spills.

...

I had to sell my house because of all the memories and moved to another town...

...

### **Amy Gabriel**

...In addition to taking away my family, he has taken away moments I can never get back because of the grief and living in survival mode for months after the incident I can't remember the majority of my son's first year of life. I can no longer drive without severe anxiety especially in the rain or at night. There are nights I get no sleep, the nights I do sleep it doesn't matter if it's 2 hrs or 12 hrs I wake up exhausted. I can't work due to the anxiety that something devastating could happen to my son when he is the only family I have left...

### **Riley Gabriel**

None of my family wants to be alive. No one wants to deal with this world without the one who made this world tolerable. This offence has caused a divide so strong that I am unsure if we will ever truly recover the love that was so viciously ripped from our souls. Everyday, I have to wake up and remember that the only person who thought like me and truly understood me is no longer here. Every time I get into a vehicle, I pray to not reach my destination. Not because I want to die, but because I want the chance to meet with my mother again. Never again will I see the world in the same light. Never again will I experience the full colour, smell, and taste of the world. No one will tell you how cold the world begins to feel. When a family loses its warmth, closeness, and sense of unity, it opens the door for unchecked animosity, irregularities within relationships that have molded you as a person. When your sense of foundation vanishes, you have no choice but to fall. The fall my family has endured is one I fear we will not recover from. We have all been stripped of our only true source of pure, authentic, and unmatched love...

...

### **Alexis Killen**

...On that day, you took more than just their lives – you took pieces of mine, and pieces of everyone who loved them. I will never again see my nephew Ace, hear his laugh, or watch him grow. Those moments were stolen from me forever. You took my brother, the one who always protected me, the last piece of my dad that I had left. With him went the end of the Killen name – the last ones who could pass it on.

...

Every time I drive in the rain, my heart races, and I see the image of them alone in the car while the rain poured that night. When I get too cold, I feel the chill in my bones from when I held their lifeless bodies. I had to watch my mom – the strongest woman I know – break. You took the light from her eyes.

...

**Leanna Killen-Leblanc**

...

We will never get his hugs anymore. Travis was always there to give a hug when he seen you. He was a loving father, devoted to his son, and was building a life filled with love and dreams. The sudden and violent nature of their deaths has brought unimaginable grief to our family. We are haunted by the memories of what could have been – the milestones Ace would never reach, the dreams Travis would never realize.

The absence of Travis and Ace has cast a dark shadow over our family. We struggle to find joy in everyday moments, knowing that they are missing from our lives forever. The pain is a constant reminder of the injustice of their untimely deaths. We hope that this statement conveys the depth of our sorrow and the profound impact this tragedy has had on our lives.

[All as appear in originals.]

[11] In relation to the impact on the victims, the parties jointly state:

**Impact on the victims**

29. In addition to consideration under s. 722 (1) of the Criminal Code for the Victim Impact Statements, the Court must also consider s. 718, namely subsections (a), (e), and (d), in terms of harm done to the victims when arriving at a fit and appropriate sentence.
30. The loss of Amanda Gabriel, Travis Killen and Ace Gabriel Killen has had a profound impact on their family members and the community. The same can be said about the two victims who have survived the collision, Kayley Bird and Sara Gabriel.
31. In the case of Sara Gabriel, she is in the unenviable position of being a survivor of the crash, while mourning the death of her infant son, her

spouse and her mother. One cannot imagine the impact this crime has had on her.

32. Not to be lost is the impact this incident had on both the motorists, bystanders, and first responders who attended the scene. The weight of what several of them experienced on October 21, 2023, was readily apparent during their testimony at the preliminary inquiry, as more than one witness struggled to complete their testimony without breaking down.

### *Use of Victim Impact Statements*

[12] In discussing the use to be made of victim impact statements in *R. v. Hickey*, 2011 NSSC 186, Cacchione J. said:

[32] It is difficult not to be moved by the statements and emotion expressed by Ms. Carter in her victim impact statement. **I must, however, keep in mind that the criminal process and in particular the sentencing aspect of that process is not an instrument of vengeance nor one of appeasement.**

[Emphasis added]

[13] Similarly, Watt J. (as he then was), said in *R. v. Costa*, [1996] O.J. No. 299 (Ont. Ct. J. (Gen. Div.)):

42 It is also worthy of observation that the sentence to be imposed is governed by fixed principles applied to the circumstances as I have found them to be. **Too often and erroneously, it is thought to afford some measure or indication of the value which a court places upon the life of a deceased. Nothing could be further from the reality that is sentencing in criminal cases. There is no measuring of the inherent or intrinsic value of the principals[sic], and the application of some measurement of equivalence in the sentencing process. The sentence imposed ought not to be thought reflective of the intrinsic value or worth of the deceased. It is not.** That is not the function of a sentence in this or in any criminal case. **No sentence will ever breathe life into the deceased person, nor restore him or her to his or her family and/or friends.** Would that it were that simple.

