

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Dennis*, 2026 NSSC 25

Date: 20260209

Docket: CRK 508588

Registry: Kentville

Between:

His Majesty the King

v.

Devyn Adam Dennis

SENTENCE DECISION

PUBLICATION BAN: s. 517 of the *Criminal Code*

Judge: The Honourable Justice Jamie S. Campbell

Heard: December 22, 2025, in Kentville, Nova Scotia

Counsel: Peter Craig, KC and Shauna MacDonald, KC, for the Crown
David Hirtle, KC and Shawnee Gregory, for the Defence

By the Court (orally):

[1] Devyn Dennis was found guilty of break and enter to a dwelling house with intent to commit an indictable offence, interference with human remains, and arson.

[2] The facts are as set out in *R. v. Dennis*, 2025 NSSC 59. Mr. Dennis and Darroll Atwell were charged with the same offences, related to the same incident. They were both friends with Robert Campbell. They went with Robert Campbell to the home of Rebecca Moir on Ridge Road in Wolfville to settle a dispute about drugs. As noted in the trial decision, it was not a social visit. It was reasonable to infer that the interaction could well involve violence or threats of violence by one or both sides of that exchange. They arrived in a van owned by Robert Campbell's father. They waited down the road for other people who were at the house to leave.

[3] As soon as they entered the home Robert Campbell was shot in the chest. He was carried out of the residence. Devyn Dennis and Darroll Atwell went to Darroll Atwell's place and got his truck. They drove together to the place where they burned Robert Campbell's body in his father's van.

[4] These events happened on the morning of May 24, 2020. On December 5, 2023, Darroll Atwell pleaded guilty to the same offences for which Mr. Dennis has been found guilty. He was sentenced to three years for break and enter, 18 months consecutive for committing an indignity to human remains and 18 months concurrent for arson. The net result was a sentence of 4.5 years, less credit for 12 days of pretrial custody.

Purposes and Principles of Sentencing

[5] Sentencing is an individualized and nuanced process. Offences are not sentenced. People are sentenced for the crimes they commit. The unique circumstances of each person and the circumstances in which the crimes were committed must be considered.

[6] That process is governed by the purposes and principles of sentencing set out in the *Criminal Code*. Those purposes and principles provide guidance while still requiring judges to determine sentences that reflect the circumstances of each case and each offender. Those purposes and principles exist in tension with each other. They do not all guide the judge toward the same conclusion.

[7] The fundamental purpose of sentencing is to protect society and to contribute to the respect for law, and the maintenance of a just, peaceful and safe society by imposing just sanctions. The objective of a criminal sentence can be to denounce unlawful conduct, to deter the offender, to separate the offender from society, to assist in the rehabilitation of the offender, to provide reparations to the victim, and to promote a sense of responsibility in offenders. Many sentences seek to accomplish more than one of those objectives. And some crimes are identified as requiring a sentence that focuses on a particular objective.

[8] The fundamental principle of sentencing is that the sentence imposed must be proportionate to the gravity of the offence and the degree of responsibility of the offender. The court must also take into account aggravating and mitigating factors identified in the *Criminal Code*.

[9] The sentence imposed should be similar to sentences imposed on similar offenders for similar offences in similar circumstances. That is referred to as the principle of parity. No two situations are identical. While Mr. Atwell and Mr. Dennis committed the same crimes, in the same incident, their own circumstances are not the same. Each person and each crime must be assessed individually, but sentences imposed on other people provide guidance in determining a range within a sentence should fall. That comes into sharp focus when two people are convicted of the same crimes as part of the same incident.

[10] Where consecutive sentences are imposed the combined sentence should not be unduly long or harsh. That principle of totality prevents simple arithmetic from creating a sentence that does not reflect the circumstances of the offender and the offences. When the appropriate sentences for each of a number of offences are added together the result may far exceed the sentence that reflects the moral culpability of the offender.

[11] An offender should not be deprived of liberty if less restrictive sanctions are appropriate and when incarceration is appropriate it should be for the shortest period of time that complies with the purposes and principles of sentencing. Judges must exercise restraint.

