

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *R. v. Greenlaw*, 2024 NSSC 436

**Date:** 20240925

**Docket:** CRH No. 531656

**Registry:** Halifax

**Between:**

His Majesty the King

v.

Adam Greenlaw, Shane Mahar, Richard Beaver, Kyle Birchard,  
Rodi Saarloos and Martin Rangers

**Motions to Sever – Reasons for Decision**

(Publication delayed until conclusion of Accused trials)

**Judge:** The Honourable Associate Chief Justice Patrick J. Duncan

**Heard:** September 3, 9 and 25, 2024, in Halifax, Nova Scotia

**Oral Decision:** September 25, 2024

**Written Reasons**

**Released to Counsel:** April 24, 2025

**Counsel:** Katie Lovett and Jillian Fage, Counsel for the Crown  
Godfred Chongatera, Counsel for Adam Greenlaw  
Matthew Kennedy, Counsel for Shane Mahar  
Peter Kidston, Counsel for Richard Beaver  
Jennifer MacDonald, Counsel for Kyle Birchard  
Patrick Eagan, Counsel for Martin Rangers  
Ian Hutchison, Counsel for Rodi Saarloos

## By the Court:

### Introduction

[1] Adam Greenlaw, Shane Mahar, Richard Beaver, Kyle Birchard, Rodi Saarloos and Martin Rangers are co-accused and charged with criminal offences set out in an Indictment containing 71 counts. The various alleged offences, include:

<b>Section</b>	<b>Offence</b>
s. 151	Sexual Interference
s. 152	Invitation to Sexual Touching
s. 163.1(4)	Possession of Child Pornography
s. 271	Sexual Assault
s. 279.011(1)	Trafficking of a person under the age of eighteen years
s. 286.1(2)	Obtaining sexual services for consideration from person under 18

[2] Nine complainants are listed in the Indictment. They are:

<b>Name</b>	<b>Age at the time of alleged offences</b>	<b>Age as of September 2024</b>
M.D.	18 years old	19 years old
J.M.	25 years old	27 years old
M.R.D.	14 years old	15 years old
J.C.	17 years old	19 years old
H.R.	14 years old	16 years old
E.H.	17-18 years old	19 years old
S.H.	17 years old	18 years old
E.N.	15 years old	17 years old
R.M.	20-21 years old	22 years old

[3] All accused re-elected trial by judge without a jury.

[4] Shane Mahar, Richard Beaver, Kyle Birchard, Rodi Saarloos and Martin Rangers have each applied, pursuant to section 591(3)(b) of the *Criminal Code*, to be tried separately on the below counts.

<b>Accused</b>	<b>Counts which severance is sought</b>	<b>Complainant involved</b>	<b>Co-accused charged</b>
<b>Shane Mahar</b>	14 – s. 279.011(1) 15 – s. 286.1(2)	J.C. J.C.	Greenlaw
	24 – s. 279.011(1) 25 – s. 286.1(2) 33 – s. 163.1(4)	S.H. S.H. S.H.	Greenlaw, Beaver
<b>Richard Beaver</b>	24 – s. 279.011(1)	S.H.	Greenlaw, Mahar
<b>Martin Rangers</b>	52 – s. 271 53 – s. 286.1(2) 54 – s. 151 55 – 152	E.N. E.N. E.N. E.N.	
<b>Kyle Birchard</b>	34 – s. 163.1(4) 44 – s. 286.1(2)	S.H. E.N.	
<b>Rodi Saarloos</b>	16 – s. 286.1(2) 22 – s. 163.1(4)	J.C. J.C.	

[5] In short, all five of the applicants seek to be tried individually, with the result that there would be six trials instead of one.

[6] The Crown is opposed to the severance applications made by Shane Mahar, Richard Beaver and Martin Rangers. The Crown is not opposed to the severance applications made by Kyle Birchard and Rodi Saarloos.

[7] After receiving both written and oral submissions by counsel on behalf of the accused I rendered the following decisions:

<b><u>Accused</u></b>	<b><u>Outcome</u></b>
Shane Mahar	Motion to sever denied
Richard Beaver	Motion to sever denied
Martin Rangers	Motion to sever denied
Kyle Birchard	Motion to sever granted
Rodi Saarloos	Motion to sever granted

[8] My conclusion resulted in the scheduling of three trials, with only Messrs. Saarloos and Birchard being granted separate trials. All trial dates were scheduled at the time of my oral decision.

[9] The last of the three trials is scheduled to conclude on October 10, 2025. The earliest possible “*Jordan*” 30-month limit falls on November 26, 2025.

[10] The following are the reasons for these decisions.

### **Statement of Anticipated Facts**

[11] The Crown has submitted a summary of what they anticipate will be the proven facts relevant to the allegations of each complainant against one or more accused persons.

[12] The accused have not taken issue with the summary, though have made submissions that set out their respective positions of how the anticipated facts relate to the merits of the motions to sever.

[13] The following summary of anticipated facts is reproduced (with minor editing) as submitted by the Crown:

#### *Charges with respect to M.D.*

- In January 2023, 18-year-old M.D. was dropped off at a group home on Robie Street in Halifax, Nova Scotia. M.D. was in the care of the province and had been reported missing from her group home.
- During that time, M.D. had been staying with Adam Greenlaw (“Greenlaw”) at Greenlaw’s apartment on Olivet Street in Halifax. M.D. was introduced to Greenlaw in 2022 by another complainant, E.H., who had been a resident at the same group home as M.D.
- In early January 2023, Greenlaw sent numerous text messages to M.D., asking her to smoke crack with him. Greenlaw transported M.D. to his apartment in Halifax via Uber.
- While at his apartment, Greenlaw used crack cocaine with M.D. and sexually assaulted her. Greenlaw also assaulted M.D. by burning her with his crack pipe.

- M.D. saw Greenlaw do the same thing with other young girls. Greenlaw would text various men and send girls out to perform sexual services for them.
- Greenlaw made numerous utterances to M.D. about offences he had committed against another complainant, E.N. Greenlaw showed M.D. text messages he had exchanged with E.N.
- Greenlaw also made utterances to M.D. about the involvement of a man he referred to as “Rhino”. Greenlaw told M.D. that Rhino has sex with E.N. Police later learned that “Rhino” is a nickname used by Martin Rangers (“Rangers”).
- In searching M.D.’s cellphone, police located correspondence exchanged between M.D. and Greenlaw in January 2023. Police also located photos of another complainant, J.M., taken in Greenlaw’s apartment.

*Charges with respect to J.M.*

- J.M. was kicked out of her father’s house and was homeless when she met Greenlaw on Facebook. J.M. asked Greenlaw to help her locate drugs. Greenlaw provided J.M. with meth and fentanyl, and she ended up staying with Greenlaw at his apartment on Olivet Street in Halifax. She was 25 years old at the time.
- Greenlaw told J.M. if she performed oral sex on him every day then she could continue to stay with him. While there, Greenlaw sold J.M.’s sexual services at least 10 times with five different people. He posted advertisements online for J.M. to provide sexual services for money. J.M. was sent to perform sexual services for which Greenlaw was paid directly, in cash.
- Greenlaw used J.M.’s Facebook account to message other young girls, and to sell photos of J.M. to other men.
- In searching Greenlaw’s cellphone, police found numerous text

messages exchanged between Greenlaw and various people discussing J.M., including text messages exchanged between Greenlaw and Rodi Saarloos (“Saarloos”).

- Police also discovered numerous photos and videos on Greenlaw’s cellphone in which J.M. is nude, partially nude, and/or performing sexual acts.

