SUPREME COURT OF NOVA SCOTIA
Citation: R. v. L.E.B., 2014 NSSC 244

Date: 20140620
Docket: CRH No. 316148
Registry: Halifax

Between:

Her Majesty the Queen

v.

L.E.B.

Restriction on Publication: 486 CCC Publication Ban

486.6 (1) Every person who fails to comply with an order made under subsection 486.4(1), (2) or (3) or 486.5(1) or (2) is guilty of an offence punishable on summary conviction. (2) For greater certainty, an order referred to in subsection (1) applies to prohibit, in relation to proceedings taken against any person who fails to comply with the order, the publication in any document or the broadcasting or transmission in any way of information that could identify a victim, witness or justice system participant whose identity is protected by the order.

Judge:	The Honourable Justice Glen G. McDougall
Dates Heard:	December 4, 6, 7, 10, 11, 12, 17, 18, 19 & 20, 2012, February 11, 12, 13, 15, 20, 2013, December 9, 19, 20, 2013
Oral Decision:	June 20, 2014, in Halifax, Nova Scotia
Written Decision:	July 8, 2014
Counsel:	Paul Carver and Mark Heerema, on behalf of the Provincial Crown LEB, on his own behalf

By the Court (orally): McDougall, J.

THE COURT: Mr. Heerema and Mr. Carver, this is an opportunity if there are any victim impact statements, and I have received one, to be presented either by the individual herself (present in Court)… or are you going to be reading it into the record?

MR. HEEREMA: My Lord, I think we are content to have it filed with the Court.

THE COURT: I do have it here, and my note says it was first opened and read by me on the 29th day of November, 2012 which was a few years back but I want to let Ms. M know that I have read it and I thank you for providing it to the Court.

[1] On Friday, June 25, 2010 a jury found LEB guilty on all eight counts of an Indictment. Specifically, Mr. B was convicted:

> that on the 4th day of December 2008 at, or near Halifax, in the County of Halifax, in the Province of Nova Scotia, did:
>
> 1. in committing a sexual assault on SM, threaten to use a weapon or an imitation of a weapon, to wit., a gun, contrary to Section 272(1)(a) of the Criminal Code;
>
> 2. AND FURTHER that he at the same time and place aforesaid, did in committing a sexual assault on SM, use a weapon, to wit., a shoe lace, contrary to Section 272(1)(a) of the Criminal Code;
>
> 3. AND FURTHER that he at the same time and place aforesaid, did in committing a sexual assault on SM, use a weapon, to wit., a cucumber, contrary to Section 272 (1)(a) of the Criminal Code;
>
> 4. AND FURTHER that he at the same time and place aforesaid, did in committing a sexual assault on SM, cause bodily harm to SM, contrary to Section 272(1)(c) of the Criminal Code;
>
> 5. AND FURTHER that he at the same time and place aforesaid, did with intent to enable himself to commit the indictable offence of sexual assault, did attempt to choke or strangle SM by a shoe lace, contrary to Section 246(a) of the Criminal Code.
>
> 6. AND FURTHER that he at the same time and place aforesaid, with intent to enable himself to commit the indictable offence of sexual assault, did

> administer to SM a stupefying drug, contrary to Section 246(b) of the Criminal Code;
>
> 7. AND FURTHER that he at the same time and place aforesaid, did without lawful authority confine SM, contrary to Section 279(2) of the Criminal Code;
>
> 8. AND FURTHER that he at the same time and place aforesaid, did unlawfully utter a threat to SM to cause death to SM, contrary to Section 264.1(1)(a) of the Criminal Code;

[2] The original Indictment included a ninth charge that Mr. B:

> 9. … at the same time and place aforesaid, while bound by a Long Term Offender Supervision Order issued on the 21st day of September 2008, dated at the Atlantic Institution, did fail without reasonable excuse to comply with such order, to wit., "(c) obey the law and keep the peace," contrary to Section 753.3(1) of the Criminal Code.

[3] It was agreed amongst counsel prior to the commencement of the jury trial that this count should be severed from the other eight counts to avoid any prejudice it might create in the minds of the jurors should they become aware of Mr. B's Long Term Offender status.