[Emphasis added]

[14] In *R. v. Pike*, 2017 NLTD(G) 95, Burrage J. stated:

[28] **Victim impact statements assist the sentencing process by bringing home to the offender the consequences of his or her behaviour and alerting the Court to the very real damage done to the victims and community as a whole.** Victim impact statements thus assist the Court in crafting sentences which

acknowledge the harm done to the community and promote a sense of responsibility in the offender (*R. v. Okemahwasin*, 2015 SKPC 71 at para. 15).

[29] At the same time, vengeance has no role in the sentencing process. Such statements must not serve to compensate grief through the imposition of a harsh sentence (*R. v. Ralph*, 2007 NLTD 42 at para. 19).

[30] **No sentence can compensate for the value of the life that has been lost. Rather, the objective is the imposition of an appropriate punishment for the crime that has led to the loss of that life.**

[Emphasis added]

### Relevant *Criminal Code* Sections

[15] Sections 320.2 and 320.21 set out the punishment for the crimes of dangerous driving causing bodily harm and dangerous driving causing death:

#### **Punishment in case of bodily harm**

**320.2** Every person who commits an offence under subsection 320.13(2), 320.14(2), 320.15(2) or 320.16(2) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of,

(i) for a first offence, a fine of \$1,000,

(ii) for a second offence, imprisonment for a term of 30 days, and

(iii) for each subsequent offence, imprisonment for a term of 120 days; or

(b) an offence punishable on summary conviction and liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years less a day, or to both, and to the minimum punishments set out in subparagraphs (a)(i) to (iii).

#### **Punishment in case of death**

**320.21** Everyone who commits an offence under subsection 320.13(3), 320.14(3), 320.15(3) or 320.16(3) is liable on conviction on indictment to imprisonment for life and to a minimum punishment of,

(a) for a first offence, a fine of \$1,000;

(b) for a second offence, imprisonment for a term of 30 days; and

(c) for each subsequent offence, imprisonment for a term of 120 days.

[16] As noted by the parties, the relevant *Criminal Code* provisions setting out the principles of sentencing relevant to this case include ss. 718 and 718.2:

**718** The fundamental purpose of sentencing is to protect society and 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 that have one or more of the following objectives:

- (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.

...

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

...

- (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.

[17] Dangerous driving causing death carries a maximum sentence of life imprisonment. It has no mandatory minimum sentence, but a conditional sentence, discharge, or suspended sentence is not available.

### **Aggravating Factors**

[18] Section 320.22 sets out the aggravating factors if the dangerous driving causes bodily harm and/or death as in the present case:

#### **Aggravating circumstances for sentencing purposes**

**320.22** A court imposing a sentence for an offence under any of sections 320.13 to 320.18 shall consider, in addition to any other aggravating circumstances, the following:

- (a) the commission of the offence resulted in bodily harm to, or the death of, more than one person;**
- (b) the offender was operating a motor vehicle in a race with at least one other motor vehicle or in a contest of speed, on a street, road or highway or in another public place;
- (c) a person under the age of 16 years was a passenger in the conveyance operated by the offender;
- (d) the offender was being remunerated for operating the conveyance;**
- (e) the offender's blood alcohol concentration at the time of committing the offence was equal to or exceeded 120 mg of alcohol in 100 mL of blood;
- (f) the offender was operating a large motor vehicle; and**
- (g) the offender was not permitted, under a federal or provincial Act, to operate the conveyance.

[Emphasis added]

[19] According to the parties, the aggravating factors for the court's consideration in this case include the following, as stated in the joint sentencing brief:

- 25. Three individuals lost their lives because of the Accused's actions and two have had a long path towards recovery due to the bodily harm caused by him. In respect of number of deaths, ordinarily, this is not aggravating as causing death is an element of the offence. However, causing multiple deaths in driving cases is statutorily aggravating under s. 320.22(a). Accordingly, this aggravating factor applies.
- 26. The Accused's egregious driving is more than just a mere "marked departure" from the norm. The driving was dangerous in more than one respect, being:
  - a. Speed: The Accused was travelling between 155 and 168 km/hr during the five seconds preceding the crash, with a minimum speed of 149 km/hr at impact; The Accused collided with the victims' car at such high rate of speed that we can observe the victims' SUV vehicle flip and turn for a full six seconds from the time of impact to the time it rests on its side.
  - b. Passing on a solid line: At the time of impact, the Accused was driving across a solid line. The highway in this area was clearly marked as a no passing area, specifically because of the on-ramp

that allows for a left-hand turn; The Accused completely ignored these road markings which directly lead to the collision;

- c. Weather and time of day: The collision occurred at approximately 10 p.m. in late October. It had been dark and raining for hours.
27. It is respectfully submitted that these elements in their aggregate increase the moral blameworthiness of the Accused's behaviour.

[20] I agree that the factors noted by the parties are aggravating.