*Charges with respect to M.R.D.*

- M.R.D. went to Greenlaw’s apartment between March 6 and March 8, 2023. She was 14 years old at the time and in the care of the province.
- While at Greenlaw’s apartment, M.R.D. consumed pills and cocaine. Greenlaw sexually assaulted her on several occasions. Another complainant, J.C., was also present during one of these sexual assaults.
- Greenlaw initially prevented M.R.D. from leaving his apartment. He eventually let her leave once she surrendered her phone to him so he could delete any photos taken at his apartment.

*Charges with respect to J.C.*

- J.C. was 17 years old when she met Greenlaw and began staying at his apartment on Olivet Street in Halifax. J.C. believed she was in a romantic relationship with Greenlaw. Greenlaw gave her cocaine and crack. Greenlaw set up sexual encounters for J.C. with males in exchange for money and/or drugs at various locations. Greenlaw made J.C. turn the money over to him. Greenlaw also used violence against J.C.
- J.C. witnessed Greenlaw do the same things with several other girls. J.C. saw Greenlaw use several different Facebook accounts in the names of “Jayden” (J.M.), “Remi” (R.M.), and “Nicole” to convince

girls to come to his apartment.

- J.C. also saw Greenlaw's friend "Rhino" (Rangers) at Greenlaw's apartment.
- At one point, Greenlaw arranged for J.C. to go to the DoubleTree hotel in Dartmouth to meet Shane Mahar ("Mahar"). J.C. and Greenlaw traveled to the hotel via Uber. Present in the hotel room were J.C., Greenlaw, Mahar, and Kyle Birchard ("Birchard").
- Once there, J.C. performed oral sex on Mahar, and he penetrated her vagina with his penis. Greenlaw told J.C. she had to perform oral sex on Mahar as payment for Mahar renting the hotel room. J.C. saw two additional girls attend the hotel room to perform sexual services on Mahar while she was there.
- Police located a cellphone during the search of Greenlaw's apartment. In searching that phone, police located a video of J.C. performing oral sex on Greenlaw. The video was created on March 9, 2023. J.C. was 17 years old at the time.
- In searching Greenlaw's cellphone, police also located text messages exchanged between Greenlaw and Mahar. On March 12, 2023, Greenlaw and Mahar agreed to rent a hotel room in Dartmouth. Greenlaw sent photos of girls he could sell to Mahar if Mahar agreed to rent the hotel room. Greenlaw and Mahar agreed to go to the DoubleTree hotel in Dartmouth.
- Hotel records show that room 617 at the DoubleTree hotel was rented by Mahar from March 13 to 15, 2023.
- A search of Greenlaw's cellphone also showed text messages exchanged between Greenlaw and Saarloos. Greenlaw sent a photo of J.C. in a bathtub to Saarloos on March 12, 2023. Saarloos responded to the photo, asking further questions about J.C., who was 17 years old at the time.
- Between March 12, 2023, and April 1, 2023, Greenlaw and Saarloos communicated via text message with respect to Saarloos purchasing

the sexual services of J.C., as well as the location and price to be paid to Greenlaw for those services. Saarloos also inquired about becoming a regular purchaser of the sexual services of J.C.

*Charges with respect to H.R.*

- In April 2023, police were called to the IWK Children's Hospital regarding H.R., who had been sexually assaulted. H.R. was 14 years old at the time and in the care of the province.
- H.R. had been invited to Greenlaw's apartment on Olivet Street in Halifax to clean it in exchange for money. H.R. took an Uber from her group home to Greenlaw's apartment. Once there, H.R. was given Clonazepam and crack and was sexually assaulted by Greenlaw.
- A search of H.R.'s phone showed a photo of H.R. at Greenlaw's apartment.
- During the search of Greenlaw's cellphone, police also found two videos of Greenlaw penetrating then 14-year-old H.R.'s vagina with his penis, as well as H.R. performing oral sex on Greenlaw.
- The videos were created on April 21, 2023.

*Charges with respect to E.H.*

- E.H. initially came into contact with Greenlaw through friends and understood him to be a crack dealer. In the summer of 2022, E.H. was 17 years old when Greenlaw sexually assaulted her and attempted to sell her sexual services.
- In 2023, E.H. went to Greenlaw's apartment to retrieve some of her belongings she believed were in Greenlaw's possession. While there, Greenlaw threatened E.H. and sexually assaulted her.

Charges with respect to S.H.

- In early 2023, Greenlaw contacted S.H. through Facebook, asking her for pictures and if she sold herself or smoked crack. S.H. was 17 years old at the time and was in the care of the province, living in a group home.
- On February 25, 2023, Greenlaw, along with Richard Beaver (“Beaver”), travelled to S.H.’s group home in Plymouth, NS. Greenlaw and Beaver picked S.H. up from her group home and transported her to The Barrington Hotel in Halifax. As soon as S.H. got into the car, Greenlaw gave her crack cocaine. While under the influence of crack cocaine, S.H. performed oral sex on Greenlaw while he videotaped her and later had sexual intercourse with him. This occurred in the backseat of Beaver’s car as he drove the group to Halifax. Greenlaw told S.H. he sent the video to a friend that was dying.
- Upon arriving at The Barrington Hotel, S.H. was introduced to Mahar, who Greenlaw told her had booked the hotel room. S.H. performed oral sex on Mahar and he gave her \$100 in cash. S.H. then left the hotel room. Greenlaw made S.H. leave her belongings in the hotel room so she would have to return.
- When S.H. returned to the hotel room, she was pressured to have sexual intercourse with Greenlaw and Mahar. They gave her cocaine as payment. S.H. contacted her mother to leave and Greenlaw demanded that she return the \$100 she had received from Mahar for bringing her to the hotel room.
- S.H.’s mother, Pam Hubley, attended The Barrington Hotel to retrieve her daughter. Ms. Hubley saw Greenlaw and Mahar present at the hotel room. Greenlaw made utterances to Ms. Hubley about S.H. performing sexual services in exchange for money. Greenlaw told Ms. Hubley that Mahar was a client of S.H.’s. Ms. Hubley took S.H. to Greenlaw’s apartment on Olivet Street to retrieve her belongings.

- In searching Greenlaw's cellphone, police located the video of S.H. performing oral sex on Greenlaw in Beaver's car. The video was created on February 25, 2023. S.H. was 17 years old at the time.
- Hotel records show that room 534 at The Barrington Hotel was rented by Mahar from February 24 to 26, 2023.
- Surveillance video obtained from The Barrington Hotel shows S.H. arriving at the hotel with Greenlaw and Beaver. Mahar is seen arriving at the hotel with an unknown woman. A man believed to be Birchard is also seen in the lobby, hallway, and elevator of The Barrington Hotel during this time period.
- In searching Greenlaw's cellphone, police also located text messages exchanged between Greenlaw and Mahar. Greenlaw sent the video he created of S.H. performing oral sex on him to Mahar via text message on March 13, 2023. Mahar responds to the message, commenting on the video.
- Police also located text messages exchanged between Greenlaw and Birchard. Greenlaw sent the video he created of S.H. performing oral sex on him to Birchard via text message on February 25, 2023.