[4] Mr. B, who was represented by counsel at the time, re-elected to be tried by Judge alone on count number nine. A plea of "guilty" was entered on this charge on Tuesday, June 29, 2010.

[5] The Crown then gave notice pursuant to section 752.01 of the ***Criminal Code,* R.S.C., 1985, c. C-46**, of their intention to make application under section 752.1(1) to determine whether the offender might be found to be a dangerous offender under section 753 of the ***Criminal Code*** (henceforth "the ***Code***").

[6] The matter was then set over to Thursday, August 12, 2010 to allow time to have an assessment performed by Dr. Hy Bloom.

[7] On August 12, 2010 the Crown requested an extension to file the report of Dr. Bloom. The request for an extension was made under section 752.1(3) of the ***Code***.

[8] Section 752.1(2) gives an initial 30-day extension as of right. The further 30-day extension may be granted "if the Court is satisfied that there are reasonable grounds to do so."

[9] The "as of right" extension provided the Crown with a 60-day period from June 25, 2010 in which to file the report. The matter was set over until September 24, 2010.

[10] A joint request by Crown and Defence counsel brought the matter back to court on Tuesday, September 7, 2010 and after receiving a written status report from Dr. Bloom the matter was then further adjourned to Friday, October 22, 2010 to await receipt of his report.

[11] Dr. Hy Bloom's "psychiatric, sexological, and risk assessment report, of …. LEB" was filed with the court and a copy provided to the Defence prior to the court appearance on October 22, 2010.

[12] The matter was then set over to Friday, December 3, 2010 to set dates for the hearing of the dangerous offender application. Approximately four weeks were set aside for the hearing which was scheduled to begin on Monday, October 3, 2011 and to continue for a total of 19 sitting days ending on October 31, 2011

[13] A telephone conference call to discuss the status of the application was held on Thursday, April 14, 2011.

[14] A further telephone conference call was conducted on Monday, June 27, 2011. Counsel agreed that certain evidence could be admitted without the need to call witnesses to prove it.

[15] The hearing of the application could not go ahead as scheduled. The Defence requested an adjournment to obtain a report of their own expert. As a consequence, the matter was adjourned to Tuesday, May 22, 2012. On May 22nd a further adjournment request was made by the Defence in order to have additional time in which to obtain an expert's report.

[16] The request was granted and the matter was rescheduled to Monday, December 3, 2012. A total of 11 days was set aside for the hearing. The reduction in the number of days required was due to the agreements reached by Crown and Defence counsel regarding the admissibility of evidence without the need to call witnesses.

[17] A series of teleconference calls to discuss the file's status were scheduled. The first call took place on June 29, 2012, another on November 20, 2012 and a third on November 22, 2012.

[18] Mr. B and his lawyer were scheduled to appear at Crownside on Thursday, November 29, 2012 to put on the record a request for an adjournment of the start of the dangerous offender hearing from Monday, December 3rd to Tuesday, December 4th, 2012.

[19] Before that could happen, Mr. B's counsel asked to have the matter brought back on Wednesday, November 28, 2012 to request a further adjournment beyond December 4th citing a lack of disclosure as the reason for the request. After hearing counsels' submissions the adjournment request was denied.

[20] The matter would proceed as scheduled starting on Tuesday, December 4, 2012. Just prior to the start of the hearing on December 4th, Crown and Defence counsel requested to meet with me in Chambers. What was thought to be an agreement that would have significantly expedited the hearing soon fell apart when court opened shortly after the meeting with counsel.

[21] Mr. B advised the Court that he was dismissing his lawyer and that any agreements made by his former counsel were withdrawn. This meant that the evidence the Crown wished to rely on would have to be presented to the Court and proved by way of witness testimony.

[22] In order to give Crown counsel time to marshal its proposed witnesses, the matter was set over for a day. Proceedings resumed on Thursday, December 6, 2012 with Mr. B self-representing. Over the course of four days the Court heard from nine Crown witnesses and ruled admissible various court transcripts from previous trials in which Mr. B. was involved. A huge volume of Correctional Service Canada records were also admitted in evidence.

