SUPREME COURT OF NOVA SCOTIA
Citation: *R. v. R.R.D.G.*, 2014 NSSC 223

Date: 20140619
Docket: Halifax, CRH Nos. 412256 and 413741
Registry: Halifax

Between:

Her Majesty the Queen

v.

R.R.D.G.

Restriction on Publication: Section 486.4 *Criminal Code of Canada*

Revised Decision:	The decision has been corrected according to the attached erratum dated July 8, 2014.
Judge:	The Honourable Justice Peter P. Rosinski
Heard:	June 13, 2014 in Halifax, Nova Scotia
Oral Decision:	June 13, 2014
Counsel:	Perry Borden, Senior Crown Attorney, for the Crown Alex Embree for R.R.D.G.

By the Court:

Introduction

[1] This is the sentencing of Mr. G in relation to convictions for three sexual offenses involving his stepdaughter between January 2005 and January 2008; and in relation to his pleas of guilty to two breaches of Section 145(3) of the *Criminal Code of Canada* committed on June 7, 2012.

Procedural History

The Sexual Offenses

[2] Mr. G was charged on an information sworn November 3, 2010 with having committed three offenses between January 30, 2005 and January 30, 2008 at or near Halifax, contrary to Section 151, 153 (a) and 271 (1)(a) of the *Criminal Code of Canada* all in respect of J, who was his stepdaughter.

[3] He appeared in Provincial Court 21 times before his preliminary inquiry was started on February 6, and finished on February 7, 2013. He was committed to trial in Supreme Court by judge and jury (re-election to judge alone by consent) and appeared in this Court on February 21, 2013.

[4] On November 13, 2013 the Court heard evidence and arguments regarding a third-party records application by Mr. G seeking the records of: the IWK Children's Hospital; the Department of Community Services file; and counseling records of a private psychologist, all in relation to the complainant J. The application was dismissed in my decision 2013 NSSC 371.

[5] The trial herein was held December 16, 2013 to December 20, 2013 inclusive. On February 27, 2014, I rendered a written decision convicting Mr. G of the offences originally charged, and replicated in an indictment in this Court – 2014 NSSC 78.

[6] He was therefore found guilty specifically of:

1. That he, between the 30th day of January 2005 and the 30th day of January 2008 at or near Halifax in the County of Halifax in the province of Nova Scotia, did for a sexual purpose touch J, a person under the age of 14 years directly with a part of his body contrary to Section 151 of the *Criminal Code of Canada*;
2. And further did, being in a position of trust or authority towards J, a young person, or being a person with whom J, a young person, was in a relationship of dependency, did for a sexual purpose, touch directly or indirectly the body of J, a young person, with a part of his body, to wit: his penis, contrary to Section 153(a) of the *Criminal Code of Canada*;
3. And further, did unlawfully commit a sexual assault on J, contrary to Section 271(1)(a) of the *Criminal Code of Canada*.

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The Breaches of Undertaking

[7] Mr. G was charged on an Information sworn June 13, 2012 with having committed, on June 7, 2012, three breaches of Section 145(3) of the *Criminal Code of Canada*. The Crown proceeded by indictment. He remained in custody for two days until on June 15, 2012; he was released on a Recognizance in which William MacLean and Lori MacLean provided $3,000 and $2,000 cash bail as sureties.

[8] On February 11, 2014, he pled guilty to count number one and count number three in this Court. The matter was set over for sentencing pending the preparation of a Presentence Report update. Once Mr. G was found guilty of the sexual offenses, the sentencing of these matters were set over to be joined with the sentencing for the sexual offenses. The Recognizance upon which he was released was continued.

[9] Thus Mr. G has been in custody only on the sexual offences since February 27, 2014.

[10] The Court also ordered that Dr. Angela Connors, Ph.D. prepare a comprehensive forensic sexual behaviour presentence assessment. Dr. Connors is a recognized expert in the area of clinical and forensic psychology, particularly in the area of sexual deviancy. I am aware of and accept her credentials and expertise

in this area. She routinely provides such assessment reports to the courts in Nova Scotia. Her 29 page report is dated April 17, 2014.

[11] To assist the Court in the sentencing of Mr. G, I also had the benefit of the written and oral submissions of counsel.

[12] The Court has on file and has heard the victim impact statement of M the mother of J, read in Court. No victim impact statement was received from J. Nevertheless, I will say at this point that the likelihood of psychological harm having resulted from Mr. G's illegal and perverse actions against J may be inferred, and I do so infer such – Bateman, JA in *R. v. RTM* (1996) 151 NSR (2d) 235 (CA); and MacDonald, JA at para. 12 for the Court in *R. v. Powderface* (1992) 73 CCC (3d) 530 (Alta. CA).

Circumstances of the Offenses

The Sexual Offenses

[13] J was born in December 1994. Thus between January 30, 2005 and January 30, 2008 she was 10 to 13 years old. As I stated in the conviction decision, the offences have taken place at three separate locations in Halifax and, respectively,

between the months and years January 30th to September 2005; September 2005 to Summer 2007; and September 2007 to January 30, 2008:

> 26 Next it may be helpful to summarize the specific allegations of J respecting events allegedly occurring in the time period between January 30, 2005 and January 30, 2008:
>
> (i) In the house at (...), when they were alone (possibly on several occasions), RG put his pants down and made J open her mouth with her eyes closed, and inserted something into her mouth (pinkish in skin colour), which she sensed was moving, the size of which precluded her from closing her mouth. After being there for minutes, RG would say words like "okay stop" and she would sense a "warm and soft taste" in her mouth. She would usually swallow the substance, but sometimes spat it out. She did not specify how often this occurred. It may have only happened once at the (...) house;
>
> (ii) In the (...) house, RG would take J into his bedroom under the covers, usually in the afternoon after school. According to J, similar incidents of "open mouth/closed eyes" took place, "more than 10 times". J said that on one occasion RG had her perform the same act of oral sex in the living room when her mother was upstairs showering. J said she was in a blue armchair at the time;
>
> (iii) In the house in (...), the oral sex continued, but "anybody could be home". J estimated that it happened there "frequently" which she described as more than 10 times, and as she was getting older, she also said that it happened "more than three times per week" and "almost every day". She said that it normally took place in his bedroom (being the master bedroom occupied by he and M);
>
> (iv) At (...), J alleged that there were other incidents as she got older, including a couple of times in his bedroom, having her in front of him on all fours he would "dry hump" her in an act of simulated sexual intercourse, with his penis touching her vagina area over her clothes. He also rubbed her vagina over her clothes with his hand "a few times";
>
> By the time of the "diary incident" in September 2008, when J was still 13 years old, she testified that the abuse had stopped.