Process

[12] When a person is sentenced on multiple counts the judge must determine the appropriate sentence for each count. Then, the judge is required to decide which offences will be served consecutively and which offences will be served

concurrently. Then the judge considers the aggregate sentence and if it exceeds what would be appropriate that overall sentence can be reduced. *R. v. Adams*, 2010 NSCA 42.

Mr. Dennis' circumstances

[13] A *Gladue* Report was prepared, because Mr. Dennis is Indigenous. He told the writer of the report that both his parents have Indigenous ancestry. His mother is Mi'kmaq from the Qalipu First Nation in Newfoundland. Qalipu is described as a landless band in that it does not have a reserve. There has been tension between the Qalipu First Nation and other Indigenous groups, including those in Nova Scotia over questions of identity, recognition and resource sharing.

[14] The *Gladue* Report notes that Mr. Dennis' parents were both born and raised in Newfoundland. As a young couple they moved to Ontario. Devyn Dennis was born in 1994, when they lived in Ontario. He is now 31 years old. When he was one year old they moved to Nova Scotia where they have lived for the last 30 years.

[15] Mr. Dennis' father went to a Catholic day-school. There is no indication in the report that it was a school for Indigenous students. He was described as a non-sense father and was not particularly affectionate. Mr. Dennis told the writer of the report that he had a "decent upbringing". He was grateful that he was not brought up in foster homes, there were no addiction issues at home and no domestic violence. His childhood, according to Mr. Dennis was "pretty normal. I was one of the few kids in school who had two parents and they are still together today."

[16] While on his father's side of the family there was some alcoholism, Mr. Dennis did not see his father drunk until Mr. Dennis was 14. His mother never struggled with addictions and in his opinion, he had never struggled with addictions himself.

[17] Mr. Dennis said that when he was a young man, he attempted suicide. He said that he was grateful that the attempt failed and he has not tried to take his own life since that time.

[18] Mr. Dennis is in a committed relationship with his girlfriend and they have a baby. They share a home and his partner is a positive support person for him.

[19] Mr. Dennis said that he had not experienced a lot of racism because he is “white presenting”. He discovered that he was Indigenous when he was in Grade 6 or 7 and recalled that just after that his family got their status cards. His parents always knew that they were Indigenous but was not sure why it was not discussed. They did not hide it when they got their status cards, but it just was not talked about around some people.

[20] Mr. Dennis told the *Gladue* Report writer that culture has been a part of his life. He is an avid hunter and smudges at least once a week. He enjoys attending Mawio’mi’s (pow-wows) and commented on how the drum can turn around his worse day. He helped to build a sweat lodge and participated in the ceremony when it was completed.

[21] Mr. Dennis said that when he was growing up he struggled with depression. Doctors thought it was ADHD and wanted him to take medications. He said that he did not want to be medicated because he did not want to be “lazy and unmotivated”. As he grew up, he struggled with anxiety and was diagnosed with that and medicated for it. Mr. Dennis said that he has had PTSD since May 2017. He was working for a construction company. He was driving a truck when a young man on a motorcycle crossed the yellow line and was killed in a head on collision with the truck Mr. Dennis was driving. The job required him to drive past the spot where the accident happened, and it appears that caused him to leave the job. He said that PTSD has come up again with Robert Campbell’s death.

[22] This matter was to be dealt with through a sentencing circle. But when the Mi’kmaw elder who was to lead that sentencing circle read the *Gladue* Report, it was not felt that the process would be helpful for Mr. Dennis. Neither the elder nor the community were prepared to support a sentencing circle.

[23] Courts are required to consider the contents of *Gladue* Reports and determine how the factors identified in them relate to the offences for which the person is being sentenced. In some cases, there is a “straight line” connection. *R. v. Knockwood*, 2024 NSSC 244, was one example of that.

Mr. Knockwood, in speaking with the writer of the *Gladue* Report offered an insightful comment on the how alcohol, drugs and poverty work together. He said, “most of my crimes are breaches, curfew, using alcohol and address. I know it’s because of me drinking and floating around. I have no money. I can’t get welfare because I don’t have an address, I can’t get an address unless I have money, and it’s a cycle.”