[23] On Wednesday afternoon, December 12, 2012 after the Court had indicated that it was considering the appointment of an *amicus curiae*, Mr. B's former counsel, Mr. Brian Church, Q.C., was once again retained by Mr. B to represent him.

[24] Mr. Church was given time to discuss with his client the possibility of reinstating the previous agreements that would allow for the introduction of previous court transcripts, Correctional Service Canada records and all medical and psychological and psychiatric records and reports pertaining to Mr. B. When the matter reconvened Mr. Church advised the Court that all these transcripts and records would be entered without the need to call any other witnesses. The Court

made it clear to Mr. B that even if he should once again decide to discharge his counsel he was not going to be allowed to renege on his agreement.

[25] The matter was then set over to Monday, December 17, 2012. After tendering additional documentary evidence the Crown called its' expert, Dr. Hy Bloom, to testify. Dr. Bloom was permitted to testify as an expert and to give opinion evidence as:

> A psychiatrist able to provide opinion evidence in the area of psychiatry, including, but not limited to, the practice of forensic psychiatry, the diagnosis, assessment, and treatment of mental disorders, the diagnosis and classification of violent and/or sexual offenders, the assessment of risk for future violence or recidivism for violent and/or sexual offenders, the treatment for violent and/or sexual offenders, and the nature and degree of psychological harm caused by violent and/or sexual offenders to their victims.

[26] Dr. Bloom's report based on a review of all materials relating to Mr. B's previous convictions and charges that might not have resulted in convictions along with all Correctional Service Canada records and all medical, psychiatric and psychological records and reports was entered and marked as Exhibit No. 53. I will have more to say about Dr. Bloom's report later in my decision.

[27] Dr. Bloom's direct examination continued from Monday, December 17, 2012 until Thursday, December 20, 2012.

[28] The hearing then had to be put over until Monday, February 11, 2013 to accommodate not only Dr. Bloom's very busy schedule but also counsels' schedules as well as the Court's.

[29] Dr. Bloom's direct examination began again and was concluded on Monday, February 11, 2013.

[30] Mr. B's counsel began his cross-examination of Dr. Bloom on Tuesday, February 12, 2013. After nearly two hours of questioning Mr. B once again fired his lawyer and proceeded to cross-examine Dr. Bloom personally. He did so for approximately two hours in total.

[31] The Crown called just one further witness, Mr. Peter Wickwire, the Area Director in Nova Scotia for Community Corrections for Correctional Service Canada. This was on Wednesday, February 13, 2013.

[32] After presenting Mr. Wickwire's evidence the Crown closed its' case.

[33] It was then the Defence's turn to present evidence. Mr. B appeared intent on continuing to represent himself. Mr. B is, no doubt, an intelligent man and appreciates the seriousness of the situation.

[34] With the Court's insistence a representative of the Provincial Attorney General's office, Mr. Edward Gores, Q.C., and one of the senior managers from Nova Scotia Legal Aid, Mr. Peter Mancini, were invited to provide information to the Court that, in turn, could be used by Mr. B to assist him in presenting his case.

[35] Nova Scotia Legal Aid was prepared to provide a certificate to enable Mr. B to retain the services of new counsel. As a matter of fact, approval was given for the certificate to be transferred not once, but twice. Three different lawyers were prepared to take on representation of Mr. B but for reasons known only to them and Mr. B himself the retainer could not be perfected.

[36] Thirteen appearances between February 15, 2013 and December 9, 2013 took place. On this latter date retired Halifax Regional Municipality Police Officer, Tom Martin, appeared in answer to a subpoena requested by Mr. B. After allowing Mr. B time to speak with Officer Martin he decided not to call him to the stand.

[37] Finally, on Thursday, December 19, 2013 the Court heard closing arguments from the Crown followed by Mr. B.

[38] At noon that day, Mr. B asked for and was granted one final adjournment to give him time to review his materials and to better prepare himself for a continuation of closing arguments the next day.

[39] On Friday, December 20, 2013 Mr. B completed his submissions followed by a brief reply from Crown counsel.