> 27 Thus in summary, J alleged: at (...): RG inserted his penis into her mouth and ejaculated therein, possibly only once; at (...): RG inserted his penis into her mouth and ejaculated therein, while they were in his bedroom "more than 10 times" including one incident was while her mother was showering upstairs and she was in the living room's "blue armchair"; at (...): RG inserted his penis into her mouth and ejaculated therein -- "it happened a lot" - - "more than three times per week... and almost every day" as she got older, she noted "but anybody could be home"; also in the bedroom he dry humped her "a couple of times"; and he also rubbed her vagina with his hands over her clothes "a few times.

[14] In the assessment report Dr. Angela Connors commented on what Mr. G reported to her or her staff:

> Mr. G continued to deny that any early instances of fellatio occurred of the "closed eyes open mouth" variety in which a pretext was used to to gain compliance, although he acknowledged that he had directly asked J to perform oral sex on him, and that she did so more than once. Thus, Mr. G denied grooming, and denied that the abuse occurred over years, although he acknowledged that he sexually abused J. Mr. G contended that such episodes of abuse were contained to 2008… He denied any episodes of simulated intercourse or touching of J's genital area over her clothes.
>
> Mr. G stated that the first time he crossed sexual boundaries with J she was sitting on his lap and squirming being "playful" and wanting his attention.… Described her behavior on his lap as "grinding" against him, and he noted that he was aroused… Mr. G claimed that the two younger kids were home as well, but he and J were alone in his bedroom when he "asked her to perform oral sex" and she did so. Mr. G denied that he ever ejaculated in the mouth of J, instead ejaculating inside of his pants when she was done. Mr. G estimated that this occurred perhaps four times over a four to five month timeframe. Mr. G was not able to provide any motivations for his offending against a J other than indistinct arousal that he was experiencing for unknown reasons, and 'I feel like it was a way for me to get away from the marriage. Maybe unconsciously, without me thinking of it, it was a way for me to end the marriage.'
>
> … [The last time that J performed fellatio on him she became tearful and told him it had to stop] and Mr. G stated he would stop… In the current interview, Mr. G recalled same, stating that he apologized when he saw her crying and "I might not have paid attention to her feelings before, but I was upset when she was crying" and immediately stopped.
>
> … In the current interview Mr. G contended that, while he accepts that his sexual abuse of J had a negative impact on her,….

> One of Mr. G's more truthful and forthcoming acknowledgments was his acknowledgment fact "I took advantage because she was going through a hard time with your mom and I was the only one she had to go to"… "Instead of me helping her I took advantage – she needed someone.

The Breaches of Undertaking

[15] Mr. G had been placed on an undertaking on November 3, 2011 as a result of the charges against him involving J. The conditions of the undertaking read in part:

> a - keep the peace and be of good behavior…
>
> d - have no direct or indirect contact or communication with [J]
>
> e - do not be on or within the premises known as any residence, place of employment or education of [J] known to you
>
> f - you shall remain away from children under the age of 16 years except: when in the company of their parent…
>
> h - do not possess or use any device that can access the World Wide Web [Internet] except to permit use of computer at your workplace at [A.G.] for purpose of accessing work email.

[16] Mr. G pleaded guilty to breaches committed on June 7, 2012, namely that he did fail to comply with the conditions "keep the peace and be of good behavior" and "you shall remain away from children under the age of 16 years except: when in the company of their parent".

[17] On June 7, 2012 at 4 p.m. Mr. G parked at the Quinpool Road McDonald's restaurant in the company of LM. He knew that J worked at that location. While there he saw NG, his son, pass by and called him over to the vehicle at which time

he was given $100 as a birthday gift. NG was under the age of 16 years at that time.

The Criminal Record of Mr. G

[18] The offences herein predate most of Mr. G's criminal record which is as follows:

1. 1995 -- as an employee he stole sunglasses of a value less than $1000, and also committed the offense of attempted false pretenses contrary to ss. 334 and 362 of the *Criminal Code*. He failed to attend court during that time thus committing the offense under s. 145(2)(b) of the *Criminal Code*. He had not provided the police with his change of address and in 2000 was picked up on a warrant, spent a night in jail and then was sentenced on all these matters to a conditional discharge with four months' probation on June 28, 2000;

2. June 20, 2011 -- s.334(b) of the *Criminal Code* - theft from a grocery store -- he pled guilty February 28, 2013 and received one year probation.

3. Between January 1 and April 1, 2012 -- charged with and then pleaded guilty to three counts of breach of s. 145(3) of the *Criminal*

Code -- two counts for failing not to have contact with children, which he violated by babysitting the children of his then girlfriend [2 boys aged 17 and 12 and one daughter aged 10 at the time]; and one count of failing to advise the police of his change of address -- sentenced April 4, 2012 to 90 days in jail.

4. Spring of 2012 -- s. 334(b)(ii) of the *Criminal Code*- theft from his employer [...] – he was sentenced to 6 months' custody (joint recommendation); for an associated breach of s.145(3) 1 month concurrent; for an unrelated breach of s.145(3) occurring in February 2012 (prohibited use of the internet) he received 1 month in custody consecutive – sentenced in Provincial Court June 10, 2014 to 7 months' custody in total.

The Position of the Parties on Sentence

Crown Position

[19] The Crown argues that a total sentence of five years and six months' custody less remand credit is appropriate. They suggest five years' imprisonment for the sexual offenses and the breaches of undertaking should receive a further six months consecutive in custody. They calculate 170 days of remand credit leaving

as time to serve 5 years and 73 days. They requested a DNA order under Section 487.051, a Firearms Prohibition order under Section 109 for 10 years, and a Prohibition from Playgrounds, etc. for 10 years pursuant to Section 161, as well as a SOIRA, Sex Offender Registration, Order for life pursuant to Section 490.013 of the *Criminal Code of Canada*.

[20] The Crown cites the following cases in support of its position:

- R. v. WJ S 2007 BC PC 450;
- R. v. ERH (1987) 81 NSR (2d) 156 (CA);
- R. v. JRA 2012 MBCA 48;
- R. v. DBS (2000) 185 NSR (2d) 101, per Saunders, J [as he then was].