He is right. And it is an all too common cycle. And it is one that continues to tear through Indigenous communities across Canada. The history of cultural disruption and separation of families has tragic impacts on successive generations. It has contributed to the incarceration of aboriginal people at an alarmingly disproportionate rate. Nathan Knockwood's life so far, as described in the *Gladue* Report, has many features that epitomize the experience of incarcerated aboriginal people. His family experienced the damaging effects of residential school. He saw and was the victim of violence and addiction at home from an early age. His education was disrupted. He started using drugs and alcohol at an early age to escape from the harsh reality of his life. He experienced the trauma of losing family members and friends to suicide. He experienced homelessness and was drawn into the world of addiction and crime. That sad trajectory from a 4 year old boy whose mother left him, to the homeless young man living on the steps of a church, to today, should not be seen as being inevitable. But Nathan Knockwood, like many Indigenous people, has had to confront obstacles that others do not face. It is particularly tragic bearing in mind that his grandfather, Noel Knockwood, was such a powerful and inspirational voice in the fight to change the kinds of things that have brought his grandson to this point.

There is a "straight line" leading from Mr. Knockwood's Mi'kmaw heritage and the experiences Indigenous people in Nova Scotia, to what happened in this case. The *Gladue* Report speaks powerfully to the issues that must be considered in determining Nathan Knockwood's moral culpability. It should not be seen as a "discount" because it is not. It is a recognition of who he is and the confluence of factors that have contributed to bringing him to this place. He is still a person who is capable of making decisions for himself. He should never be reduced to being a just victim of his own circumstances. But it would be impossible to deny the profoundly significant direct connection between his experience as a Mi'kmaq man in Nova Scotia and the circumstances of this case. (paras. 37-39)

[24] There does not have to be as direct a connection as there was in *Knockwood*. And there is no question of Devyn Dennis' Indigenous heritage and status. The degree of a person's connection to culture and community is not an issue that a court can or should address at sentencing. A court does not parse degrees of Indigeneity. Whether or not a person grew up on a reserve or in a community that recognized their heritage as a First Nations person, and whether or not they experienced racism directly, are not issues that govern whether their Indigenous background should be a factor in sentencing. There is no question that the effects of intergenerational trauma are experienced by people at some remove from direct experiences of racism. The children and grandchildren of residential school survivors deal with the fallout years later.

[25] While courts do not assess degrees of indigeneity, for sentencing purposes it is important to take into account how a person's life has been affected by factors

related to their experience of indigeneity. There is some distance between the experiences of someone in Mr. Knockwood's situation and someone whose connection to a First Nation's or aboriginal community is limited to the results of an online genetic profile. For the purpose of determining an appropriate sentence the issue is not how Indigenous a person may be, but how those factors have impacted the trajectory of their life. There is no crude "genetic discount" in sentencing. But the factors that influence a person's life may lie deep in the background.

[26] In Mr. Dennis' case the *Gladue* Report attaches significance to things in his life that are similar to the experiences of Indigenous people. Yet those aspects of his life do not appear to relate to his First Nation's heritage. There is no evidence that members of his family were placed in what were referred to as Indian Residential Schools. His father went to a Catholic day-school. But there is nothing to suggest that it was a Catholic school for Indigenous children.

[27] The *Gladue* Report notes that the historical records indicate that Roman Catholic run schools in Newfoundland were characterized by rigid discipline and a strong emphasis on religious instruction. The approach was not intended to promote autonomy or self-sufficiency. They were part of a system designed to instill obedience and reinforce social hierarchies. "Devyn's father Calvin attended a catholic school, and heard stories about how they were abused, and that they felt the treatment was similar to those in Residential Schools." (*Gladue* Report, p. 4.)

[28] While his father "had heard stories" about abuse, there is no indication that he was abused or witnessed abuse in schools run by the Roman Catholic Church. The experiences of Devyn Dennis' father in a Roman Catholic school and how those experiences affected his parenting of his own children, do not have a connection to his First Nations heritage. Those experiences would have been shared by countless Newfoundlanders and others who attended schools run by the Roman Catholic Church.