*Charges with respect to E.N.*

- E.N. moved in with Greenlaw after being homeless and living in a tent. She resided with Greenlaw at his apartment on Olivet Street for approximately 6-8 months. E.N. was 15 years old at the time.
- Greenlaw forced E.N. to perform sexual services in exchange for crack cocaine. Greenlaw posted advertisements online for E.N.'s sexual services and drove her to meet clients. Greenlaw would keep a percentage of the money. Greenlaw told E.N. she would be back on the streets if she did not provide the sexual services. Greenlaw sexually assaulted E.N. on two separate occasions.
- E.N. saw numerous other girls in Greenlaw's apartment who he would

also send out to perform sexual services. Greenlaw would force E.N. and other girls at his apartment to perform sexual acts on him in exchange for drugs.

- In searching Greenlaw's cellphone, police found several photos of E.N. One photo was created on August 8, 2022, in which E.N. is naked from the waist down. E.N. appears to be in Greenlaw's apartment. Another photo was created on February 27, 2023, and depicts E.N. on Greenlaw's sofa.
- Rangers also attended Greenlaw's apartment. E.N. performed oral sex on Rangers in exchange for crack. E.N. knew Rangers as "Rhino".
- While at Rangers' apartment on Brule Street in Halifax, Rangers overdosed on drugs. E.N. was present at the time. She called 911 and administered Narcan. EHS responded to the call and spoke to both Rangers and E.N.
- In searching Greenlaw's cellphone, police discovered text messages exchanged between Greenlaw and Rangers in which they discuss which girls Greenlaw has available that Rangers might be interested in purchasing, and for how much. The police also located a photograph of Rangers naked on Greenlaw's bed with his mouth and hand on E.N.'s naked breasts. This photo was created on April 14, 2023.
- Police also discovered text messages exchanged between Greenlaw and Birchard. Between February 13, 2023, and April 7, 2023, text messages were exchanged between Greenlaw and Birchard in which they discuss E.N.'s age, whereabouts, and her availability to perform sexual services for Birchard in exchange for money. Greenlaw also sent Birchard photos of E.N. via text message.
- On March 3, 2023, police located an advertisement for E.N. on a website called Locanto.ca.

*Charges with respect to R.M.*

- R.M. also stayed at Greenlaw’s apartment on Olivet Street. R.M. started performing sexual services for Greenlaw when she was 15 years old to feed her addiction to crack cocaine. While staying at Greenlaw’s apartment, Greenlaw sexually assaulted R.M. Greenlaw posted advertisements online for R.M.’s sexual services and forced her to exchange sexual services for money. Greenlaw was paid for R.M.’s sexual services in cash. Greenlaw threatened R.M. with physical violence to dissuade her from leaving his apartment.
- R.M. saw other complainants at Greenlaw’s apartment, including, J.C., E.N., and E.H.
- R.M. also came into contact with a man she knew as “Rhino” (Rangers) at Greenlaw’s apartment. “Rhino” eventually helped R.M. leave Greenlaw’s apartment.
- In searching Greenlaw’s cellphone, police discovered a photograph of R.M. in Greenlaw’s apartment. The photograph was created on February 4, 2023. R.M. was 21 years old when the photograph was taken.
- In their investigation, police also searched Greenlaw’s apartment on Olivet Street. Numerous photographs were taken during the search. A handwritten note was photographed, which included the writing: “Rhino – pay \$70; Kyle – pay 200”. Police also located drug paraphernalia and hundreds of dollars in cash.

## LAW

[14] There is a strong presumption in favour of a joint trial. It does not mean, however, that a judge lacks the discretion to order severance.

[15] The *Criminal Code* places no restrictions on the number of counts, or the number of parties, that can be tried together on a single indictment. Section 591 of the *Criminal Code* provides that:

591(1) Subject to section 589, any number of counts for any number of offences may be joined in the same indictment...

[16] Section 591(3) of the *Criminal Code* governs the severance of accused and counts. It states:

591(3) The court may, where it is satisfied that the interests of justice so require, order

- (a) that the accused or defendant be tried separately on one or more of the counts; and
- (b) where there is more than one accused or defendant, that one or more of them be tried separately on one or more of the counts.

[17] Thus, the Court, in exercising its discretion, may sever the parties where it is in the interests of justice to do so (see *R. v. Last*, 2009 SCC 45, at para. 18). The party seeking severance must demonstrate, on a balance of probabilities, that severance is in the “interests of justice” (see *Last* at para. 33). The “interests of justice” is a broad concept and is informed by consideration of several factors, including, but not limited to:

- i. The general prejudice to the accused;
- ii. The legal and factual nexus between the counts;
- iii. The complexity of the evidence;
- iv. Whether the accused intends to testify on one count but not another;
- v. The possibility of inconsistent verdicts;
- vi. The desire to avoid a multiplicity of proceedings;
- vii. The use of similar fact evidence at trial;
- viii. The length of the trial having regard to the evidence to be called;
- ix. The potential prejudice to the accused with respect to the right to be tried within a reasonable time; and
- x. The existence of antagonistic defences as between co-accused persons.

(see *Last* at para. 18)

[18] It has been acknowledged that not all the enumerated factors apply in this analysis.

[19] At paragraph 17 of the decision, the Court explained that the weighing of these factors “ensures that a reasonable balance is struck between the risk of prejudice to the accused and the public interest in a single trial”. The Court stated that:

...it is important to recall that the interests of justice often call for a joint trial...  
Severance can impair not only efficiency but the truth- seeking function of the trial.

### **The Public Interest**

[20] Each application must be assessed individually and ultimately be tested on the balance of probabilities as against the public interest. The public interest in issue in this case is common to each of the accused.

[21] In a case like this, there are clearly competing interests. Some accused are being asked to go through a potentially lengthy trial where most of the evidence relates to other parties. Yet, the prospect of the Court conducting six potentially lengthy trials with significant overlap of witnesses to be called in other trials is both burdensome on court resources and it demands that many witnesses, some of whom are likely to be vulnerable, be called on multiple occasions to testify for the trials of individual accused.

[22] As such, while each application must receive individual consideration of the impact on the accused, the overall consequences of the decisions on court resources and witness participation are integral to any decision.

### **Application of Shane Mahar**

[23] Mr. Mahar seeks severance of the following counts with which he is charged:

- Count 14 trafficking of a person under 18 years of age (complainant J.C.), contrary to section 279.011(1) of the *Criminal Code*; he is co-charged with Mr. Greenlaw.
- Count 15 obtaining sexual services for consideration from a person under 18 (complainant J.C.), contrary to section 286.1(2) of the *Criminal Code*;
- Count 24 trafficking of a person under 18 (complainant S.H.), contrary to section 279.011(1) of the *Criminal Code*; he is co-charged with Mr. Greenlaw and Mr. Beaver.
- Count 25 obtaining sexual services for consideration from a person under 18 (complainant S.H.), contrary to section 286.1(2) of the *Criminal Code*;

Count 33 possession of child pornography, contrary to section 163.1(4) (and it is alleged that the alleged material depicts complainant S.H.).

### **Position of Mr. Mahar**

[24] Counsel for Mr. Mahar submitted that severance should be granted for the following reasons:

1. There is a potential for general prejudice to Mr. Mahar in being tried alongside Adam Greenlaw that arises from the potential for propensity reasoning. Severance would eliminate that risk and also provide the possibility of further severing the counts to obtain separate trials in relation to each of the two complainants in the allegations against him.
2. There is minimal or no nexus between the subject matter of Mr. Mahar's charges and the vast majority of charges naming Adam Greenlaw, who is subject to 61 of the 71 charges set out in the Indictment. Those involve 9 complainants, only 2 of whose allegations involve Mr. Mahar as a co-accused.
3. Severing Mr. Mahar would involve a minimal sacrifice of trial efficiency. Counsel acknowledges that it would result in J.C. and S.H. having to testify in more than one proceeding and it may involve duplication of some evidence relating to the search and seizure of Mr. Greenlaw's cellphone.
4. And finally, Mr. Mahar asserts that his right to a trial within a reasonable time has been - and will continue to be - undermined as a result of being linked with Adam Greenlaw and the other four co-accused in a 71-count indictment. Delays have occurred since the laying of the Information as a result of the complexities surrounding Mr. Greenlaw's representation and delays in scheduling. Mr. Mahar's trial would be relatively short if severed.