Defence Position

[21] The Defence generally concurs with the Crown's recommendation and, in that respect, draws attention to the decision of Judge Tufts in *R. v. SCC* 2004 NSPC 41 in which he reviews the case law which he stated was intended "to represent a range of sentencing for sexual offenses against young children" – para. 19.

[22] The Defence does not contest the appropriateness of the ancillary orders requested by the Crown.

Determination of a Fit Sentence

Legal Principles

[23] The principles of sentencing have been codified and are set out in the following sections of the *Criminal Code*:

> 718.
>
> **The fundamental purpose of sentencing** is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society **by imposing just sanctions that have one or more of the following objectives**:
>
> (a) to denounce unlawful conduct;
>
> (b) to deter the offender and other persons from committing offences;
>
> (c) to separate offenders from society, where necessary;
>
> (d) to assist in rehabilitating offenders;
>
> (e) to provide reparations for harm done to victims or to the community; and
>
> (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

Objectives -- Offences Against Children

> 718.01 When a court imposes a sentence for an offence that involved the **abuse of a person under the age of eighteen years, it shall give primary consideration to the objectives of denunciation and deterrence of such conduct.**

Fundamental principle

718.1 A sentence must be **proportionat**e to the gravity of the offence and the degree of responsibility of the offender.

Other sentencing principles

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

(a) a sentence should be increased or reduced to account for any relevant **aggravating or mitigating** circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing

(i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor,

(ii) evidence that the offender, in committing the offence, abused the offender's spouse or common-law partner,

(ii.1) **evidence that the offender, in committing the offence, abused a person under the age of eighteen years**,

(iii) evidence that the offender, in committing the offence**, abused a position of trust or authority in relation to the victim**,

(iv) evidence that the offence was committed for the benefit of, at the direction of or in association with a criminal organization, or

(v) evidence that the offence was a terrorism offence

shall be deemed to be aggravating circumstances;

(b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;

(c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;

(d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and

(e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

718.3(4) The court or youth justice court that sentences an accused may direct that the terms of imprisonment that are imposed by the court or the youth justice court or that result from the operation of subsection 734(4) or 743.5(1) or (2) shall be served consecutively, when

(a) the accused is sentenced while under sentence for an offence, and a term of imprisonment, whether in default of payment of a fine or otherwise, is imposed;

(b) the accused is found guilty or convicted of an offence punishable with both a fine and imprisonment and both are imposed;

(c) the accused is found guilty or convicted of more than one offence, and

(i) more than one fine is imposed,

(ii) terms of imprisonment for the respective offences are imposed, or

(iii) a term of imprisonment is imposed in respect of one offence and a fine is imposed in respect of another offence; ...

[24] In *R. v. Adams*, 2010 NSCA 42 at para. 27, Justice Bateman stated:

27 In *R. v. A.T.S.*, 2004 NLCA 1, Rowe, J.A., writing for the Court, discussed these different approaches. He concluded that, where a judge gives effect to totality by first fixing the global sentence and then assigning the individual sentences to fit within the whole, s/he is more likely to pass a sentence which is problematic. As he observes, this formulation leads to confusion about the appropriate sentence for the individual convictions, had they been committed alone. It creates further difficulties where some but not all of the convictions are successfully appealed. In that instance, there is no guidance for the appellate court as to the appropriate sentence for the remaining offences. I would agree.

[25] She also stated:

23 In sentencing multiple offences, this Court has almost without exception endorsed an approach to the totality principle consistent with the methodology set out in *C.A.M.*, [1996] 1 S.C.R. 500 ...

The judge is to fix a fit sentence for each offence and determine which should be consecutive and which, if any, concurrent. The judge then takes a final look at the aggregate sentence. Only if concluding that the total exceeds what would be a just and appropriate sentence is the overall sentence reduced ...

This Court has addressed and rejected any approach that would suggest that, when sentenced for a collection of offences, the aggregate sentence may not exceed the "normal level" for the most serious of the offences. [my emphasis]

[26] Section 718.2(b) requires that there be a sense of parity between sentences imposed on **similar offenders** having committed **similar crimes**. Justice Bateman commented on the proper interpretation of this notion in *R. v. Cromwell* 2005 NSCA 137 at para. 26.

[27] It is therefore important to consider the reported cases to ascertain the "range" of sentences that would generally apply in this case before the mitigating and aggravating factors [s. 718.2] are applied to this case specifically.

Circumstances of the Offender

[28] These are generally canvassed in the updated Presentence Report intended for the sentencing April 24, 2014 of the breaches of undertaking charges herein. Enclosed therewith were prior reports dated March 19, 2014; June 7, 2013 and February 28th2013. No objection has been taken to the contents of any of these reports.

[29] Mr. G would appear to have little in the way of family support at present. He is estranged from his parents and siblings. He is estranged from his wife M, her children J and M, as well as his biological children NG and IG as a result of his recent criminal conduct, and more significantly the sexual offenses against J.

[30] In relation to the breach of undertaking charges the Presentence Report notes that he "accepted responsibility, however indicated that the 'whole thing was incidental'. Mr. [G's] version varied from the crown's version. The subject informed he was at McDonald's when he happened to see his son entering the premise. The subject denied any direct contact and mentioned that he never even left his vehicle."

[31] I might note here that this is another example of the "impression management" Dr. Connors referred to in her report. She stated:

> In the current interview Mr. G asserted that he happened to see his son and they pulled into a parking lot so that [L] could give him money for his son's birthday, but that did did not plan same, nor deliberately choose that parking lot. Similar to that described above, Mr. G presented himself as feeling he was acting innocently and doing no harm by his actions, noting that he did not directly interact with his son.

[32] And, similarly in her report:

> Mr. G was next charged in the spring of 2012 with failing to comply with his undertaking times three, specifically that he moved without notifying the RCMP, that he spent time with children under the age of 16 years without a parent present [by babysitting his common-law partners… children], and that he possessed a handheld device capable of accessing the Internet. These violations came to light due to the report of Mr. G's common-law partner, who reported to police that she had become aware that Mr. G might have sexual charges against children, and she would like him to move out. In the current interview Mr. G explained that he had not felt the stipulations were very important at the time, since accessing the Internet appeared unrelated to his crime, and [in his opinion] he did not pose a threat to his common-law's children.