### **Mitigating Factors**

[21] According to the parties, the mitigating factors for the court's consideration in this case include the following:

28. There are multiple mitigating factors to consider, namely:
  - a. Age: The Accused is youthful, being 24 years old at the time of the infractions and 27 at the time of sentencing;
  - b. Record: The Accused has no prior *Criminal Code* record nor any *Motor Vehicle Act* infractions; He was licensed to drive and had a clean driver's abstract;
  - c. Guilty Pleas: The Accused entered guilty pleas after the preliminary inquiry, but months before the trial of the matter, which was set over a number of weeks in June and July, 2026. The admission of responsibility saves the survivors, the family members and all other witnesses months of uncertainty waiting for the trial. It saves them the trauma of attending a weeks-long trial where the events would be re-hashed and sensitive video and photos would be presented; The admission of responsibility by Mr. Strong provides some measure of closure to the families and saves a lot of institutional resources.
  - d. Pre-sentence report: It is expected that Mr. Strong's pre-sentence report will reveal that he has had a difficult upbringing but has succeeded in being a pro-social member of society despite not having much guidance from his biological parents. He receives support from his employer in the community. More detailed submissions will be made in the parties' oral submissions regarding the pre-sentence report.

[22] I agree that the factors noted above by the parties are mitigating.

### **Sad Life Principle**

[23] The sad life principle was not specifically raised by counsel but was peripherally referenced by them. This principle was succinctly described by Hoskins J. (as he then was) in *R. v. Gloade*, 2019 NSPC 55:

[79] The sad life principle must be considered in this case, as there is an evidentiary basis for its consideration when one considers the personal circumstances of Ms. Gloade, as discussed in all the reports prepared for this sentencing hearing, including the Pre-Sentence Report, the Gladue Report and the sentencing proposal report arising from the Sentencing Circle.

[80] Let me be clear, the sad life principle involves much more than an evidentiary basis for a sad life. It also requires an offender to demonstrate a genuine interest in rehabilitation, such as Ms. Gloade has done in this case by successfully engaging in counselling and/or treatment, and by becoming gainfully employed in a position where her employer fully supports her rehabilitation efforts.

[81] The so-called sad life principle is premised on the principle of restraint and is often considered in cases where the offender has demonstrated a genuine interest in rehabilitation. These cases often involve offenders who are victims of sexual and/or physical abuse, or have experienced a horrific upbringing.

[82] Often the challenge for the sentencing judge is to consider all of the offender's personal antecedents and put the present offences into that context in crafting a sentence which underscores the principle of restraint.

[83] This approach usually underscores a reluctance to re-incarcerate the offender or to impose a lengthy period of incarceration where one would have otherwise been imposed. In these situations, the objective is to fashion a sentence that will promote self-rehabilitation and thus protect the public in the long-term.

[24] The sad life principle as historically applied, works to restrain the sentence if the offender has demonstrated a genuine interest in rehabilitation. Mr. Strong worked hard to make something of himself and leave his challenging upbringing behind. Then he committed these terrible and catastrophic offences. I accept that he is remorseful and sincere about serving his time and returning to society as a contributing member. I agree with counsel that his troubling background, combined with his overcoming significant life challenges, cries out for some restraint in imposing sentence.

### **Moral Blameworthiness**

[25] Mr. Strong's moral blameworthiness is based on the aggravating factors, the mitigating factors, the sentencing principles and objectives set out in the *Criminal*

*Code*, combined with collateral consequences of his actions. Many people speed on Canadian highways. Many traffic fatalities occur on Canadian highways. Not all of those events engage the criminal justice system. However, the combination of excessive speed, in the dark, in the rain, passing on a solid line, while driving an unfamiliar vehicle, resulting in these horrendous consequences including three fatalities and two seriously injured victims, all justify the engagement of the criminal justice system. Mr. Strong either knew or should have known that his actions were dangerous and unlawful. His moral blameworthiness mandates federal incarceration but is still at the lower end of the scale in comparison with intentional homicides.

### Credit for Guilty Plea

[26] Mr. Strong gave up his constitutional right to trial and entered guilty pleas. A credit of sentencing for a guilty plea is a long-accepted sentencing principle. In *R v. Doucette*, 2015 PECA 5, the court considered the mitigating impact of a guilty plea, and the resulting reduction in sentence:

[20] There is truth in the old adage that one who pleads not guilty seeks justice while one who pleads guilty seeks mercy. Absent good reason, a guilty plea must be taken into account in mitigation of sentence (*R. v. Macki*, 2001 BCSC 427, at para.55). There are two schools of thought as to why a guilty plea is a mitigating factor. The first is that a guilty plea is an expression of remorse and an acceptance of responsibility. The more pragmatic rationale is that it saves the justice system the time and expense of a trial. These two rationales were articulated by MacDonald J. in *R. v. Bruce* (1982), 1982 CanLII 4803 (PE SCAD), 35 Nfld. & P.E.I.R. 530 (PEICA), at para.14:

A second mitigating factor referred to by the trial judge was that she had pleaded guilty thereby saving a lengthy trial and this could also be taken as a sign of her remorse. Numerous courts have held that a guilty plea should be taken into consideration on a sentencing: *R. v. Johnston and Tremayne*, 1970 CanLII 281 (ON CA), [1970] 4 C.C.C. 64 (Ont. C.A.); *R. v. Carriere* (1952), 1952 CanLII 676 (QC CA), 14 C.R. 391 (Que. C.A.). It has also been stated that a guilty plea should be given less weight where there is such a preponderance of evidence against the accused that the only reasonable choice or option left open is a plea of guilty. *R. v. Spiller*, 1969 CanLII 950 (BC CA), [1969] 4 C.C.C. 211 (B.C.C.A.). In the present case the respondent had signed a statement in which she had admitted her guilt and it could be said that her only choice was to plead guilty. However, if the rationale for a policy of decreasing sentence where a guilty plea had been entered, is based on the consideration of the time saved by not having a trial, I am unable to accept the proposition that there should be less weight

given to a guilty plea from a person who has been inescapably caught. I would agree with the trial judge that the guilty plea by the respondent should be a mitigating circumstance. ...

[21] In my view either or both rationales may be used to justify a reduction in sentence. The amount of credit engendered by a guilty plea however depends on the circumstances of the case. Some courts have held that a guilty plea can justify a discount of up to 25 to 33% (*R. v. Weiler*, 1991 CanLII 2747 (PESCTD)). That does not mean, however, that a guilty plea merits such a discount in every case (*R. v. Lyons*, [1991] P.E.I.J. No. 10 (PEICA)). There may well be cases where there is good reason to grant no reduction for a guilty plea. For example, a guilty plea entered at trial after the Crown has called some or all of its case is a recognition of the inevitable and not an expression of remorse nor does it save any appreciable time and expense. Such a guilty plea would merit little or no reduction in sentence.

[22] Where a reduction in sentence is warranted, it is not simply a matter of a mathematical calculation. There are many factors to consider including, but not limited to, as the strength of the Crown's case, the nature of the case, the timing of the guilty plea, whether the guilty plea saves a vulnerable victim from testifying, and the circumstances of the offender including his criminal record to mention a few.

[27] In *R v. Friesen*, 2020 SCC 9, the court confirmed that the mitigating weight to be given in relation to a guilty plea varies, depending on the strength of the Crown's case:

[164] We are unpersuaded by Friesen's argument that appellate intervention was justified because Judge Stewart did not give sufficient consideration to Friesen's guilty plea. A guilty plea is a recognized mitigating factor; failure to consider a guilty plea as mitigating can constitute an error in principle. However, even if Judge Stewart did err by failing to mention Friesen's guilty plea, we are not convinced that any such error had an impact on the sentence (see *Lacasse*, at para. 44). The Crown's case against Friesen was overwhelming because his criminal conduct was audio-recorded. In these circumstances, Friesen's guilty plea is entitled to less weight (see *R. v. Barrett*, 2013 QCCA 1351, at para. 20 (CanLII); *R. v. Sahota*, 2015 ONCA 336, at para. 9 (CanLII)). A guilty plea does have other advantages that count in mitigation, such as saving court resources and providing a degree of finality to the victims (see *R. v. Carreira*, 2015 ONCA 639, 337 O.A.C. 396, at para. 15). However, we are not convinced that any of these advantages were sufficient such that explicit consideration of the guilty plea would have impacted the sentence.

[28] [23] Similarly, a 30% credit for a guilty plea was acknowledged by Brown Prov. Ct. J. in *R. v. R.B.L.*, 2005 ABPC 63:

[57] To that sentence, I apply a discount for entry of the guilty pleas, as a reflection of remorse. Because historic sexual abuse cases are often fraught with difficulty in prosecution, I apply a high discount for the guilty pleas; I apply a discount of 30%. That would reduce the 21-year sentence to one of 14 years, 8½ months.

[29] As jointly stated by counsel, Mr. Strong is entitled to credit for accepting responsibility and entering guilty pleas in advance of trial.

### Parity

[30] The parties submit that because the range of sentence for these crimes is so broad, in order to ensure parity, a range of cases must be considered by the court. Counsel state in their brief:

35. In *R. v. Telebrico* 2024 ABCJ 180 (CanLII), the Court summarizes an impressive number of cases dealing with dangerous driving causing death and separates them into three categories ranging from longer penitentiary terms, mid-range penitentiary terms and lighter sentences.

36. The census on higher-ranges cases begin at paragraph 112 of *Telebrico, supra*, with the case of *R v Edmiston*, 2023 YKTC 24, being the most similar to the case at bar:

[119] The offender tried to pass a vehicle on a double solid line on an uphill curved portion of the Alaska Highway at a high rate of speed. He struck the vehicle he had been trying to pass, causing his car to spin into the oncoming lane and killing a motorcyclist. His own passenger was also killed and his other passenger severely injured. The mitigating circumstances were a guilty plea, remorse, a difficult upbringing and his relative youth of 25 years. He was sentenced to 4 years 11 months globally for two counts of dangerous operation causing death, and 2.5 years concurrently for two counts of dangerous driving causing bodily harm.