### **Position of the Crown**

[25] The Crown is opposed to Mr. Mahar's application for severance. I will consider and apply their arguments, as appropriate, in my analysis.

### **Analysis**

***General prejudice to the accused***

[26] While there is always some risk of the improper use of evidence in a multi-accused trial, with charges that do not all apply to each accused, that risk is lessened in a judge alone trial. The trial judge will need to avoid moral or reasoning prejudice.

[27] Where the alleged roles of the accused are parties to the same offence with an intention in common, evidence against each party is admissible against the others, and to that extent, there should be little risk of evidence being improperly used.

[28] There will need to be careful attention to the use that can be made of evidence that pertains to Mr. Greenlaw alone. That evidence would pertain solely to charges against Mr. Greenlaw with respect to the complaints of M.D., J.M., M.R.D., H.R., E.H., and R.M. The judge will need to consider the evidence with respect to each count separately, weigh the evidence with respect to each count independently, and come to an independent verdict on each count.

[29] These are evidentiary issues that arise commonly in criminal trials and while in a jury trial might result in a greater concern, I do not have the same level of concern in this case.

***The legal and factual nexus between the counts***

[30] The legal and factual nexus between each accused and their alleged roles is relevant when the motion relates to severing accused, as differentiated from severing counts. Factual considerations include time, place, and location of the offences. Legal factors include considerations such as whether the counts charged constitute overlapping transactions or have essential elements in common.

[31] The Crown submission describes the factual nexus that favors retaining Mr. Mahar's trial with three of the co-accused:

[70] There is a strong presumption in favour of joint trials. Generally, co-accused are tried together because there is both a strong legal and factual nexus in the issues to be decided. Having those issues litigated on multiple occasions is an inefficient use of court resources and raises the potential for inconsistent verdicts, especially where the evidence against each party is the same.

[71] Here, there is a factual nexus, as the alleged conduct of Mr. Mahar acts in concert with the alleged conduct of Mr. Greenlaw with respect to J.C., and in concert with the alleged conduct of Mr. Greenlaw and Mr. Beaver with respect to S.H.

[72] Mr. Mahar's contact with J.C. was facilitated by Mr. Greenlaw, and occurred at the same time, place, and location as Mr. Greenlaw. As a result, the evidence against Mr. Mahar and Mr. Greenlaw with respect to J.C. involves the same witnesses

[73] Mr. Mahar's contact with S.H. was also facilitated by Mr. Greenlaw, and occurred at the same time, place, and location as Mr. Greenlaw. Again, the evidence against Mr. Mahar, Mr. Greenlaw, and Mr. Beaver with respect to S.H. also involves the same witnesses.

[74] If Mr. Mahar, Mr. Greenlaw, and Mr. Beaver are not jointly tried, then the trier of fact will be left without factual context as to the circumstances of J.C. and S.H., and how they found themselves in hotel rooms with Mr. Mahar. The roles played by Mr. Mahar, Mr. Greenlaw, and Mr. Beaver are part of the same transaction and are inextricably tied to one another. The Crown will argue they acted with an intention in common.

[32] And as to the legal nexus:

[76] With respect to their legal nexus, Mr. Mahar and Mr. Greenlaw are co-charged with respect to the trafficking of J.C. Further, Mr. Mahar, Mr. Greenlaw, and Mr. Beaver are co-charged with respect to the trafficking of S.H.

[77] These individuals are co-charged because their alleged conduct makes them parties to the same offence. To understand the role played by Mr. Mahar with respect to the trafficking of J.C. and S.H., the trier of fact would need to know about the role played by Mr. Greenlaw with respect to J.C., and the roles played by Mr. Greenlaw and Mr. Beaver with respect to S.H. The Crown will argue they acted with an intention in common. As a result, they share all of the same essential elements.

[33] Counsel for Mr. Mahar suggests that the evidence at trial in support of party liability is “weak”. With respect, that is an issue for the trial. I accept that the legal and factual nexus between the parties favours a joint trial.

### ***The complexity of the evidence***

[34] The Crown submissions include a review of the overlapping expert evidence that is common to the trials of all six of the co-accused.

[79] The expert evidence with respect to the digital forensic analysis of Mr. Greenlaw's cellphone is the most complex piece of evidence and will take a lengthy period of time to call. This is required evidence for Mr. Mahar, Mr. Greenlaw, Mr. Rangers, Mr. Beaver, Mr. Saarloos, and Mr. Birchard. As a result, the complexity of this evidence would not be avoided if the parties are severed, as it is required evidence for each party.

[80] The Crown also intends to call an expert with respect to human trafficking, and the nexus between low level drug trade and human trafficking offences. This is required evidence for Mr. Greenlaw, Mr. Mahar, and Mr. Beaver.

[81] Adducing this expert evidence at up to six trials will be onerous. This complication is avoided if the parties are tried together.

[35] Mr. Mahar argues that his trial would be shorter if tried separately. That is undoubtedly true. However, that fact must be weighed along with the practical consequences that each trial that is severed will add to the demands on expert witnesses to, effectively, repeat their evidence, and it will multiply the number of court days that would be used to have evidence repeated. In a joint trial the questions of admissibility, relevance, materiality and weight to attach to that evidence is resolved once, or in accordance with my ultimate conclusion in this case, up to three times.

***Whether the accused intends to testify on one count but not another***

[36] Neither counsel has identified this as an applicable factor.

***The possibility of inconsistent verdicts***

[37] Mr. Mahar and Mr. Greenlaw are co-charged with respect to the trafficking of J.C.. Mr. Mahar, Mr. Greenlaw, and Mr. Beaver are co-charged with respect to the trafficking of S.H.. I agree with the Crown submission that the substantial overlap in the issues and in the evidence with respect to these parties leaves open the possibility of conflicting legal findings by multiple courts if separate trials are ordered.

[38] The Crown has also submitted that the risk of inconsistent verdicts is further compounded by the inevitability of witness fatigue. They argue that:

...numerous civilian witnesses would be required to testify at multiple proceedings if the parties are severed. These witnesses include J.C., who would potentially be required to testify at three separate trials. S.H. would also be required to testify at three separate trials. The circumstances of J.C. and S.H. make them extremely vulnerable. They are currently 19 and 18 years old, respectively. It is highly unlikely that these vulnerable persons will have the stamina required to testify about the same highly sensitive and traumatic events at three separate trials. The inconvenience, anxiety, and emotional trauma caused to these witnesses by testifying at multiple proceedings cannot be overlooked.

[39] The Crown also notes that there is an increased potential for inconsistencies to arise as witnesses are required to repeatedly give their evidence over potentially long periods of time. Repeated cross-examinations and scrutiny can also lead to discouraging witness cooperation. This has been noted previously by the courts to be an issue in prosecution of human trafficking and sexual violence prosecutions.

[40] In my assessment this also mitigates in favour of reducing the number of trials as being in the interests of justice, while always balancing it with the rights of the accused to a fair trial, within a reasonable time.