[33] The probation officer concluded in the most recent report:

> Mr. G has expressed a desire to alter his lifestyle positively; however it remains to be seen whether he has the sincere commitment and motivation to affect change and continue to address his shortcomings.

[34] Dr. Angela Connors' report extensively examines the circumstances of Mr. G in the context of the convictions for sexual offenses.

[35] Insofar as her assessment of his risk is concerned she states:

> Overall, Mr. G's baseline risk for future violence [including sexual assaults] is low – moderate according to actuarials
>
> … On the other hand, his antisocial behaviors since the index matters clearly shows an elevated risk for ongoing violations of the law that is beyond the "low – moderate" category… Thus, risk for sexual re-offense in particular is low – moderate, risk for using others [not necessarily illegally] is high, and risk for any form of illegal behaviors in between, estimated at moderate – high

[36] Her recommendations are that:

> 1. treatment is not recommended…
> 2. access to minors under the age of 16 is recommended to be only in the direct presence of an approved supervisor who is over age 25 years.
> 3. it is recommended that Mr. G not adopt a position of authority with those under age 16, whether remunerated or not, including babysitting, step parenting, etc.
> 4. it is not considered likely that Mr. G's behavior will be constrained to pro social actions by community-based sanctions.

[37] Some of her other noteworthy statements from Dr. Connors' report follow:

> This assessment was thereafter undertaken to investigate the following with respect to Mr. G: sexual deviancy, risk for sexual re-offense, personality and mental health issues, and treatment recommendations. The conclusion of this report is primarily designed to address the risk posed to public as well as rehabilitative potential and options.
>
> …
>
> Overall most discussion of the index matters appeared hampered by Mr. G's unwillingness to respond without calculation.

…

In summary, Mr. G's record does not reflect an individual who is responsive to sanctions by inhibiting antisocial impulses, nor an individual who places much stock in obeying community-based sanctions… Potential consequences to those close to him was also insufficient to prompt law-abiding behavior (in addition to known potential consequences to himself), indicating a deficit in responsibility and loyalty.

…

Mr. G's [psychological and personality] test results suggest a high level of impression management, and a somewhat narcissistic and immature personality organization that tends to seek interactions with others at the same time as those interactions are likely to be shallow… Persons with this profile are neither introspective nor insightful about their own difficulties in problem areas, and in combination with his lack of self-awareness, they seek to manage the impression they create on others… The leads to both short sighted hedonism and shallow connections with others… Persons with this profile are intolerant of frustration, delay and disappointment, leading to short-term capricious solutions… Persons with profiles similar to Mr. G do not seek treatment voluntarily… The true work of therapeutic progress is difficult for persons with this profile to either find motivation for, or meaningfully engage in.

[38] Regarding the sexual offenses herein, she states:

This suggests Mr. G's actions were more planful and purposeful than impulsive in creating a normalization process to perpetuating sexual molestation of J. Once compliance with this form of abuse became commonplace… Mr. G's behavior escalated to more direct sexual acts that showed interest in her vagina as well as her mouth, such as simulating intercourse prior to having her perform fellatio, and groping her vagina over her clothes. This type of escalation is concerning, and suggestive of the potential for the sexual abuse to become more intrusive had J not begun to become less compliant, and the abuse ceased… J noted that it seemed to her Mr. G felt bad after sexually abusing her sometimes, and would ask her if she wanted anything, or would let her doing something that she wanted to do (use the computer, not do her chores etc.). This is a form of psychological manipulation like a "bribe" that serves the purpose of reinforcing compliance, and psychologically can encourage the person to feel complicit in the abuse because of some gain that was provided. In this type of manipulation discourages disclosure.

…

It is recalled that Mr. G's [penile plethysmographgy] results did not shed light on his sexual preferences – so it remains unknown the degree to which this particular

> variable (if at all) played a role in Mr. G's motivation to sexually offend against J. While he might not sexually prefer children (an unknown at this time) that he is capable of sexualizing an underage girl is clear, and it is clear that he is capable of same from a fairly young age (prior to adolescence). This author thinks it likely that Mr. G was disinhibited to sexually offend because of personality characteristics that increase the propensity for short sighted hedonism… That he offended against J in particular is likely mostly due to access and opportunity provided by her relatively closer relationship with him… In summary Mr. G's sexual abuse of J appears to be an extension of his propensity to exploit positions of trust for personal gain in conjunction with a deficit in emotional commitment and loyalty.

[39] Notably, Dr. Connors stated that her report must be cautiously approached because, "in Mr. G's case there was a minimal amount of collateral information available to this writer. It is noted that having minimal collateral information impacts negatively on the accuracy of the risk assessment possibly resulting in an underestimation, whereas increased collateral increases accuracy."

The Applicable Range of Sentences

[40] I find particularly helpful the decision of Justice Fichaud in in *R. v. EMW* 2011 NSCA 87 at paras. 29 and 30:

> **29** The statutory maximum term of imprisonment for an offence under s. 271 of the *Code* is ten years. But that does not mean the effective "range" for parity purposes in E.M.W.'s sentencing has a ceiling of ten years. In *R. v. Cromwell*, [2005] N.S.J. No. 428(C.A.), para. 26, Justice Bateman discussed the meaning of "the range":
>
> > [Counsel] broadly defines the range of sentence, in these circumstances, as all sentences that might be imposed for the crime of impaired driving causing bodily harm. I disagree. **In my opinion the range is** not the minimum to maximum possibilities for the offence but **is narrowed by the context of the offence committed and the circumstances of the offender ("... sentences imposed upon similar offenders for similar**

> **offences committed in similar circumstances ..."** per MacEachern, C.J.B.C. in *R. v. Mafi* (2000), 142 C.C.C. (3d) 449 (C.A.)). **The actual punishment may vary on a continuum taking into account aggravating and mitigating factors, the remedial focus required for the particular offender and the need to protect the public. This variation creates the range.**

To similar effect *R. v. A.N.*, 2011 NSCA 21, para. 34:

> Unless expressed in the *Code*, there is no universal range with fixed boundaries for all instances of an offence: *R. v. M.(C.A.)*, para. 92; *R. v. McDonnell* ([1997] 1 S.C.R. 948), para. 16; *R. v. L.M.*, para. 36. The range moves sympathetically with the circumstances, and is proportionate to the *Code*'s sentencing principles that include fundamentally the offence's gravity and the offender's culpability.