[29] Mr. Dennis' father may well have been a non-affectionate and strict man, though he was not described as a "mean man". His unwillingness or inability to show affection toward his children was not shown to have been related to his Indigenous background.

[30] The writer of the *Gladue* Report noted that the destruction of the family was the most devastating legacy of the residential school system. Children did not learn how to parent and did not learn basic social skills. Family values and stories were

not handed down. But in Mr. Dennis' family there is no evidence and the *Gladue* Report makes no reference to any oral family history of anyone having gone to a residential school.

[31] Mr. Dennis said that life was pretty good growing up. His mother and father may have had a screaming match, "once or twice" but there was no physical violence. There was some verbal and emotional abuse. Mr. Dennis observed that the labels were not there when he was growing up. The *Gladue* Report writer notes that children who have experienced verbal abuse may struggle with trust, intimacy and forming and maintaining healthy relationships. There is no indication of the kind of verbal and emotional abuse and how it would in any way relate to the Indigenous heritage of either of Mr. Dennis' parents. There is no suggestion that Mr. Dennis himself has had difficulty in forming or maintaining health relationships.

[32] The report relates an incident in Newfoundland in which as a child Mr. Dennis saw his grandmother's body in a casket. The family were gathered together going through her possessions. He said that they seemed to care only about material things. He said that he learned the lesson that day that not all family is good. The writer of the report states how grief can interfere with cognitive, emotional and social development.

[33] But that experience does not relate to Mr. Dennis's Indigenous identity. It is not dissimilar to the experience of many children when they first encounter death within the close family.

[34] Devyn Dennis said that he did not really experience much racism. He knew by Grade 6 or 7 that he was Indigenous. The *Gladue* Reports comments that structural racism goes beyond the individual. It informs institutions that enact and perpetuate racism, and the cumulative impacts can be felt throughout generations. The suggestion is that even though Mr. Dennis did not believe that he had experienced racism, it infected the institutions that surrounded him.

[35] Mr. Dennis reported that when he was a young man, he attempted suicide. The *Gladue* Report notes the high rates of suicide and suicidal thoughts among Indigenous youth, particularly young males. The report does not indicate how or in what way Mr. Dennis' Indigenous heritage was a factor in the suicide attempt.

[36] Mr. Dennis grew up in a two-parent home, with no reports of addictions or domestic violence. His parents moved to the Annapolis Valley when he was a one

year old and he has always lived there. He does not report any addiction issues himself and has a committed relationship with his girlfriend. He got his Grade 12 diploma and then went to NSCC where he got a certificate in electrical construction.

[37] Mr. Dennis' struggles in life are not directly related to his Indigenous background. His upbringing was unremarkable. He, like some other people, had a strict father who had difficulty connecting emotionally. But there is no evidence that relates to the trauma of residential school experienced by a parent or grandparent, or to his father's heritage. While there was some "verbal abuse" when he was growing up, his upbringing again, was "pretty normal".

[38] Mr. Dennis is an Indigenous person. While his experiences of racism have been limited, he still feels the sting of occasional racist comments. His background must be a factor in his sentencing. It is less a profoundly significant factor than in *Knockwood*. But there is no requirement that there be a causal connection or link between systemic and background factors and the commission of the offence. *R. v. Anderson*, 2021 NSCA 62, para. 118. To look for such a causal connection is a legal error. It is enough that Mr. Dennis is Indigenous.

Break and Enter (s. 348)

[39] Section 348.1 of the *Criminal Code* makes it an aggravating circumstance if the dwelling was occupied when the break and enter took place and the offender knew or was reckless as to whether the home was occupied and "used violence or threats of violence to a person or property". That describes what is sometimes called a "home invasion" and distinguishes that from circumstances in which people break into vacant houses to steal things or break into occupied houses but do not threatened violence or commit an act of violence.