### *The desire to avoid a multiplicity of proceedings*

[41] There is an interest in avoiding a multiplicity of proceedings to avoid inconsistent verdicts, to avoid witness fatigue, and to use court time efficiently.

[42] The Crown asserts that severing the parties will add significantly to the use of court resources as there is overlapping evidence between parties. If the parties are severed, the Crown says it would be required to call the same evidence at multiple trials. With respect to Mr. Mahar, this duplicated evidence would include: (as set out in the Crown submissions):

- *Viva voce* evidence from J.C. at three separate trials (she is a required witness for Mr. Mahar, Mr. Greenlaw, and Mr. Rangers).
- *Viva voce* evidence from S.H. at three separate trials (she is a required witness for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver).
- *Viva voce* evidence from Pam Hubley at three separate trials (she is a required witness for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver).
- Expert evidence with respect to the digital forensic analysis of Mr. Greenlaw's cellphone (required evidence for Mr. Mahar, Mr. Greenlaw, Mr. Rangers, Mr. Beaver, Mr. Saarloos, and Mr. Birchard).
- Expert evidence with respect to human trafficking, and the nexus between low level drug trade and human trafficking offences (required evidence for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver).
- Evidence with respect to the video of S.H. performing oral sex on Mr. Greenlaw, which the Crown will argue is child pornography (required evidence for Mr. Mahar, Mr. Greenlaw, and Mr. Birchard).

- *Viva voce* evidence from witnesses from the DoubleTree hotel to testify with respect to business records (required evidence for Mr. Mahar and Mr. Greenlaw).
- *Viva voce* evidence of witnesses from the DoubleTree hotel to testify with respect to surveillance video obtained from the hotel (required evidence for Mr. Mahar and Mr. Greenlaw).
- *Viva voce* evidence of witnesses from Uber to testify with respect to business records (required evidence for Mr. Mahar and Mr. Greenlaw).
- *Viva voce* evidence of witnesses from The Barrington Hotel to testify with respect to business records (required evidence for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver).
- *Viva voce* evidence of witnesses from The Barrington Hotel to testify with respect to surveillance video obtained from the hotel (required evidence for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver).
- *Viva voce* evidence of witnesses with respect to the search of Mr. Greenlaw's apartment on Olivet Street to speak to items found during that search (required evidence for Mr. Mahar, Mr. Greenlaw, Mr. Rangers, Mr. Birchard, and Mr. Saarloos).

[43] For the reasons described above, the multiplicity of proceedings that these five applications would trigger, if all are successful, would result in a very significant demand on witnesses, counsel, and the court, together with the potential for inconsistent verdicts and witness fatigue.

***The use of similar fact evidence at trial***

[44] This factor is not applicable.

***The length of the trial having regard to the evidence to be called***

[45] In prehearing submissions, the Crown estimated that a trial of Mr. Mahar alone would require 10 to 13 days.

[46] The actual time set down for trial of the 4 co-accused, including Mr. Mahar is 25 days commencing September 2, 2025. Mr. Saarloos' separate trial was scheduled for 6 days and Mr. Birchard's is scheduled for 4 days.

[47] As it is, there will be 3 trials requiring 35 days. If Mr. Mahar's trial is severed, it would add a further 10-13 days. Similarly, if applications of Mr. Rangers and Mr. Beaver were granted trial time would be further increased.

***Prejudice to the accused with respect to the right to be tried within a reasonable time***

[48] Mr. Mahar's trial (as with the two severed trials) is scheduled to conclude in advance of the 30-month *Jordan* presumptive limit for trial in a reasonable time. Whether, as counsel for Mr. Mahar suggests, there may have been unreasonable delays in bringing the matter to trial, arising for reasons that pre-exist the hearing of the severance application, it is a question to be addressed at another time, should counsel choose to pursue a *Charter* remedy.

[49] Suffice to say that the refusal to sever Mr. Mahar's charges has not resulted in delay that is presumptively unreasonable. Having responsibilities for oversight of the scheduling of criminal matters in this court, I can say that while each application has been considered on its own merits, the cumulative effect of granting five severance applications requiring several extra weeks of sitting days would have made it much more difficult to accommodate scheduling within the *Jordan* timelines.

***The existence of antagonistic defences as between co-accused persons***

[50] This factor is not applicable.

**Conclusion**

[51] I am very conscious of the impact on an accused of having to participate in a trial that is longer than it would have been had they been tried separately. That must be weighed with other factors to assess whether the interests of justice, as served by a single trial, are better served by severance.

[52] I am alert to the potential for a trier to err, in considering evidence that is tendered in relation to one accused, to then be considered improperly as against a co-accused. I have concluded that I am satisfied that as a judge alone trial, the risks of error are acceptable in this case.

[53] I conclude that to order a separate trial, that would require 10-13 days and involve expert and complainants' testimony which would need to be repeated in the

trials of Mr. Mahar with Messrs. Greenlaw, Beaver and Rangers, would place an unnecessary demand on court resources and on the witnesses.

[54] I conclude that the right of the accused to have his trial in a reasonable time has been satisfied by scheduling Mr. Mahar's trial for dates concluding prior to the *Jordan* presumptive limit.

[55] The application of Mr. Mahar is certainly a reasonable one to have brought forward. However, for the reasons provided the application to sever is denied.

### **Application of Martin Rangers**

[56] Mr. Rangers seeks severance of the following counts with which he is charged:

- Count 52 did unlawfully commit a sexual assault on E.N. contrary to Section 271 of the *Criminal Code*.
- Count 53 did obtain for consideration or communicates with anyone for the purpose of obtaining for consideration the sexual services of E.N., a person under the age of 18 years, contrary to Section 286.1 (2) of the *Criminal Code*.
- Count 54 did for a sexual purpose touch E.N., a person under the age of sixteen years, directly with a part of his body, to wit., his penis, contrary to Section 151 of the *Criminal Code*.
- Count 55 did, for a sexual purpose invite, counsels or incites E.N., a person under the age of sixteen years, to touch directly a part of his body, to wit., his penis, contrary to Section 152 of the *Criminal Code*.

### **Position of Mr. Rangers**

[57] Counsel for Mr. Rangers submitted that severance should be granted for the following reasons.

#### ***General Prejudice to the accused***

[58] Mr. Rangers' alleged offences involve only one complainant and he has no co-accused in relation to those charges.

[59] He estimates that a separate trial would take approximately 2 days and so expects to be in custody on remand for a longer time to accommodate the scheduling requirements for a much longer trial involving Mr. Greenlaw as co-accused.

[60] Mr. Rangers is concerned that a judge will improperly assess him to be a co-conspirator in a joint trial, notwithstanding the fact that he is not so charged.

[61] The trial judge may fail to recognize that the allegations against him are very narrow and instead improperly assess him as part of the much more sweeping allegations against Mr. Greenlaw. This risks infringing on his right to a fair trial.

### ***Legal and Factual Nexus Between Counts and Co-Accused***

[62] There is no allegation by the Crown of Mr. Rangers being a party to the operation of Mr. Greenlaw's purported human trafficking operation.

[63] The only relationship alleged between Mr. Rangers and Mr. Greenlaw (and between Mr. Rangers and any of the other co-accused) is that Mr. Rangers is alleged to have had sexual relations with E.N. at Mr. Greenlaw's residence, and that Mr. Rangers appears, it is alleged, to have inquired of Mr. Greenlaw, via text, as to the availability of females for sex, i.e., he was a customer of Mr. Greenlaw's.