30 Moving downward from the high end of **the range** in the cases, one sees incarceration sometimes more and sometimes less than two years, depending on the severity of the circumstances, **for sexual assaults on children without intercourse**:

> (a) Six years global for sexual offences, including digital penetration and attempted but unsuccessful intercourse with the offender's stepdaughter, committed over time while the victim was 10 to 14 years old [*R. v. J.B.C.*, 2010 NSSC 28]. The Court (para. 24) noted that, under the caselaw, for a crime of this nature the offender's prior clear criminal record "is not accorded undue significance".
>
> (b) Five years for various sexual assaults including digital penetration, not involving intercourse, over a period of years on the offender's stepdaughter. *D.B.S.*
>
> (c) Two sentences of three years each (counts 1 and 5) for indecent assault and gross indecency without intercourse against a child to whom the offender had a parental relationship. He was given additional sentences for other offences. The court (para. 17) adopted the statement of Justice Bateman in *R. v. Weaver,* [1993] N.S.J. No. 91 that a clean criminal record "does not relieve the requirement of a lengthy prison term for sexual offence against children". *R. v. R.H.*, [2005] N.S.J. No. 212 (S.C.).
>
> (d) Three years for one incident of sexual assault without intercourse on offender's four year old daughter. *R. v. E.E.C.*, 2005 NSSC 3.
>
> (e) Three years for indecent assault without intercourse with the offender's daughter over a period of three years when she was 8 to 11 [*R. v. I. (Part 2)*, [1996] N.S.J. No. 153 (S.C.)]. The offender had no criminal record and was unlikely to reoffend.

(f) Sentences of thirty months and twelve months for two counts of sexual and indecent assault on the offender's two adopted sons. *R. v. A.P.S.*, [1999] N.S.J. No. 242 (S.C.).

(g) Two and one half years each (concurrent) for two counts of sexual assault and sexual touching, including attempted but unsuccessful intercourse, of the offender's 15 to 18 year old stepdaughter. *R. v. N.J.B.*, [2003] N.S.J. No. 225 (S.C.).

(h) A larger global sentence (with remand credit) that included twenty eight months each (concurrent) for two offences of sexual touching and invitation to sexual touching over a period of time of an 11 to 14 year old girl who was unrelated to the offender. *D.W.B.*

(i) Two years exclusive of remand time plus three years probation for a number of incidents of sexual assault, without intercourse, over time on the offender's under aged daughter. The sentence was further to a joint recommendation after a guilty plea. The judge said that, if credit for remand had been considered, the sentence before credit would have been two and one half years (para. 38). *R. v. H.C.D.*, 2008 NSSC 246. The judge said:

> 40. The joint recommendation, in terms of denunciation and deterrence, is within the range for offences of this kind. It could have easily been much higher; it is unlikely it would have been less than two years as opposed to more than two and a half years.

(j) Four years and five years on several counts of sexual assault that included intercourse with his older daughter, plus eighteen months for sexual touching without intercourse of his 9 to 12 year old younger daughter. *G.O.H.* The Court of Appeal said (para. 10):

> It is impossible to speak of these crimes without using pejorative adjectives. This Court, and others, has repeatedly emphasized that sexual abuse of near helpless children (which is the case when the abuse of each daughter began) by adults upon whom they should be able to rely for protection, should incur sentences which may deter not only the perpetrator but others who may be so inclined. This proposition is exacerbated when the perpetrator, as here, is a parent, in a position of trust. Society's revulsion of such conduct must be demonstrated. The fact that the appellant is a first offender, at least in respect to the older daughter and may not need specific deterrence is not to be granted undue significance in crimes of this nature. General deterrence must be emphasized.

(k) Six months incarceration plus two years probation for several incidents of sexual touching of offender's 9 to 11 year old granddaughter. The Court of Appeal said the sentence was not unfit under the appellate standard of review. *R. v. D.N.M.*, [1992] N.S.J. No. 356 (C.A.).

> (l) Four months plus one year probation for two counts of fondling the offender's daughter, aged 11 to 13. The offender was remorseful and accepting of treatment to overcome his psychological problem. *R. v. E.(E.B.)*, [1988] N.S.J. No. 425 (C.A.).
>
> (m) Ten months by the sentencing judge, reduced to 90 days by the Court of Appeal for several incidents of vaginal touching the offender's 9 year old stepdaughter. The victim had not suffered psychological effects. The offender pleaded guilty and accepted responsibility. There was evidence that rehabilitation would have a positive effect. *R. v. R.H.S.*, [1993] N.S.J. No. 489 (C.A.).
>
> (n) Three months incarceration plus two years probation for sexual touching of offender's 12 year old granddaughter. The offender was remorseful, and the psychologist said he was "on the right track" to rehabilitation. *R. v. W.M.D.*, [1992] N.S.J. No. 161 (C.A.).
>
> (o) Three years suspended sentence with probation for repeated sexual touching of offender's 14 year old niece. Offender was gentle and well intentioned but feeble-minded, childlike and psychologically ill. He was remorseful and willing to secure treatment. *R. v. R.T.M.*, [1996] N.S.J. No. 218 (CA). [my emphasis]

[41] In *EMW*, the Court rejected the offender's appeal and request for an 18 month conditional sentence plus 2 years' probation, and upheld a sentence of two years' custody. There, the father repeatedly digitally penetrated his daughter's vagina while at home on visits with him, when she was between 9 to 11 years old. Justice Fichaud noted that: "from the authorities, two years incarceration is available in appropriate circumstances for midrange sexual offenses without intercourse" – para. 37.

[42] Specifically in relation to (indictably elected) breaches of conditions of release, carrying a maximum of two years in custody, our Court of Appeal has

recently commented on the range of sentence in *R. v. Young* 2014 NSCA 16, per Bryson, JA:

> **27** Both counsel submitted that breaches of recognizance usually attract a sentence of one to three months' incarceration. The imposition of 12 months' imprisonment for breach of a recognizance in a non-violent domestic abuse context, absent violation of a current probation order and compulsive re-offending behaviour in this case, is excessive. Certainly, Mr. Young's behaviour was serious and a flagrant disregard of the court's authority. But it was spontaneous, not pre-meditated and appears to have been a reaction to frustrating circumstances in the controlled environment of a courtroom where Mr. Young lacked counsel. Mr. Young was in court by compulsion. Ms. Kirk was there voluntarily. Mr. Young could not avoid the proximity of her presence.
>
> **28** Although Mr. Young has an extensive criminal record, with one exception, he had never received more than a two month sentence for breaches of recognizance, undertaking or probation. In many instances his custodial sentence was a matter of days. His most serious -- and recent -- period of incarceration for a breach of probation occurred in 2009. He received a sentence of six months, consecutive to sentences for theft under $5,000 (s. 334(b)) and possession of stolen property (s. 334(1)(a)).
>
> **29** In the circumstances of this case, and this offender, a sentence of 12 months' incarceration is clearly excessive. I would grant leave to appeal and allow Mr. Young's sentence appeal. I would impose a sentence of six months. I would not otherwise alter sentence."