[40] Mr. Dennis knew that there were people inside Rebecca Moir's home on Ridge Road. He and Darroll Atwell waited outside for visitors to leave. And Mr. Dennis and Mr. Atwell would reasonably have anticipated violence when they got inside. But that was pre-empted by the shooting of Robert Campbell. As soon as Mr. Campbell was shot, they retreated from the scene. The circumstances were not a home invasion because Mr. Dennis did not use violence or a threat of violence. But the circumstances are still relevant. Mr. Dennis went into the property not for the purpose of stealing something and leaving. The intent was to settle an argument about drugs. That could and likely would result in violence or the threat of violence.

[41] The Crown cites as authority for a 5 year sentence the Court of Appeal decision in *R. v. Alcorn*, 2021 NSCA 75. In that case Mr. Alcorn pleaded guilty based on an Agreed Statement of Facts. He had stolen a car from a dealership by pretending to take it for a test drive. When he was driving the car, it had a tire problem and could not be driven. He could not change the tire. It was late and he was stranded. He saw a truck parked in a driveway. It was unlocked. He looked inside and found housekeys and a knife. He went into the house looking for keys to the truck so he could take it. The homeowner, Mr. Rogers, woke up and saw Mr. Alcorn holding a flashlight and the knife. Mr. Alcorn said he did not want to hurt him and just wanted the truck keys. Mr. Rogers offered to drive Mr. Alcorn where he needed to go.

[42] It is probably not entirely surprising that things did not turn out well. Mr. Rogers insisted on driving. Mr. Alcorn sat in the front seat with the knife in his hand. He realized Mr. Rogers was not heading in the direction he wanted, he reached over and put his foot on the brake. Mr. Rogers took the keys out of the ignition and got out of the truck. Mr. Alcorn went after the keys and in the scuffle Mr. Rogers' hands were cut on the knife Mr. Alcorn was still holding. Mr. Alcorn left in the truck. Mr. Rogers was left on the side of the road. His injuries required eight stitches.

[43] A few weeks later Mr. Alcorn was arrested in Toronto, still with Mr. Rogers stolen truck.

[44] The trial judge, Justice Boudreau, sentenced Mr. Alcorn to 5 years on the break and enter. Justice Boudreau specifically found that the circumstances were not a home invasion. Mr. Alcorn had not threatened Mr. Rogers with violence when he was in the home. The Court of Appeal upheld that sentence. The court observed that break and enter into a dwelling house, particularly one that is occupied will often result in a term of incarceration in a federal penitentiary, in other words more than two years. While the case was not a home invasion, as this case is not, it was a break and enter of an occupied dwelling house. The fact that it was a home is not an aggravating factor because it is an essential element of the offence. But the fact that Mr. Dennis entered the home, knowing that it was occupied, and with the intent of confronting the people inside, with the real potential of violence, is a circumstance that must be considered in sentencing.

[45] The entry into the home on Ridge Road was not a home invasion so that the circumstances were not statutorily aggravating. But it was not a surreptitious entry

into an unoccupied home for the purpose of committing a theft. It was planned. Mr. Dennis and Mr. Atwell waited down the road for people to leave. It was at night. And it was to accomplish a potentially violent purpose.

[46] Counsel for Mr. Dennis recommends a sentence of 2 years. The three year “bench mark” for break and enter, set out in *R. v. Zong*, [1986] NSJ No. 207, need not apply. That benchmark can be adjusted for mitigating or aggravating factors. Counsel cited several cases in which sentences of two years have been imposed.

[47] While Mr. Dennis was only 25 at the time of the offence, has no criminal record, was clearly distraught at the death of his friend Robert Campbell, and is an Indigenous offender, this break and enter was not at the lower end of seriousness. While it was part of a hastily devised, poorly thought out and disastrously executed plan, it was not an in the moment impulsive act. The three men waited for the right opportunity. They knew that there were people inside the home whom they planned to confront.

[48] The principle of parity must be addressed. Darroll Atwell pleaded guilty to the same offences in the same incident. He was sentenced to 3 years for the break and enter. He was credited with 12 days for time spent in custody, on remand. Parity does not trump all other principles of sentencing, but it presents itself starkly in this case. Two people committed the same crime, at the same time, in the same location and for the same motive. Mr. Atwell pleaded guilty. That would have been a mitigating factor in his sentencing. Darroll Atwell also had a criminal record consisting of 15 offences. He was 16 years older than Mr. Dennis.