### ***Multiplicity of Proceedings***

[64] It is insufficient for the Crown to rely solely on the grounds of assisting E.N. to avoid having to testify repeatedly as the basis to require him to be tried jointly with Mr. Greenlaw.

[65] E.N.'s evidence as to Mr. Rangers' alleged crimes consists of an approximately 20-minute audio recording. There is no written statement. The case against Mr. Rangers therefore will not be complex, nor time consuming.

[66] Counsel concludes, having regard to these factors, that in determining what is in the interests of justice, there is little advantage to the prosecution and a significant disadvantage to the accused if he is required to be tried with Mr. Greenlaw.

### **Position of the Crown**

[67] The Crown is opposed to the application for severance. In doing so, they take a very different view from the applicant of the legal and factual nexus between the counts, the significance of avoiding a multiplicity of proceedings and the general prejudice that might arise through the comparative length of trial time.

### **Analysis**

### ***General Prejudice to the Accused***

[68] In response to the suggestion that the trial judge might be susceptible to error I adopt my comments in response to a similar argument raised by Mr. Mahar. I am confident that a judge can properly self-instruct against drawing improper conclusions based on evidence not admissible against Mr. Rangers.

[69] The Crown, for reasons that I will canvas later, submits that rather than the 2 days counsel for the accused suggests for a separate trial, it would require 10-13 days for the Crown's case alone. While assessing these time estimates at such an early stage always has some margin of error, my assessment is that the Crown estimate is the more reasonable approximation.

### ***Legal and Factual Nexus Between Counts and Co-Accused***

[70] The Crown argues that there is a strong legal and factual nexus between Mr. Rangers' alleged conduct and the alleged conduct of the other parties, particularly Mr. Greenlaw:

There is a **factual nexus** between Mr. Rangers and Mr. Greenlaw, as Mr. Rangers' contact with E.N. was facilitated by Mr. Greenlaw, and in many instances occurred at the same time, place, and location as Mr. Greenlaw. The Crown will argue that all of Mr. Rangers' contact with E.N. either occurred in the presence of Mr. Greenlaw or was organized by Mr. Greenlaw. As a result, the evidence against Mr. Rangers with respect to E.N. involves many of the same witnesses required for Mr. Greenlaw (and others).

Further, the photographic evidence of count 52 (s.271), count 54 (s.151), and count 55 (s.152) against Mr. Rangers was found on Mr. Greenlaw's cellphone. The Crown will argue this photograph was created by Mr. Greenlaw at his apartment.

The evidence required to prove count 53 (s.286.1(2)) against Mr. Rangers was also found on Mr. Greenlaw's cellphone. This is the same evidence required to prove numerous counts against Mr. Greenlaw, including s.163.1(2); s.163.1(4); s.279.011(1); s.279.02(2); s.286.3(2), and s.286.4 with respect to E.N.

If Mr. Rangers is not jointly tried with Mr. Greenlaw, then the trier of fact will be left without factual context as to the circumstances of E.N. and how she found herself in contact with Mr. Rangers. The role played by Mr. Rangers is closely tied to the role played by Mr. Greenlaw.

With respect to **legal nexus**, considerations include whether the counts charged constitute overlapping transactions or have essential elements in common.

As explained above, all of Mr. Rangers' contact with E.N. either occurred in the presence of Mr. Greenlaw, or with his organization. As a result, the trier of fact would need to know about the role played by Mr. Greenlaw with respect to E.N. to understand the role played by Mr. Rangers. E.N. would not have been sexually assaulted by Mr. Rangers if she had not been trafficked by Mr. Greenlaw. Those two transactions overlap.

Further, the evidence required to prove count 53 (s.286.1(2)) with respect to Mr. Rangers is the same evidence required to prove count 41 (s.279.011(1)), count 42 (s. 279.02(2)), and count 43 (s.286.3(2)) with respect to Mr. Greenlaw.

The evidence required to prove count 52 (s.271), count 54 (s.151), and count 55 (s.152) with respect to Mr. Rangers also includes the same evidence required to prove count 50 (s.163.1(2)) and count 51 (s.163.1(4)) with respect to Mr. Greenlaw.

[71] No issue has been taken with this representation of the anticipated evidence. On the face of it, there is a significant factual and legal nexus to rebut the suggestion that severance is merited due to the lack of a factual or legal nexus.

***The desire to avoid a multiplicity of proceedings***

[72] Counsel for Mr. Rangers argues in his submission that “The sole discernible reason for Mr. Rangers to be tried with Mr. Greenlaw and the others appears to be so that EN can avoid testifying in two (2) or more separate trials.”

[73] The Crown assesses this issue very differently:

[132] ...severing the parties will add significantly to the use of court resources. The Crown would be required to call the same evidence at multiple trials. With respect to Mr. Rangers, this duplicitous evidence would include:

- i. Viva voce evidence from E.N. at two separate trials (she is a required witness for Mr. Rangers and Mr. Greenlaw);
- ii. Viva voce evidence from J.C. at three separate trials (she is a required witness for Mr. Mahar, Mr. Greenlaw, and Mr. Rangers);
- iii. Viva voce evidence from M.D. at two separate trials (she is a required witness for Mr. Rangers and Mr. Greenlaw);
- iv. Viva voce evidence from R.M. at two separate trials (she is a required witness for Mr. Rangers and Mr. Greenlaw);
- v. Expert evidence with respect to the digital forensic analysis of Mr. Greenlaw's cellphone (required evidence for Mr. Mahar, Mr. Greenlaw, Mr. Rangers, Mr. Beaver, Mr. Saarloos, and Mr. Birchard);

- vi. Evidence with respect to the photograph of E.N. and Mr. Rangers, which the Crown will argue is child pornography (required evidence for Mr. Rangers and Mr. Greenlaw);
- vii. Evidence with respect to E.N.'s Locanto.ca advertisement (required evidence for Mr. Rangers and Mr. Greenlaw); and
- viii. Viva voce evidence from witnesses with respect to the search of Mr. Greenlaw's apartment on Olivet Street to speak to items found during that search (required evidence for Mr. Mahar, Mr. Greenlaw, Mr. Rangers, Mr. Birchard, and Mr. Saarloos).

[133] Calling this same evidence at multiple trials is an extraordinary waste of court resources and will inevitably lead to witness fatigue. Numerous civilian witnesses would be required to testify at multiple hearings, including four named complainants: E.N., J.C., M.D., and R.M. All four complainants face significant vulnerabilities. E.N. is still a minor (17 years old). M.D. is currently 19 years old; J.C. is 19 years old; and R.M. is 22 years old. The inconvenience, anxiety, and emotional trauma caused these witnesses by testifying at multiple hearings cannot be overlooked. It is not in the interests of justice to require these witnesses to testify at multiple proceedings.

[74] There has been no rebuttal to this assessment, and it explains the Crown's position that a trial would take up to 13 days for its case to be called in a judge alone trial of Mr. Rangers only.

[75] I accept that there is a compelling case to avoid a multiplicity of proceedings.

## **Conclusion**

[76] The applicant has limited his position to the issues addressed herein. As such I do not feel it is necessary to repeat the conclusions identified in the Mahar reasons as to the following factors:

- Whether the accused intends to testify on one count but not another;
- The possibility of inconsistent verdicts;
- The use of similar fact evidence at trial; and
- The existence of antagonistic defences as between co-accused persons.

[77] As I concluded with Mr. Mahar, I am very conscious of the impact on an accused of having to participate in a trial that is longer than it would have been had they been tried separately. That must be weighed with other factors to assess

whether the interests of justice as served by a single trial are better served by severance.