[43] In my considerable criminal law experience, in the case of summary conviction elections by the Crown (maximum of six months' custody), it is not unusual for repeat offenders to receive one to three months in custody for freestanding breaches of conditions of release under section 145 of the *Criminal Code of Canada*.

[44] In *Young*, the Crown had elected the section 145 offenses to proceed indictably, allowing for a maximum of two years' custody. Mr. Young had, to that

point, generally received no more than two months in custody for similar offenses. The Court also noted that his behavior was "spontaneous, not premeditated, and appears to have been a reaction to frustrating circumstances in the controlled environment of a courtroom…". I do not believe the Court in *Young* intended to restrict the range of appropriate sentences to a six month maximum for repeat offenders, but rather the particular circumstances thereof warranted a six month sentence.

[45] In contrast, Mr. G's behavior in the case at Bar is factually distinguishable. He purposefully drove the car into the McDonald's parking lot where he knew J was an employee. He purposefully called over his son NG , with whom he was not to have contact. On June 7, 2012 Mr. G had recently been sentenced on April 4, 2012 to 90 days in custody for the two Bridgewater breaches of Section 145 of the *Criminal Code of Canada*.

Application to the Case at Bar

[46] Insofar as the sexual offenses are concerned I had indicated in my conviction decision that rather than enter a procedural stay of proceedings as against the section 151 in 153 offenses I preferred to sentence them concurrently.

[47] In my view, the most similar cases to the one at Bar are:

- *R. v. JRA* 2012 MBCA 48 [five years for sexual interference and six months consecutive for breach of section 145 in the case of a mature person with no criminal record]

- *R. v. JBC* 2010 NSSC 28 [six years for sexual interference, invitation to sexual touching and sexual assault for four years while the female child was 10 to 14 years old]

- *R. v. DB* 2013 ONCA 691, where the Court stated:

> **17** Mid-to-upper single digit penitentiary sentences are appropriate where an adult in a position of trust sexually abuses a young child on a regular basis over a substantial period of time (*R. v. D.D.* (2002), 58 O.R. (3d) 788 (C.A.), at para. 44). This range may apply even to a single instance of sexual abuse (*R. v. Woodward*, 2011 ONCA 610, 284 O.A.C. 151 (C.A.)).

[48] The range would appear to run, as succinctly suggested by the Ontario Court of Appeal from "mid to upper single digit penitentiary sentences" for similar offenders, having committed similar offences in similar circumstances. In *R. v. D.D.*, Moldaver JA (as he then was) stated for the Court:

> [39] **A question arises in this case whether the appellant should benefit from the fact that unlike Stuckless, he has not been diagnosed as a paedophile**. In particular, the appellant submits that because he has not been found to be a paedophile, this should be viewed as a mitigating factor weighing in his favour.
>
> [40] With respect, I disagree. **If the appellant is not a paedophile and he does not suffer from some other psycho-sexual disorder that could account for his reprehensible behaviour, then arguably his degree of moral culpability rises significantly. Surely, that cannot translate into a mitigating factor weighing in his favour.**

[41] My rejection of this aspect of the appellant's argument should not be taken as an indicator that had the appellant been diagnosed as a paedophile, I would have concluded that the nine-year global sentence selected by the trial judge was too high. It was not.

[42] In this respect, assuming that the appellant is a paedophile, I agree entirely with the views expressed by Abella J.A. at pp. 118-21 O.R., pp. 242-46 C.C.C. of Stuckless under the subheading 'The Role of General Deterrence and Rehabilitation". In a nutshell, as my colleague points out, the sentencing objectives of denunciation, and general and specific deterrence, can and do play a significant role in the sentencing of paedophiles. Moreover, as Abella J.A. observes at p. 120 O.R., pp. 244 C.C.C.:

> Pedophilia is an explanation, not a defence. Society is entitled to protection no less from paedophiles than those who sexually abuse children without this tendency.

[43] I agree wholeheartedly with this observation and would only add that in the case of paedophiles, while their degree of moral culpability may be somewhat diminished by virtue of their psycho-sexual disorder, absent successful treatment, they remain dangerous and represent a very high risk to society. As such, in the case of paedophiles who have not been successfully treated, I believe that in addition to the sentencing objectives of denunciation and deterrence, serious regard must be had to the objective of separating such individuals from society to protect our children and spare them from the risk of irreparable harm.

[44] **To summarize, I am of the view that as a general rule, when adult offenders, in a position of trust, sexually abuse innocent young children on a regular and persistent basis over substantial periods of time, they can expect to receive mid to upper single digit penitentiary terms. When the abuse involves full intercourse, anal or vaginal, and it is accompanied by other acts of physical violence, threats of physical violence, or other forms of extortion, upper single digit to low double digit penitentiary terms will generally be appropriate. Finally, in cases where these elements are accompanied by a pattern of severe psychological, emotional and physical brutalization, still higher penalties will be warranted.** (See, for example, R. v. M. (C.A.), [1996] 1 S.C.R. 500, 105 C.C.C. (3d) 327 in which the Supreme Court restored the 25-year sentence imposed at trial and R. v. W. (L.K.) (1999), 138 C.C.C. (3d) 449 (Ont. C.A.) in which this court upheld a sentence of 18 and a half years imposed at trial.) [my emphasis]

What are the mitigating factors?

[49] There really are no material mitigating factors in this case. Even the defense decision to not require the victim J to testify at the preliminary inquiry, was made not in an effort to spare her having to testify, but as counsel admitted during the trial, to permit an "ambush" of her at trial.

What are the aggravating factors?

[50] There are a great many. Section 718.2 (a) (ii.1), and (iii) are applicable as there was abuse of a person under 18 years of age, and that the abuse involved a position of trust or authority in relation to the victim.