37. In the mid-range sentence section, the Court in *Telebrico, supra*, cites two cases which occurred after the increase of penalty from 14 years to life imprisonment. They are both on the higher end of the mid-range sentences:

*R v Chrisjohn*, 2023 ONSC 6299

[130] The offender and her cousin, both 18 years old, decided to street race after consuming alcohol and marijuana. Neither had a driver's license. Ms. Chrisjohn was in the travel lane and Mr. Summers was in the incoming traffic lane. They reached speeds of up to 133 kph (over twice the speed limit). An oncoming car approached, and Ms. Chrisjohn blocked her cousin's ability to move

back into the travel lane. Mr. Summers collided head-on with the oncoming car, killing the passenger in that car, seriously injuring her cousin and moderately injuring her cousin's passenger. Ms. Chrisjohn left the scene. The offender pleaded guilty, was a youthful offender, had no criminal record, was remorseful, and Gladue factors were present. She received a 4-year sentence for dangerous operation causing death, and 3 years concurrent for failing to remain at the scene.

*R v Obermok*, 2023 ONCJ 401

[131] The offender, going approximately 105 kph in a 60 kph zone, failed to stop at a stop sign and hit a vehicle in the intersection. The driver was severely injured and her passenger (2-year-old son) was killed. The offender's blood alcohol level was between 30 and 90 mg% at the time. He had a 40-year-old criminal conviction, entered a guilty plea, exhibited remorse and had family support. The offender received a 5 year global sentence for dangerous operation and dangerous driving causing bodily harm.

38. None of the low range cases cited in *Telebrico, supra*, are remotely close to the fact situation at hand. They are either cases which pre-date amendments to the maximum penalty for the offence, contain only one victim or have exceptional circumstances not present in this case.
39. After its analysis of cases spanning from paragraphs 112 to 159, Judge Allen concludes the following in *Telebrico, supra*, at paragraph 162 of the decision:

[162] Parity is a difficult principle to apply when dealing with cases involving dangerous operation causing death. A wide range of possible sentences apply. In some circumstances a lengthy penitentiary term has been rendered. In others, offenders have been sentenced to less severe penitentiary term, terms of less than two years, or lengthy conditional sentencing orders. This is because the circumstances surrounding the commission of the offence vary greatly as do the offenders who commit it. Nowhere is the individualization of the sentencing process more apparent than for these offences. The lengthier sentences seem to be reserved for those offences where extremely egregious circumstances surround the commission of the offence and the offender's moral culpability is high. As the gravity of the offences or the moral culpability lessen, the sentence can be in the low penitentiary range. In some circumstances, a sentence of less than two years in custody or a lengthy conditional sentence order is adequate. The appropriate sentence is reached by considering the purpose, principles, and objectives of sentencing for the offender and the offence committed. In this way a proportionate and just sentence is reached.

40. Finally, *R. v. MacDonald*, 2019 NSSC 83 (CanLII) is a somewhat recent case from this province that involved a conviction for two counts of dangerous operation causing death and one count of causing bodily harm. The 26-year-old offender received a 28-month jail sentence. The offence itself occurred in 2017, prior to the implementation of Bill C-46, thus by virtue of s. 11(i) of the Charter, he wouldn't have been subject to the increase in the maximum penalty.
41. MacDonald had no prior criminal record. On October 2, 2017, MacDonald attended a bar/pool hall with some friends. He smoked a marijuana joint before going to bar and consumed two beers at the bar. He left the bar at midnight and was driving three of his colleagues home. The passengers began to tease MacDonald about the slow manner in which he operated the vehicle. This enticed MacDonald to show off by speeding and shortly after he accelerated, he entered a curve in the road on a residential street and struck a parked truck. He immediately ran to his father's residence to summon [aid]. Two of the passengers died on scene and the other was severely injured. The accused was brought to the RCMP detachment where his BAC was recorded at 50 mg%. While at the detachment, the offender also admitted fault for the accident. Police determined that MacDonald was travelling 106 km/h in a 50 km/h zone prior to the accident.
42. In sentencing MacDonald to 28-months jail, the Court noted that he was a young first-time offender and his prospect for rehabilitation were high. *MacDonald at 55*.
43. As previously referenced, pre-Bill C-46 cases have diminished precedential value. That being said, the decision is a fairly recent one out of our province and is cited as a comparable, keeping into account that had the offence been perpetrated after the enactment of Bill C-46, Mr. MacDonald would certainly have received a higher sentence.