[40] The Court reserved its decision to Friday, April 4, 2014 but on Friday, March 28, 2014 the matter was brought back at the Court's request and the decision was further reserved until today, Friday, June 20, 2014. It is almost four years to the day since Mr. B was found guilty on eight different counts by a Jury of his peers.

[41] As earlier mentioned he pleaded guilty to the ninth count after it was severed from the original Indictment after the Jury's verdict was delivered and after re-election to Judge alone.

[42] It has taken a considerable amount of time to arrive at this juncture. The majority of the delays are attributable to Mr. B's decision to discharge his trial counsel not once but twice and to repudiate and renege on the agreement made on his behalf by his counsel which could have streamlined proceedings considerable.

[43] Further delays were the result of Mr. B's inability to either retain alternate counsel or to maintain representation once it had been arranged. It should be noted that the Crown was in a position to set dates for the hearing of the application to determine dangerous offender status as early as October 22, 2010 just a little less than four months post-conviction. Other than this and the delay to allow the Court time to prepare a decision all other delays were caused by the Defence.

[44] Having said this I will move on to consider the ***Criminal Code*** provisions dealing with dangerous offenders and long-term offenders.

CRIMINAL CODE PROVISIONS

[45] The ***Criminal Code*** sets out a process by which an offender may be declared and sentenced as a dangerous offender.

[46] In looking at this process and the various conditions precedent which must be satisfied before a Court may consider a dangerous offender designation I acknowledge the comprehensive written submissions offered by Crown counsel. I will rely heavily on these submissions and give the appropriate credit when doing so.

[47] In general terms:

(i) The Crown must establish that the conditions precedent to the dangerous offender application have been met;

(ii) If so, the Crown must prove beyond a reasonable doubt that the offender meets one or more of the four definitions of a dangerous offender; and

(iii) If the Court determines that the conditions precedent have been met and the offender falls within one or more of the four definitions then it is left to the Court to decide if an indeterminate sentence is called for or is a less onerous disposition sufficient to adequately protect the public.

[48] The dangerous offender provisions of the ***Code*** have undergone a number of amendments over the years. As a result of the latest amendments which occurred on July 2nd, 2008 the Court must declare a person a dangerous offender if he or she meets one or more of the definitions set out in section 753(1) of the ***Code***. There is no longer a discretion. Section 753 reads as follows:

> 753. (1) On application made under this Part after an assessment report is filed under subsection 752.1(2), the court shall find the offender to be a dangerous offender if it is satisfied
>
> (a) that the offence for which the offender has been convicted is a serious personal injury offence described in paragraph (a) of the definition of that expression in section 752 and the offender constitutes a threat to the life, safety or physical or mental well-being of other persons on the basis of evidence establishing
>
> (i) a pattern of repetitive behaviour by the offender, of which the offence for which he or she has been convicted forms a part, showing a failure to restrain his or her behaviour and a likelihood of causing death or injury to other persons, or inflicting severe psychological damage on other persons, through failure in the future to restrain his or her behaviour,
>
> (ii) a pattern of persistent aggressive behaviour by the offender, of which the offence for which he or she has been convicted forms a part, showing a substantial degree of indifference on the part of the offender respecting the reasonably foreseeable consequences to other persons of his or her behaviour, or
>
> (iii) any behaviour by the offender, associated with the offence for which he or she has been convicted, that is of such a brutal nature as to compel the conclusion that the offender's behaviour in the future is unlikely to be inhibited by normal standards of behavioural restraint; or
>
> (b) that the offence for which the offender has been convicted is a serious personal injury offence described in paragraph (b) of the definition of that expression in section 752 and the offender, by his or her conduct in any sexual matter including that involved in the commission of the offence for which he or she has been convicted, has shown a failure to control his or

> her sexual impulses and a likelihood of causing injury, pain or other evil to other persons through failure in the future to control his or her sexual impulses.
>
> Presumption
>
> (1.1) If the court is satisfied that the offence for which the offender is convicted is a primary designated offence for which it would be appropriate to impose a sentence of imprisonment of two years or more and that the offender was convicted previously at least twice of a primary designated offence and was sentenced to at least two years of imprisonment for each of those convictions, the conditions in paragraph (1)(a) or (b), as the case may be, are presumed to have been met unless the contrary is proved on a balance of probabilities.