[78] I am alert to the potential for a trier to err in considering evidence that is tendered in relation to one accused to then be considered improperly as against a co-accused. I have concluded that I am satisfied that as a judge alone trial the risks of error are acceptable in this case.

[79] I conclude that to order a separate trial that would require 10-13 days and involve expert and witness testimony which would need to be repeated in trials of other accused would place an unnecessary demand on court resources and on the witnesses.

[80] I conclude that the right of the accused to have his trial in a reasonable time has been satisfied by scheduling his trial for dates concluding prior to the *Jordan* presumptive limit.

[81] I have considered the consequence to Mr. Rangers of being on remand since being charged in May 2023. In this case, as with Mr. Mahar and Mr. Beaver, the trial will start September 2 with a scheduled last day of October 10, 2025. Assuming he is not released before trial, Mr. Rangers will have been on remand for approximately 29 months. It is by no means assured that an earlier trial date for 10-13 days would have been available, were he to be tried on his own.

[82] Counsel for Mr. Rangers advises that Mr. Rangers was denied bail primarily because of his past criminal record and the fact that he was, very recently prior to the present charges, on parole for a manslaughter conviction in British Columbia. Mr. Rangers' ties to the community were deemed by the Provincial Court judge denying him bail to be not strong.

[83] Notwithstanding Mr. Rangers being a person in custody, my assessment of the other factors cited leads me to conclude that the application must fail.

[84] The application of Mr. Rangers to sever is denied.

### **Position of Richard Beaver**

[85] Counsel for Mr. Beaver submitted that severance should be granted for the following reasons:

#### ***General Prejudice to the Accused***

[86] Counsel notes that there is only one charge against Mr. Beaver. For the purposes of this application, he does not contest that the accused drove Mr. Greenlaw from Halifax to Plymouth, Nova Scotia and then drove Mr. Greenlaw and the underage complainant S.H. from Plymouth to a hotel in Halifax. He submits that there is only one issue to be resolved, and that is whether the accused had the necessary intent and/or knowledge to conclude that this was done for the purpose of exploitation.

[87] It has been submitted that the circumstances of Mr. Beaver's case increase the potential for error in the application of the evidence led in a joint trial with Mr. Greenlaw. Those circumstances are that there are 70 other counts in relation to 8 other complainants and five other accused which do not impact on his case. It is argued that so much irrelevant evidence could taint the judge's view of Mr. Beaver and create prejudice against him.

### ***Legal and Factual Nexus***

[88] Mr. Beaver argues that since he is named in only one count there is no nexus, legally or factually, with the other counts in the Indictment. While he is co-accused with both Mr. Greenlaw and Mr. Mahar, there is no evidence that Mr. Beaver and Mr. Mahar are known to each other or have ever met.

### ***Complexity of the Evidence***

[89] Counsel says that, while overall the evidence may be complex, the evidence relating to the one count faced by Mr. Beaver is not complex. It involves testimony of one complainant and some surveillance camera video. It is submitted that a separate trial of Mr. Beaver's charge would not involve complex evidence and could be concluded in one day.

### ***Possibility of Inconsistent Verdicts***

[90] No risk of inconsistent verdicts is asserted.

### ***Avoiding Multiplicity of Proceedings***

[91] Counsel observed that the Crown has not contested the applications of Messrs. Saarloos and Birchard. It is submitted that the argument for severing Mr. Beaver's case is at least as reasonable as the severance of those two co-accused. While it would create one extra trial doing so places S.H. in no different position than the

complainants in the matters involving Messrs. Birchard and Saarloos. Those complainants must also testify in the proceedings involving Mr. Greenlaw, and so would S.H. if severance is granted for Mr. Beaver.

### ***Length of Trial***

[92] Counsel argues that the length of trial is another factor that favors severance of Mr. Beaver's trial. Most of the charges are related to Mr. Greenlaw. Mr. Beaver faces only one count involving one complainant. Counsel submits that a separate trial for Mr. Beaver could be completed in one day and would be an efficient and cost-effective use of judicial resources. He points out that a trial involving multiple counts would be lengthy. In fact, 25 days have been set aside for that purpose. Mr. Beaver would have to be present with counsel for this lengthy trial, the majority of which does not involve him and that has no nexus to him.

### ***Potential Prejudice to Right to be Tried in a Reasonable Time***

[93] Mr. Beaver was charged in an Information dated May 30, 2023. His presumptive *Jordan* date is November 30, 2025. As I have noted before, the joint trial of the four co-accused, including Mr. Beaver, is scheduled to be completed approximately 6 weeks prior to that date. Whether there may be other delays that could lead to a subsequent *Charter* challenge is not before the Court on this application.

### ***Applicant's Concluding Submission***

[94] Counsel's argument concludes:

There is a lack of evidence of a joint enterprise or common transaction with respect to [*sic*] the charge involving Mr. Beaver. There appears to be no connection whatsoever between he and Mr. Mahar and there is no allegation of communications between Mr. Beaver and Mr. Greenlaw relating to the charge. There is no cell phone evidence relating to Mr. Beaver. His involvement was as a driver for Mr. Greenlaw on one occasion.

It is respectfully submitted that in the particular circumstances of Mr. Beaver, based on the factors discussed above, that the interests of justice weigh in favor of severance with a separate trial for Mr. Beaver on the sole count he faces.

### **Position of the Crown**

[95] The Crown re-iterates its position that there is a strong presumption in trying co-accused together because of the strong legal and factual nexus in the issues to be decided. Litigating the same issues on multiple occasions is said to be an inefficient use of court resources and raises the potential for inconsistent verdicts.

### ***Legal and Factual Nexus***

[96] The Crown disagrees with the applicant and argues that:

There is a **factual nexus** between the parties, as the alleged conduct of Mr. Beaver acts in concert with the alleged conduct of Mr. Greenlaw and Mr. Mahar. Mr. Beaver's contact with S.H. occurred at the same time, place, and location as Mr. Greenlaw (and later, Mr. Mahar). The roles played by these parties with respect to S.H. are inextricably tied to one another. The Crown will argue they acted with an intention in common. As a result, the evidence against Mr. Beaver, Mr. Greenlaw, and Mr. Mahar with respect to S.H. involves the same witnesses....

With respect to their **legal nexus**, the parties are co-charged with trafficking S.H. because their alleged conduct makes them parties to the same offence. They share the same essential elements, and the Crown will argue they acted with an intention in common. These parties played complimentary roles in the trafficking of the same complainant, at the same time. It is necessary for the trier of fact to consider the role played by each party.

As such, the legal and factual nexus between the parties strongly militates in favour of a joint trial.

### ***The complexity of the evidence***

[97] The Crown relies on the same arguments it advanced in relation the application by Mr. Mahar.

### ***The desire to avoid a multiplicity of proceedings***

[98] The Crown, as in other applications, provided their view of the impact of severance of Mr. Beaver's trial if the severance application is granted. It is submitted that the prosecution would be required to call the same evidence at multiple trials. With respect to Mr. Beaver, this duplicated evidence would include:

- *Viva voce* evidence from S.H. at three separate trials (she is a required witness for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver)

- *Viva voce* evidence from Pam Hubley at three separate trials (she is a required witness for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver)
- Expert evidence with respect to the digital forensic analysis of Mr. Greenlaw's cellphone (required evidence for Mr. Mahar, Mr. Greenlaw, Mr. Rangers, Mr. Beaver, Mr. Saarloos, and Mr. Birchard)
- Expert evidence with respect to human trafficking, and the nexus between low level drug trade and human trafficking offences (required evidence for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver)
- *Viva voce* evidence from witnesses from The Barrington Hotel to testify with respect to business records (required evidence for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver) and
- *Viva voce* evidence from witnesses from The Barrington Hotel to testify with respect to surveillance video obtained from the hotel (required evidence for Mr. Mahar, Mr. Greenlaw, and Mr. Beaver).