[49] Devyn Dennis exercised his right to have a trial. That is not an aggravating factor in his sentencing, but he does not have the benefit of the mitigation that comes with a guilty plea. While that mitigation is absent, a sentence for Mr. Dennis cannot be determined without being guided by the *Gladue* Report that has been filed. An Indigenous offender’s sentence may be reduced below the “typical range” in order to give effect to the principles aimed at dealing with the overrepresentation of aboriginal people in custody. While the principles of denunciation and deterrence are generally reflected in ranges judges must consider other relevant sentencing objectives such as rehabilitation and restraint in determining a proportionate sentence for an Indigenous offender. Mr. Dennis’ background does not lead “in a straight line” to the circumstances that led to the commission of the crime. But his Indigenous identity and heritage is still a factor.

[50] Having regard to those mitigating factors, Mr. Dennis should not be sentenced to a longer term of incarceration than Mr. Atwell only because he exercised his right to a trial and did not have the mitigating factor of a guilty plea. The proper sentence is 3 years. Mr. Dennis should receive credit for 21 days in pretrial custody at a rate of 1.5:1, or 32 days. His sentence on the break and enter charge is 2 years and 333 days.

Interference with Human Remains (s. 182)

[51] Most cases of interference with human remains involve homicides in which the offender has attempted to dispose of the body of the victim. In this case there is no allegation that Mr. Dennis caused Robert Campbell's death. There is no reliable evidence about why he chose to participate in the burning of his friend's body other than the rather strange testimony from Mr. Atwell about a pact that he made with Robert Campbell that if something were to happen, at some time in the future, he would dispose of Robert Campbell's body.

[52] In the event, the act of burning Robert Campbell's body did prevent a full investigation into his death, though there is no evidence to suggest that as a motive for burning his body. Furthermore, the medical examiner determined that Mr. Campbell would have died quickly from the gunshot wound.

[53] The impact on a family is significant. The idea that the body of a loved one has been treated in such a way is undoubtedly a source of trauma. That aspect is inherent in the crime itself.

[54] Sentencing case law on the crime suggests a range of between 18 months and 5 years. All the cases have an element of bizarreness to them. In *R. v. Singh*, 2025 BCPC 126, the accused was one of two people in a vehicle that struck a boy who was lying in the road and dragged his body for over a kilometer. They got the body out from under the vehicle. The offender had no criminal record and was a young man. He was sentenced to 18 months incarceration. In *R. v. Smith*, 2009 ONCJ 621, a funeral home director was convicted for letting bodies decay before cremation. He had no criminal record and was also sentenced to 18 months in jail. In *R. v. Holly*, [1998] BCJ No. 357, the victim died of a drug overdose at a hotel. The accused disposed of the body by leaving it in a remote Indigenous reserve. The accused had a long criminal record and addiction issues. The sentence was 18 months.

[55] In *R. v. K.B.*, [2003] O.J. No. 1732, the offender moved the ashes of an ex-partner's deceased child that had been buried with their grandmother. The sentence was 21 months. In *R. v. Deren*, 2017 ABCA 23, the offender helped a friend in moving and disposing of remains in an area that left the remains "exposed to the ravages of nature". The sentence upheld was 2 years.

[56] There are three Nova Scotia murder cases that are quite recent and that feature burning or disposing of the body of a victim. They are at the higher end of sentences but in each case the sentence was concurrent to a life sentence. In *R. v. Johnson*, 2016 NSSC 297, the offender dismembered and burned the victim whom he had murdered. The 5-year sentence was concurrent to the murder sentence of life. In *R. v. Calnen*, 2016 NSSC 35, the offender also burned the victim of a second degree murder. The sentence was 5 years. In *R. v. Garnier*, 2020 NSCA 52, the offender disposed of the homicide victim's body in a compost bin. The sentence imposed was 4 years concurrent to the second degree murder sentence of life imprisonment.