[31] The range of sentences in the cases reviewed by the parties spans between 28 and 60 months in jail, as summarized in a chart provided as part of the joint submission:

Case Name	Driving description	Victims	Aggravating circumstance	Mitigating Circumstances	Sentence
<i>R v Edmiston</i>	<ul style="list-style-type: none"> <li>•Passing on double line</li> <li>•Curved Road</li> <li>•High rate of speed</li> <li>•Collision involved two cars and a motorcycle</li> </ul>	4 (2 death and 2 bodily harm)	<ul style="list-style-type: none"> <li>•320.22(a) – multiple victims</li> <li>•320.22(b) – operating vehicle in a race or contest of speed</li> <li>•Not licensed</li> </ul>	<ul style="list-style-type: none"> <li>•25 years old</li> <li>•Guilty plea</li> <li>•Remorse</li> <li>•Difficult upbringing</li> <li>•Gladue Factors</li> </ul>	<ul style="list-style-type: none"> <li>•59 months for 320.13(3)</li> <li>•30 months for 320.13(2)</li> </ul>

					All concurrent
<b><i>R v Chrisjohn</i></b>	<ul style="list-style-type: none"> <li>•Street race</li> <li>•Over twice the speed limit</li> <li>•Blocked other vehicle from coming back into her lane</li> </ul>	3 (1 death and 2 bodily harm)	<ul style="list-style-type: none"> <li>•320.22(a) – multiple victims</li> <li>•320.22(b) – operating vehicle in a race or contest of speed</li> <li>•Presence of alcohol and marijuana</li> <li>•Not licensed</li> </ul>	<ul style="list-style-type: none"> <li>•18 years old</li> <li>•Guilty plea</li> <li>•Remorse</li> <li>•No record</li> <li>•Gladue Factor</li> </ul>	48 months
<b><i>R v Obermok</i></b>	<ul style="list-style-type: none"> <li>•High rate of speed</li> <li>•Failed to stop at stop sign</li> </ul>	2 (1 death and 1 bodily harm)	<ul style="list-style-type: none"> <li>•320.22(a) – multiple victims</li> <li>•Alcohol (empty beer can in vehicle and BAC between 30 to 90 at time of the collision)</li> <li>•Prior conviction (40 years old)</li> </ul>	<ul style="list-style-type: none"> <li>•Guilty plea</li> <li>•Remorse</li> <li>•Medical condition</li> </ul>	60 months aggregate
<b><i>R v MacDonald</i></b>	<ul style="list-style-type: none"> <li>•High burst of speed</li> <li>•Collision with an unoccupied parked vehicle</li> </ul>	3 (2 deaths and 1 bodily harm)	<ul style="list-style-type: none"> <li>•320.22(a) – multiple victims</li> <li>•Alcohol and marijuana consumed</li> </ul>	<ul style="list-style-type: none"> <li>•26 years old</li> <li>•Guilty plea</li> <li>•Remorse</li> <li>•No record</li> </ul>	<ul style="list-style-type: none"> <li>•28 months for 320.13(3)</li> <li>•12 months for 320.13(2)</li> </ul> <p>All concurrent</p>

[32] Additionally, the Crown referenced *R. v. Sidhu*, 2019 SKPC 19, in which Cardinal Prov. Ct. J., outlined the facts:

[1] On April 6, 2018, at approximately 5:00 p.m., a catastrophic collision occurred between a bus and a semi-tractor unit at the intersections of Highway 35

and Highway 335 near Nipawin, Saskatchewan. The bus was carrying the Humboldt Broncos hockey team, on their way to a playoff game. Twenty-nine people were on the bus, including the bus driver, hockey players, coaches, and others associated with the team. Sixteen people died and thirteen people suffered bodily harm.

[2] Jaskirat Singh Sidhu, the sole occupant and driver of the semi-tractor unit, was charged and pled guilty to sixteen counts of dangerous driving causing death, contrary to section 249(4) of the *Criminal Code*, RSC 1985, c C-46 (*Code*). He also pled guilty to thirteen counts of dangerous driving causing bodily harm, contrary to section 249(3) of the *Code*.

...

[5] The following is a summary of the facts.

[6] On April 6, 2018, at approximately 5:00 p.m., Mr. Sidhu was travelling west, on secondary Highway 335, toward the intersection of that highway with Highway 35. Highway 35 is considered a major arterial highway that connects the communities of Nipawin and Tisdale.

[7] The semi-tractor unit with its “Super B” configuration operated by Mr. Sidhu was 25.27 meters in length. It consisted of the semi-tractor unit followed by the lead trailer, then the pup trailer. With its load of 900 bales of sphagnum peat moss over the two trailers, the total weight of the semi-tractor and trailers was approximately 45,364 kilograms (Report, page 58).

[8] On Highway 35, the Humboldt Broncos transport bus, driven by Glen Doerksen, was travelling north towards Nipawin, and approaching the intersection with Highway 335. A car was stopped at the intersection on Highway 335 west, waiting for the bus to pass, and two vehicles were following behind the bus.