[49] If a person is found to be a dangerous offender the range of sentence is set out in sub-section (4) of section 753. It says:

> (4) If the court finds an offender to be a dangerous offender, it shall
>
> (a) impose a sentence of detention in a penitentiary for an indeterminate period;
>
> (b) impose a sentence for the offence for which the offender has been convicted — which must be a minimum punishment of imprisonment for a term of two years — and order that the offender be subject to long-term supervision for a period that does not exceed 10 years; or
>
> (c) impose a sentence for the offence for which the offender has been convicted.

[50] Sub-section (4.1) offers further direction regarding the Court's determination of a sentence of indeterminate detention. It states:

> (4.1) The court shall impose a sentence of detention in a penitentiary for an indeterminate period unless it is satisfied by the evidence adduced during the hearing of the application that there is a reasonable expectation that a lesser measure under paragraph (4)(b) or (c) will adequately protect the public against the commission by the offender of murder or a serious personal injury offence.

[51] In the event that the Court does not find the offender to be a dangerous offender, sub-section (5) of section 753 provides the Court with the following direction:

> (5) If the court does not find an offender to be a dangerous offender,
>
> > (a) the court may treat the application as an application to find the offender to be a long-term offender, section 753.1 applies to the application and the court may either find that the offender is a long-term offender or hold another hearing for that purpose; or
> >
> > (b) the court may impose sentence for the offence for which the offender has been convicted.

[52] The legislation makes it clear that the Court must impose an indeterminate sentence "unless it is satisfied by the evidence adduced during the hearing of the application that there is a reasonable expectation that a lesser measure under paragraph (4)(b) or (c) **will adequately protect the public against the commission by the offender of murder or a serious personal injury offence**. [Emphasis Added – Reference s. 753 (4.1)]

[53] The "lesser measure" under paragraphs (b) or (c) of sub-section (4) of section 753 includes either a determinate sentence of at least two years together with a long-term supervision order for a period not exceeding 10 years or a determinate sentence for the offence with no supervision order.

CONDITIONS PRECEDENT:

[54] I will look now at the conditions precedent that must be satisfied in order to proceed with a dangerous offender application. In doing so I have relied heavily on significant portions of what is contained in pp 4 to 6 of the Crown's pre-hearing brief dated the 30th day of November, 2012. I will read the relevant portions of the brief that I have adopted and approve of:

> The first requirement is that the accused has been convicted of a "serious personal injury offence" which is defined in s. 752:
>
> > s. 752 in this part …

> "serious personal injury offence" means
>
> (a) an indictable offence, other than high treason, treason, first degree murder or second degree murder, involving
>
> (i) the use or attempted use of violence against another person, or
>
> (ii) conduct endangering or likely to endanger the life or safety of another person or inflicting or likely to inflict severe psychological damage on another person, and for which the offender may be sentenced to imprisonment for ten years or more, or
>
> (b) an offence or attempt to commit an offence mentioned in section 271 (sexual assault), 272 (sexual assault with a weapon, threats to a third party or causing bodily harm) or 273 (aggravated sexual assault).

The Crown cannot make a dangerous offender application unless it has first sought, obtained and filed an assessment report pursuant to s. 752.1:

> 752.1 (1) On application by the prosecutor, if the court is of the opinion that there are reasonable grounds to believe that an offender who is convicted of a serious personal injury offence or an offence referred to in paragraph 753.1(2)(a) might be found to be a dangerous offender under section 753 or a long-term offender under section 753.1, the court shall, by order in writing, before sentence is imposed, remand the offender, for a period not exceeding 60 days, to the custody of a person designated by the court who can perform an assessment or have an assessment performed by experts for use as evidence in an application under section 753 or 753.1.
>
> (2) The person to whom the offender is remanded shall file a report of the assessment with the court not later than 30 days after the end of the assessment period and make copies of it available to the prosecutor and counsel for the offender.