[57] In *R. v. Shyback*, 2018 ABCA 331, the offender covered the remains of the manslaughter victim in cat litter, put the remains in a plastic bag and buried them in concrete in a basement. The sentence was 3 years consecutive to the manslaughter sentence. In *R. v. Parkin*, 2017 ABQB 336, the offender transported the remains of a manslaughter victim and set them on fire. The sentence imposed was 3 years consecutive to the manslaughter sentence.

[58] Mr. Dennis was not accused of having caused Robert Campbell's death. The case is unusual in that regard. Mr. Campbell's body was moved from the scene of his death, doused with a flammable liquid and set on fire.

[59] As with the break and enter offence, the principle of parity is engaged. Mr. Dennis took the case to trial, as was his right. Mr. Atwell, who pleaded guilty, was sentenced to 18 months incarceration. Given his personal circumstances and *Gladue* considerations, he should serve the same sentence as Mr. Atwell, 18 months. That is the sentence recommended by Mr. Dennis' counsel. That sentence should be served consecutive to the break and enter sentence.

Arson (s. 434)

[60] Mr. Dennis was convicted of arson for setting fire to the van that contained the remains of Robert Campbell. The motivation appears to have been to destroy Mr. Campbell's body so that the destruction of the van was secondary at most. The

fact that Mr. Campbell's body was burned is not an aggravating factor in the arson sentence. The burning of a human body has been dealt with in the sentencing with respect to committing an indignity to human remains. The arson relates to the burning of the van. The fire was not set for financial gain or revenge. It was not set by a person suffering from a mental illness. It was not an act of vandalism. The act of burning the van defies categorization.

[61] There are cases in which sentences of less than 18 months have been imposed. Burning an unoccupied property that a person owned with a previous partner resulted in a 5 month sentence in *R. v. Pidgeon*, 2016 ONCJ 334. The fires were designed to appear as accidental and were quickly discovered and extinguished.

[62] In *R. v. Van-Luyk*, 2018 ONCJ 807, the accused set the complainant's car on fire just steps from her front door. They had been in a relationship. The accused was a youthful offender with no prior record but showed no remorse. The sentence imposed was 18 months.

[63] In *R. v. O'Hanley*, 2020 ONSC 1310, the accused set fire to a residence where a former partner was preparing to live after an argument. The home was destroyed. The offender was young, with no criminal record and at low risk to reoffend. The sentence imposed was 15 months incarceration.

[64] Arson is an inherently dangerous act, *R. v. Shea*, 2017 NSCA 43. A fire can cause substantial damage. In this case the fire was set in a more contained area. It was not of a kind that could be expected to spread to nearby structures.

[65] Mr. Atwell was sentenced to 18 months, concurrent on the arson charge. Mr. Atwell and Mr. Dennis were each involved in the arson, though each participated in a different way. Mr. Atwell's guilty plea acted to reduce his sentence. Mr. Dennis is not increased because he exercised his right to a trial. But he lacks the mitigating factor of the guilty plea.

[66] Counsel for Mr. Dennis has recommended a sentence of 18 months, concurrent to the other sentences. Mr. Dennis' personal circumstances and *Gladue* factors, mean that an 18 month sentence is appropriate for Mr. Dennis as it was for Mr. Atwell. That is concurrent to the other sentences. The burning of the van was a separate offence but closely related and contemporaneous for the most part with the indignity to human remains offence.

Totality

[67] The result of those sentences would be that Mr. Dennis would serve 4 years and 6 months in total. The break and enter offence would have a sentence of 3 years. The indignity to human remains offence would have a sentence of 18 months to be served consecutive to the 3 year break and enter sentence. The 18 month arson sentence would be served concurrent to the other sentences.

[68] The issue is whether in totality that sentence is too harsh. It is not.

[69] Devyn Dennis is sentenced to a custodial term of 4.5 years. That is 1,642 days, without regard to leap years. He has been in custody for a total of 21 days and credit for remand is given at one and a half days for each day served, which is a total of 32 days. To complete the 4.5 year term the calculation is 1,642 days, less remand credit of 32 days, so the go forward sentence is 1,610 days, or 4 years and 150 days.

[70] The ancillary orders sought by the Crown will be granted. A DNA order pursuant to s. 487.051 and a firearms prohibition pursuant to s. 109.

Campbell, J.