[51] As Mr. G himself was noted to have acknowledged in Dr. Connors' report:

> I took advantage because she was going through a hard time with her mom and I was the only one she had to go to… Instead of me helping her, I took advantage – she needed someone.

[52] Mr. G was effectively J's father figure from when she was four years old until the family split apart in September 2010 when she was almost 16 years old. It seems because of the difficult relationship she had been having with her mother, he became that much closer to her in his role as a father figure.

[53] The evidence suggests that Mr. G groomed J in order to sexually exploit her. He escalated his sexual behavior as she got older. I am satisfied that I can make

the inference that he intended his exploitation to progress to more intrusive sexual behavior, and ultimately sexual intercourse.

[54] The persistence of his behavior, and specifically over the several years in which he sexually exploited and abused J, is a remarkable and gross abuse of trust.

[55] Once the perverse behavior by Mr. G began, I am satisfied that I can safely infer that J was dogged, day in and day out, by the worry of what Mr. G would do next – would he insist on more oral sex, or something equally or more repugnant?

[56] In many ways, Mr. G robbed her of an innocent and happy childhood. Let me be very clear: in no way whatsoever was J responsible for what happened to her. Moreover, it was courageous of her to come forward and see this case through.

[57] When her private diary was found in September 2008, by her mother with the comment "daddy blow job", J could have expected that finally the truth about what Mr. G did to her might emerge. It was a chance for Mr. G to voluntarily face the consequences of his actions. However, he begged J not to confirm that he had sexually abused her, and she relented in part because, as she said, "I felt bad for him", and because she believed she had been complicit with him in the abuse: "I felt guilty about saying something… I felt it was my fault".

[58] Dr. Connors in her report notes:

> This is a form of psychological manipulation, like a "bribe" that serves the purpose of reinforcing compliance, and psychologically can encourage the person to feel complicit in the abuse because of some gain that was provided. This type of manipulation discourages disclosure

[59] About why she never reported it to anyone else, J testified: "I don't know why, but I never trusted anybody… I had nobody to tell – we were moving around so much I was never close to my teachers"

[60] I might add here that, the victim impact statement of M, J's mother, clearly explains how Mr. G's behavior not only affected J, but also M and J's siblings. On top of the psychological turmoil he caused, his criminal conduct has also deprived his children of him as a financial source to help them get their start in life.

[61] Mr. G suggests that he is not a paedophile and that his sexual abuse of J was "out of character, just not me". Dr. Connors has not ruled it out. His behavior in relation to J speaks for itself.

[62] Mr. G suggested in Dr. Connors' report that:

> he did not go to trial to try to "get off" because he believed that he would be found guilty in the end, but he speculated that he might have needed that process to: 'maybe for me to find closure – it's something I have to live with'… [And he added] why he chose to plead not guilty and go to trial, namely because he did not agree with the allegations that he committed acts of sexual abuse on J when she was little and living in […] … He still disagreed with some of the allegations, and did not feel right about pleading guilty if he did not do all of it.

[63] While Mr. G. has a constitutional right to a trial, I find that these are words of rationalization and empty revisionism, which I give no weight to at all insofar as they are purported to be of a mitigating effect.

[64] The Crown has suggested that it's an aggravating factor that Mr. G was disbelieved beyond a reasonable doubt by the Court, and therefore found to have perjured himself during the trial.

[65] While that is the inevitable conclusion of my conviction decision, I am unaware of any jurisprudence that characterizes such as an aggravating factor on sentence.

[66] Dr. Connors in her report has ably demonstrated that Mr. G habitually relies on untruthfulness to get what he wants from whomever. She noted:

> A high level of impression management, and a somewhat narcissistic and immature personality organization that tends to seek interactions with others at the same time as those interactions are likely to be shallow.

[67] The prospects for the rehabilitation of Mr. G are not favourable. While I heard Mr. G's apology at his sentencing, it is too late to place any weight on his words now, particularly as I otherwise conclude that there is no genuine remorse here.

[68] As noted in Section 718.2 (a) of the *Criminal Code of Canada*, and as I have outlined, the aggravating factors are numerous and significant.

[69] This is a case where primary consideration must be given to denunciation and deterrence – Section 718.01 *Criminal Code of Canada*. The denunciation should seek to deter Mr. G "and others from committing offenses" – Section 718(b) *Criminal Code of Canada*.

A fit and proper sentence given the circumstances of the offender and the circumstances of the offence.

[70] The maximum penalty for offences arising from Section 151 and 153(a), at the time of these offences, was 10 years' imprisonment.

[71] On consideration of the range of sentence [mid-to upper single digit penitentiary sentences] and the aggravating factors, keeping in mind all of the circumstances of the offences, and those of the offender, in my view a fit and proper sentence is five years in custody on each of count number one and two [ss. 151 and 153(a)].

[72] Since those are effectively different labels for the same legal and factual conduct, I will stay the sentence on the Section 151 *Criminal Code* offence.

[73] The maximum penalty for the Section 271(1)(a), at the time of this offence, was 10 years. This offense, in contrast to section 153 includes the incidents of so-called "dry humping" of J, and the rubbing of J's vagina over her clothing by Mr. G.

[74] I find most useful as a guideline as to the sentence specifically on that offense, our Court of Appeal's decision in *R. v. DNM* [1992] NSJ No. 356. There a grandfather received six months' incarceration and two years' probation for several incidents of sexual touching of the offender's 9 to 11 year old granddaughter.

[75] For that offence here, I find a fit and proper sentence to be 12 months' custody, but as a result of the consideration of the totality principle, that sentence is to be served concurrently with the above-noted five year sentence.

[76] The maximum sentence for indictable breaches of conditions of release pursuant to Section 145(3) is two years in custody.

[77] As indicated earlier, I do not accept that Mr. G's actions on June 7, 2012 were "spontaneous", nor that it was happenstance that he was in the parking lot of the Quinpool Road location McDonald's restaurant, where he was aware J was employed. His contact with his son NG was deliberate. He had just been

sentenced to 90 days imprisonment in April for two breaches of Section 145(3) *Criminal Code of Canada*.

[78] For those offences, I find that the recommended sentence here to be in the range and I will impose sentences of six months' custody, concurrent to each other, yet to be served consecutively to the five-year sentence herein.