> (3) On application by the prosecutor, the court may extend the period within which the report must be filed by a maximum of 30 days if the court is satisfied that there are reasonable grounds to do so.

In order to proceed with a dangerous offender application the Crown must comply with the requirements of s. 754(1) which states:

> 754. (1) With the exception of an application for remand for assessment, the court may not hear an application made under this Part unless
>
> (a) the Attorney General of the province in which the offender was tried has, either before or after the making of the application, consented to the application;
>
> (b) at least seven days' notice has been given to the offender by the prosecutor, following the making of the application, outlining the basis on which it is intended to found the application; and
>
> (c) a copy of the notice has been filed with the clerk of the court or the provincial court judge, as the case may be.

From this review of the conditions precedent, the Crown should be in a position to establish the following at the commencement of the hearing:

1. The accused has been convicted of a serious personal injury offence as defined in s. 752 (a) or (b) or both;
2. The Crown sought and obtained a remand for assessment (s. 752.1(1));
3. An assessment report was filed with the court and made available to the Crown and counsel for the defence within 90 days (or 120 days if an extension to file was granted by the Court) (s. 752.1(2)(3));
4. Consent of the Attorney General to make the dangerous offender application has been obtained (s. 754(1)(a)); this consent can be proved by tendering a document (s. 754(4)).
5. A formal written "Notice of Application" outlining the basis on which it is intended to found the application has been filed. This Notice should contain:
    a. description of substantive / predicate offence(s) which form the basis of the application;

b. grounds on which the application is being made (including reference to the applicable definitions under s. 753(1)(a)(b));

c. notice of any untried criminal allegations that will form evidence of a pattern (see **R. v. N.(L.)** 1999 ABCA 206;

d. sufficient information so that the accused knows the case he has to meet.

6. The written Notice of Application was served on the accused or his counsel at least seven days in advance of the hearing (s. 754(1)(b));

7. A copy of the Notice of Application was filed with the Clerk of the Court or the Provincial Court Judge as the case may be (s. 754(1)(c)).

[55] All of these conditions precedent have been met.

[56] On June 25, 2010 Mr. B was convicted of:

- Three counts of sexual assault with a weapon contrary to s. 272 (1)(a) of the ***Code***;
- One count of sexual assault causing bodily harm contrary to s. 272(1)(c) of the ***Code***;
- One count of choking with the intent to commit a sexual assault contrary to s. 246(a) of the ***Code***;
- One count of administering a stupefying drug with the intent to commit a sexual assault contrary to s. 246(b) of the ***Code***; and
- One count of unlawful confinement contrary to s. 279 (2) of the ***Code***.

[57] All of these offences pertain to the violence against SM and each carries a maximum penalty of 10 years or more. They meet the definition of "serious personal injury offence" as defined in s. 752(a) of the ***Code***.

[58] The convictions resulting from the three counts of sexual assault with a weapon and the one count of sexual assault causing bodily harm also meet the definition of "serious personal injury offence" contained in s. 752 (b) of the ***Code***.

[59] All of the other conditions precedent mandated by the ***Code*** as I indicated before have been satisfied and therefore all necessary procedural requirements have been met.

REVIEW OF THE EVIDENCE

[60] In order to determine if the offender – Mr. B – meets one or more of the three definitions of dangerous offender contained in section 753 (1)(a)(i), (ii) or (iii) or the definition found in s. 753(1)(b) [I have referred to these definitions earlier in this decision and do not propose to repeat them] it is necessary to look at the evidence and determine its reliability.

[61] The Court was presented with a huge volume of documentary evidence that was filed and marked as exhibits during the hearing. It consisted of:

- A Transcript of the Previous Dangerous Offender Application (Exhibits 2A, 2B)
- Documentation Relating to the Predicate Offences (2 Vols.)(Exhibits 12, 13)
- Documentation Relating to Previous Convictions (Exhibit 16)
- Physiotherapy and Rehabilitation Records (2 Vols.) (Exhibits 40, 41)
- Family, Community Services Records and Partial Transcript (Exhibit 42)
- Psychology and Psychiatry Records (Exhibit 43)
- Documentation Relating to the prior Dangerous Offender Proceeding (Exhibit 44)
- Correctional Service of Canada Records (5 Vols.) (Exhibits 45-49)

[62] The Court also received the "psychiatric, sexological, and risk assessment report" of LEB which was prepared by Dr. Hy Bloom, B.A., Ll.B., M.D., F.R.C.P.(C). I earlier indicated the area in which Dr. Bloom was qualified to speak as an expert and to offer opinions based on his review of Mr. B's previous trial transcripts as well as medical health records and Correctional Service Canada records pertaining to the offender since he first offended at age 15.