[99] According to the Crown:

...numerous civilian witnesses would be required to testify at multiple hearings, including S.H., who faces significant vulnerabilities. Requiring S.H. to testify at multiple proceedings will cause unnecessary anxiety and emotional trauma. It is not in the interests of justice to require S.H. to testify about the same highly sensitive and traumatic events at multiple trials.

[100] Accepting this as accurate, the issue is much broader than the defence characterization – both in terms of the evidence necessary to be called in Mr. Beaver's case and in the ultimate impact of the demands placed on S.H. by adding the requirement to testify in this trial if severed.

[101] The Crown would also advocate that avoiding a multiplicity of proceedings eliminates the risk of inconsistent verdicts and witness fatigue, both of which will compromise the truth-seeking function of the court.

***The use of similar fact evidence at trial***

[102] This factor is not applicable.

***The length of the trial hearing having regard to the evidence to be called***

[103] Please see the above analysis with respect to Mr. Mahar's application.

[104] If severance is granted with respect to Mr. Beaver, the time estimate for count 24 is six (6) to eight (8) days of trial time.

***The potential prejudice to the accused with respect to the right to be tried within a reasonable time***

[105] The Crown relies on the same arguments it advanced in relation to the application by Mr. Mahar.

***The existence of antagonistic defences as between co-accused persons***

[106] This factor is not applicable.

**Conclusion**

[107] As I concluded in the applications of Messrs. Mahar and Rangers, I am very conscious of the impact on an accused of having to participate in a trial that is longer than it would have been had they been tried separately. That must be weighed with other factors to assess whether the interests of justice as served by a single trial are better served by severance.

[108] I am alert to the potential for a trier to err in considering evidence that is tendered in relation to one accused, to then be considered improperly as against a co-accused. I am satisfied that as a judge alone trial the risks of error are acceptable in Mr. Beaver's case. The fact of there being only one charge against him will not be lost on the trial judge – as with all the four co-accused, only evidence that is relevant, material and admissible is expected to be applied to the determination of the verdict. While there may be an elevated risk of error in a jury trial, I do not accept that it is a significant reason on its own or with other factors in this judge-alone trial to merit severance.

[109] Having considered the respective positions of the parties, I conclude that to order a separate trial for Mr. Beaver would require 6-8 sitting days and involve expert and witness testimony which would need to be repeated in a joint trial of Messrs. Greenlaw, Rangers and Mahar. I accept that to do so would place an unnecessary demand on court resources and on the witnesses.

[110] In this respect, I prefer the assessment of the Crown to that of the defence in relation to the amount of evidence that would be required in a severed trial of Mr. Beaver. The Crown is in the best position to explain what evidence they will lead

and how that evidence will establish the factual and legal nexus of the accused to the co-accused and the offence charged.

[111] I conclude that the right of the accused to have his trial in a reasonable time has been satisfied by scheduling his trial for dates concluding prior to the *Jordan* presumptive limit.

[112] The application of Mr. Beaver to sever is denied.

### **Applications of Rodi Saarloos and Kyle Birchard**

[113] Mr. Saarloos is charged as follows:

Count 16 that between the 12th day of March 2023 and the 1st day of April 2023 at or near Bedford, Nova Scotia, did obtain for consideration or communicates with anyone for the purpose of obtaining for consideration the sexual services of J.C, a person under the age of 18 years, contrary to Section 286.1 (2) of the *Criminal Code*.

Count 22 that on or about the 12th day of March 2023, at or near Bedford, Nova Scotia, did have in his possession child pornography, contrary to Section 163.1 (4) of the *Criminal Code*.

[114] Mr. Birchard is charged as follows:

Count 34 that on or about the 25th day of February 2023 at or near Halifax, Nova Scotia, did have in his possession child pornography, contrary to Section 163.1 (4) of the *Criminal Code*.

Count 44 that Kyle Shane Spicer Birchard between the 12th day of February 2023 and the 8th day of April 2023 at or near Halifax, Nova Scotia, did obtain for consideration or communicates with anyone for the purpose of obtaining for consideration the sexual services of E.N., a person under the age of 18 years, contrary to Section 286.1 (2) of the *Criminal Code*.

[115] I am satisfied, having considered the representations of counsel, that the applications of Messrs. Birchard and Saarloos to sever their trials from each other and from the remaining four co-accused should be granted.

[116] The factors that distinguish their cases from those of their co-accused are:

### **Mr. Saarloos**

1. Mr. Saarloos is charged alone on these counts and not co-charged on any other counts
2. The charges against Mr. Saarloos involve one complainant.
3. There is no possibility of inconsistent verdicts.
4. The duplication of evidence required with respect to Mr. Saarloos is much less voluminous compared to the duplication of evidence required with respect to Mr. Mahar, Mr. Rangers, and Mr. Beaver.
5. The duplication of evidence required for Mr. Saarloos does not include *viva voce* evidence from civilian witnesses or complainants.
6. The Crown case will consist of proving that certain text messages possessed by him were sent by him to Mr. Greenlaw for the purposes alleged in Count 16 and that certain material was located on a device in his possession that supported the offence alleged in Count 22. As such, it is likely that the trial of the matter will be less complex and time consuming than if his matters are included in the trial of Mr. Greenlaw, Mahar Rangers, Beaver.
7. The trial of the offences against him would be relatively short and can be accommodated within the Jordan timelines. (Note: Trial dates have been set for November 13, 14, 17, 18, 2025 (4 days))

**Mr. Birchard**

1. Mr. Birchard is charged alone on these counts and is not co-charged on any other counts.
2. There is no possibility of inconsistent verdicts.
3. The duplication of evidence required with respect to Mr. Birchard is much less voluminous compared to the duplication of evidence required with respect to Mr. Mahar, Mr. Rangers, and Mr. Beaver.
4. The duplication of evidence required for Mr. Birchard does not include *viva voce* evidence from civilian witnesses or complainants.
5. There is a factual nexus, as the alleged offences committed by Mr. Birchard occurred through his communication with Mr. Greenlaw.
6. The Crown will seek to prove that the child pornography possessed by Mr. Birchard was created and sent to him by Mr. Greenlaw.

7. The Crown will also seek to prove that Mr. Birchard communicated with Mr. Greenlaw via text message for the purpose of obtaining the sexual services of E.N. in exchange for money.
8. As a result, the evidence against Mr. Birchard involves the same evidence required for Mr. Greenlaw, and others.
9. The trial of the offences against him would be relatively short and can be accommodated within the *Jordan* timelines. (Note: Trial dates: April 22-25, 2025 (4 days))

### **Conclusion**

[117] The application of Shane Mahar to sever counts 14, 15, 24, 25 and 33 of the Indictment is denied.

[118] The application of Martin Rangers to sever counts 52, 53, 54 and 55 of the Indictment is denied.

[119] The application of Richard Beaver to sever count 24 of the Indictment is denied.

[120] The application of Rodi Saarloos to sever counts 16 and 22 from the Indictment is granted. Trial dates have been set.

[121] The application of Kyle Birchard to sever counts 34 and 44 from the Indictment is granted. Trial dates have been set.

Patrick J. Duncan, ACJ