Presentence Custody Credit

[79] I accept that Mr. G was in custody since February 27, 2014; which is 107 days. Section 719 (3) and (3.1) set out what amount of pre-sentence custody credit offenders should receive. Those sections have recently been interpreted by the Supreme Court of Canada in *R. v. Summers* 2014 SCC 26 per Karakatsanis J:

> How to Calculate Pre-Sentence Credit
>
> (1) Analytical Approach
>
> **70** In determining credit for pre-sentence custody, judges may credit at most 1.5 days for every day served where circumstances warrant. While there is now a statutory maximum, the analytical approach endorsed in *Wust* otherwise remains unchanged. **Judges should continue to assign credit on the basis of the quantitative rationale, to account for lost eligibility for early release and parole during pre-sentence custody, and the qualitative rationale, to account for the relative harshness of the conditions in detention centres.**
>
> **71** The loss of early release, taken alone, will generally be a sufficient basis to award credit at the rate of 1.5 to 1, even if the conditions of detention are not particularly harsh, and parole is unlikely. Of course, a lower rate may be appropriate when detention was a result of the offender's bad conduct, or the offender is likely to obtain neither early release nor parole. When the statutory exceptions within s. 719(3.1) are

engaged, credit may only be given at a rate of 1 to 1. Moreover, s. 719 is engaged only where the pre-sentence detention is a result of the offence for which the offender is being sentenced.

72 This means that two offenders, one of whom lost the opportunity for early release and parole, and a second who, in addition to losing those opportunities, was also subject to extremely harsh conditions, will likely both have credit assigned at a rate of 1.5 to 1. The unavoidable consequence of capping pre-sentence credit at this rate is that it is insufficient to compensate for the harshness of pre-sentence detention in *all* cases. However, this does not mean that credit should be scaled back in order to "leave room at the top" of the scale for the most egregious cases. A cap is a cut-off and means simply that the upper limit will be reached in more cases. It should not lead judges to deny or restrict credit when it is warranted.

73 Indeed, individuals who have suffered particularly harsh treatment, such as assaults in detention, can often look to other remedies, including under s. 24(1) of the *Charter*.

74 The sentencing judge is also required to give reasons for any credit granted (s. 719(3.2)) and to state "the amount of time spent in custody, the term of imprisonment that would have been imposed before any credit was granted, the amount of time credited, if any, and the sentence imposed" (s. 719(3.3)). This is not a particularly onerous requirement, but plays an important role in explaining the nature of the sentencing process, and the reasons for giving credit, to the public.

(2) The Particular Offender's Prospects of Early Release

75 For many offenders, the loss of eligibility for early release and parole will justify credit at a rate of 1.5: 1. However, as Beveridge J.A. concluded, it is not an "automatic or a foregone conclusion that a judge must grant credit at more than 1:1 based on loss of remission or parole" (para. 60). If it appears to a sentencing judge that an offender will be denied early release, there is no reason to assign enhanced credit for the meaningless lost opportunity.

76 As Beveridge J.A. wrote:

> ... it would not be onerous for most offenders to establish that they would have earned remission or been granted parole, and hence, it is not likely to be a rare occurrence for an offender to be worthy of a credit of more than 1:1. [para. 66]

78 However, judges are often called upon to make assessments about an offender's future, for example by considering prospects for rehabilitation. I see no reason why judges cannot draw similar inferences with respect to

> the offender's future conduct in prison and the likelihood of parole or early release.
>
> **79 The process need not be elaborate. The onus is on the offender to demonstrate that he should be awarded enhanced credit as a result of his pre-sentence detention. Generally speaking, the fact that pre-sentence detention has occurred will usually be sufficient to give rise to an inference that the offender has lost eligibility for parole or early release, justifying enhanced credit**. Of course, the Crown may respond by challenging such an inference. There will be particularly dangerous offenders who have committed certain serious offences for whom early release and parole are simply not available.[7] Similarly, if the accused's conduct in jail suggests that he is unlikely to be granted early release or parole, the judge may be justified in withholding enhanced credit. Extensive evidence will rarely be necessary. A practical approach is required that does not complicate or prolong the sentencing process.
>
> **80 As well, when evaluating the qualitative rationale for granting enhanced credit, the onus is on the offender, but it will generally not be necessary to lead extensive evidence**. Judges have dealt with claims for enhanced credit for many years. **The conditions and overcrowding in remand centres are generally well known and often subject to agreement between the parties; there is no reason this helpful practice should not continue.** There is no need for a new and elaborate process -- the *TISA* introduced a cap on the amount of enhanced credit that may be awarded, but did not alter the process for determining the amount of credit to apply. [emphasis added]

[80] In the circumstances of this case, in relation to the quantitative rationale there is a rebuttable presumption that Mr. G will have lost eligibility for parole or early release during his pre-sentence custody, and also based on the qualitative rationale, it is appropriate to credit him for those days at the rate of 1.5 per each day in presentence custody.

[81] Therefore 107 days presentence custody is the equivalent of 160.5 days. Thus, the sentence of five years and six months will be reduced by 160.5 days, to reveal the remaining sentence to be served.

Ancillary Orders

[82] The preconditions for each of these *Criminal Code* orders have been met; therefore I also order in relation to the Sections 153 and 271 offenses: pursuant to *Criminal Code of Canada* section 109(1)(a) a 10 year Order; pursuant to section 161 a 10 year Order; pursuant to section 487.051 a DNA Order; pursuant to section 490.013(2)(b) a 20 year SOIRA Order.

[83] I also order, pursuant to section 737(2) of the *Criminal Code of Canada* a victim fine surcharge amount of $200 per count in this sentencing or $800, payable within the times as established by the Lieutenant Governor in Council of Nova Scotia.

Rosinski, J.

SUPREME COURT OF NOVA SCOTIA
Citation: *R. v. R.R.D.G.*, 2014 NSSC 223

Date: 20140619
Docket: Halifax, CRH Nos. 412256 and 413741
Registry: Halifax

Between:

Her Majesty the Queen

v.

R.R.D.G.

Restriction on Publication: Section 486.4 *Criminal Code of Canada*

Revised Decision:	The style of cause and text of the original decision has been corrected according to the attached erratum dated July 8, 2014.
Judge:	The Honourable Justice Peter P. Rosinski
Heard:	June 13, 2014 in Halifax, Nova Scotia
Oral Decision:	June 13, 2014
Counsel:	Perry Borden, Senior Crown Attorney, for the Crown Alex Embree for R.R.D.G.

Erratum:

[1] Initials "RDDG" throughout sentencing decision should read "RRDG".