[9] The maximum speed limit on both highways is 100 km/h. It is accepted that Mr. Sidhu was approaching the intersection at a speed between 86 and 96 km/h. Prior to the collision with the bus, Mr. Sidhu passed the following signs:

- a) a “Junction Highway 35” sign located approximately 406 meters east of the intersection;
- b) a “Stop Sign Ahead” sign located approximately 301 meters east of the intersection;
- c) a “Gronlid ahead/Tisdale left/Nipawin right” sign located approximately 199 meters east of the intersection;
- d) a “Highway 35 South/Highway 335 West/Highway 35 North” junction sign located approximately 104 meters east of the intersection; and
- e) a “Stop” sign located approximately 19 meters east of the center of the intersection. This was an oversized stop sign, four feet in diameter, affixed to the light standard on the north shoulder of Highway 35. A functional red

“traffic” light, which flashed once per second, was attached to the light standard, just above the stop sign (See photo on page 44 of the Report).

[10] The semi-tractor unit did not stop prior to entering the intersection. It left no tire marks due to braking.

[11] Immediately prior to the collision, the bus driver took evasive action and applied a hard brake. However, there was no way the bus driver could avoid the collision. The bus started to skid approximately 24 meters south of the point of impact, and struck the semi-trailer unit just forward of the wheels of the lead trailer.

[12] At the point of impact, Mr. Sidhu was travelling at a speed between 86 km/h and 96 km/h. The semi-tractor unit, together with the two trailers, was completely in the intersection and spanning all lanes of Highway 35, when it was struck in a T-bone fashion by the bus. At the point of impact the bus was travelling at a speed of 96 km/h to 107 km/h.

[13] The road conditions at the scene were suitable for safe driving. Both highways were observed to be smooth, dry, level asphalt, with no surface failures such as broken pavement, washboard, or potholes. The road surfaces in and around the intersection were unremarkable (Report, page 45).

[14] No environmental conditions contributed to the collision. The sky was clear and the position of the sun leading up to the collision was not a factor. The intersection was clearly visible to Mr. Sidhu as he was approaching it prior to the collision. Specifically, the trees in the south east quadrant, at the corner of the intersection, would not have obstructed Mr. Sidhu’s ability to observe the bus approaching the intersection if he had stopped the semi-tractor unit to check for traffic before entering the intersection, as required by the posted signage.

[15] The semi-tractor unit was in good working order and the post-collision inspection revealed no mechanical issues.

[16] Alcohol and drugs were not a factor in the collision, nor was Mr. Sidhu believed to have been distracted as a result of using his cell phone at the time of the collision.

[17] The actions of Mr. Sidhu while operating the semi-tractor unit caused the collision. As can be seen in the photographs on pages 8, 9 and 15 of the Report, the collision resulted in massive damage to the bus, especially to the front portion.

[18] As a direct result of the collision, all 29 people on the bus were injured or killed.

...

[20] Fourteen of the sixteen deceased individuals died at the scene of the collision; the remaining two deceased individuals died in hospital as a result of the injuries they suffered during the collision.

[21] As a direct result of the collision the following 13 people were injured:...

[33] Cardinal Prov. Ct. J. sentenced Mr. Sidhu to eight years in prison, and stated:

[103] If it can be said that there is a sentencing range outlined by the case law for these offences in Saskatchewan or Canada, based on the cases cited, then this case is clearly outside that range. The longest sentence handed down was in Saini, being six years' incarceration, after trial, where four died and nine were injured. Even taking into account Mr. Sidhu's guilty pleas, and even if it could be said his moral blameworthiness was less because his actions were not deliberate, a sentence of more than six years is mandated due to the horrific consequences of his actions.

[104] Concurrent sentences are appropriate, rather than consecutive, given the offences all arise from the same circumstances. The principles of totality and restraint also guide this decision. I prefer to assign a significant sentence and order all sentences concurrent to each other. If I were to order Mr. Sidhu to serve even short periods of incarceration consecutive to each other, it would not send the same message as a single, lengthy sentence, and would otherwise result in an unduly long and harsh sentence given the number of counts in the information.

[105] On count one, dangerous driving causing death, I sentence Mr. Sidhu to eight years' incarceration. On each of counts 2 through 16, inclusive, the remaining counts of dangerous driving causing death, I impose sentences of eight years' incarceration, concurrent to count 1 and concurrent to each other.

[106] On each of counts 17 through 29, inclusive, being the thirteen counts of dangerous driving causing bodily harm, I sentence Mr. Sidhu to five years' incarceration, concurrent to each other and concurrent to counts 1 through 16 inclusive.

[34] Counsel's joint brief in the present case concludes:

45. This Court has the unenviable task of fitting the case at bar somewhere within the existing body of jurisprudence. The case at bar has driving just as egregious as the situation in *Edmiston* and *Chrisjohn*. There is one more victim in this case. The mitigating factors are comparable as well. However, the current case has less statutorily aggravating factors as racing or being in a contest was not present in this case, and Mr. Strong was a licensed driver as opposed to both *Edmiston* and *Chrisjohn* who were not.
46. The *MacDonald* case is comparable as well, however, given its adjudication prior to the Bill C-46 increase, that 28-month sentence carries less weight.

47. The parties respectfully submit that a sentence of 54 months (4 and ½ years) for dangerous driving causing death is fit and appropriate in the circumstances. A sentence of 30 months (2 and ½ years) is fit and appropriate for the offences of dangerous driving causing bodily harm, as was determined in *Edmiston*.

[35] The parties in the present case have provided a comprehensive review of similar cases in order to support their joint recommendation.

### **Joint Recommendations**

[36] The parties jointly recommend the following sentence in relation to each charge:

51. In light of all of the foregoing, it is respectfully submitted that a sentence of 54 months (4 years and 6 months) is a fit and appropriate sentence in the circumstances, to be broken down as follows
- a. 54 months for dangerous driving causing death of Amanda Gabriel;
  - b. 54 months for dangerous driving causing death of Travis Killen;
  - c. 54 months for dangerous driving causing death of Ace Gabriel-Killen;
  - d. 30 months for dangerous driving causing bodily harm to Sara Gabriel and
  - e. 30 months for dangerous driving causing bodily harm to Kayley Bird:

All of which is to be served concurrently.

[37] The Crown and defence have agreed to a joint recommendation following protracted negotiations. In *R. v. Anthony-Cook*, 2016 SCC 43, [2016] 2 S.C.R. 204, Moldaver J., for the court, set out considerations for judges when the Crown and defence make a joint recommendation:

[32] Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. But, what does this threshold mean? Two decisions from the Newfoundland and Labrador Court of Appeal are helpful in this regard.

[33] In *Druken*, at para. 29, the court held that a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so “markedly out of line with the expectations of reasonable persons aware of the

circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system”. And, as stated by the same court in *R. v. B.O.2*, 2010 NLCA 19, at para. 56, when assessing a joint submission, trial judges should “avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts”.

[34] In my view, these powerful statements capture the essence of the public interest test developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold — and for good reason, as I shall explain.

[38] The disposition being jointly recommended for Mr. Strong is the result of a true negotiated plea following a Resolution Conference and is within the range for similar offenders having committed similar offences.

### **Ancillary Orders**

[39] Section 320.24(4)-(10) sets out the possible ancillary orders in the present case:

#### **Discretionary order of prohibition — other offences**

**320.24(4)** If an offender is found guilty of an offence under section 320.13, subsection 320.14(2) or (3), 320.15(2) or (3) or under any of sections 320.16 to 320.18, the court that sentences the offender may, in addition to any other punishment that may be imposed for that offence, make an order prohibiting the offender from operating the type of conveyance in question during a period to be determined in accordance with subsection (5).

#### **Prohibition period**

**(5)** The prohibition period is

**(a)** if the offender is liable to imprisonment for life in respect of that offence, of any duration that the court considers appropriate, plus the entire period to which the offender is sentenced to imprisonment...

#### **Effect of order**

**(5.1)** Subject to subsection (9), a prohibition order takes effect on the day that it is made.

#### **Obligation of court**

(6) A court that makes a prohibition order under this section shall cause the order to be read by or to the offender or a copy of the order to be given to the offender.

**Validity of prohibition order not affected**

(7) A failure to comply with subsection (6) does not affect the validity of the prohibition order.

**Application — public place**

(8) A prohibition order in respect of a motor vehicle applies only to its operation on a street, road or highway or in any other public place.

**Consecutive prohibition periods**

(9) If the offender is, at the time of the commission of the offence, subject to an order made under this Act prohibiting the offender from operating a conveyance, a court that makes a prohibition order under this section that prohibits the offender from operating the same type of conveyance may order that the prohibition order be served consecutively to that order.

**Minimum absolute prohibition period**

(10) A person may not be registered in an alcohol ignition interlock device program referred to in subsection 320.18(2) until the expiry of

(a) in the case of a first offence, a period, if any, that may be fixed by order of the court...

[40] The parties jointly recommend the following ancillary orders, and I agree they are appropriate in the present circumstances:

52. Moreover, the Accused should be subject to the following ancillary orders:

- a. A 5-year driving prohibition order to follow his period of incarceration, pursuant to section 320.24(5)(a) of the *Criminal Code*, and
- b. A 10-year firearms prohibition order to follow his period of incarceration, pursuant to 109(2)(a) of the *Criminal Code*.

**Conclusion**

[41] As jointly recommended by Crown and defence, Tyler Strong is sentenced to 54 months (four years and six months) in prison, to be broken down as follows:

- a. 54 months for dangerous driving causing death of Amanda Gabriel;
- b. 54 months for dangerous driving causing death of Travis Killen;
- c. 54 months for dangerous driving causing death of Ace Gabriel-Killen;

- d. 30 months for dangerous driving causing bodily harm to Sara Gabriel;
- e. 30 months for dangerous driving causing bodily harm to Kayley Bird:

All of which is to be served concurrently.

[42] He will also be subject to the following ancillary orders:

- a. A five-year driving prohibition order to follow his period of incarceration, pursuant to section 320.24(5)(a) of the *Criminal Code*, and
- b. A ten-year firearms prohibition order to follow his period of incarceration, pursuant to 109(2)(a) of the *Criminal Code*.

Arnold, J.