[63] Dr. Bloom testified as to his diagnosis of Mr. B's psycho/psychiatric condition and offered a risk assessment and recommendations for risk reduction.

[64] Dr. Bloom looked at the circumstances of the predicate offences involving Mr. B's latest sexual assault victim – Ms. M.

[65] Dr. Bloom also had the opportunity to review pre-sentence reports and discharge reports from 1985 onward which included comments attributed to the offender.

[66] He had access to reports prepared by Ruth Simmons, Psychologist, who met with Mr. B on six occasions between March and September, 2008.

[67] Dr. Bloom reviewed the opinions of Dr. Angela Connors, a forensic and consulting psychologist, Dr. Scott Theriault, a forensic psychiatrist, and Dr. Philip Klassen, also a psychiatrist, all of whom offered expert opinion evidence at the dangerous offender application hearing conducted before the Honourable Justice Robert W. Wright of this Court in 2002.

[68] In his decision Justice Wright offered the following under the heading "Conclusions" at paras. 48 and 49 of his decision (***R. v. L.E.B.***, [2002] N.S.J. No. 285; 202 N.S.S.C. 156; 205 N.S.R. (2d) 348):

> 48 It is trite to say that predicting future human behaviour based on past conduct is an inexact science and it is an unenviable task. In approaching its task, the court must (as stated in *Neve* at para. 188) determine what weight, if any, to give to the expert opinion evidence after evaluating the psychiatrist, reviewing the evidence relied on, and assessing the opinion in light of all of the evidence.
>
> 49 All three experts who appeared on this case are eminently qualified professionals and all were forthright in their testimony. They disagreed only on the significance to be placed on Mr. L.E.B.'s physical disability, its impact on the risk of recidivism, and on the confidence that should be placed in the chemical castration option as a risk management measure. On balance, I am persuaded by the candid and well-informed testimony and report of Dr. Klassen, with the wide experience he has in these matters, that there is a reasonable prospect of management of the risk in the community (following the serving of a custodial sentence) through the spectrum of external controls which Dr. Klassen has identified. That is not to say that I am without skepticism over how well Mr. L.E.B. will respond to these external controls. However, where I find that there is a reasonable possibility of eventual control in the community of the risk presented by Mr. L.E.B., I am not satisfied beyond a reasonable doubt that there is a

> likelihood of causing future harm within the meaning of s.753(1) of the *Code*. In the result, Mr. L.E.B. is declared to be a long-term offender rather than a dangerous offender.

[69] Dr. Bloom has had access to various other psychiatric records and observations pertaining to Mr. B's prior convictions, copies of which can be found in a volume marked Exhibit 16, health records contained in volumes marked Exhibits 40, 41, 42 and 43 and within five volumes (Exhibits 45-49) of Correctional Service Canada records. These latter volumes contain the reports of Kathleen MacKay, Psychologist, Dr. Nielson, Psychiatrist and Ruth Simmonds, Psychologist.

[70] Although Dr. Bloom did not interview the offender (due to his refusal to be interviewed by Dr. Bloom) he expressed confidence in his diagnosis and conclusions that Mr. B is a psychopath who suffers from an antisocial personality disorder coupled with a sexual sadism paraphilia.

[71] Dr. Bloom also delved into the feasibility of management of the offender under a Long Term Supervision Order.

[72] Section 753.1 of the ***Code*** provides the following in relation to an application for long-term offender status. It reads:

> Application for finding that an offender is a long-term offender
>
> 753.1 (1) The court may, on application made under this Part following the filing of an assessment report under subsection 752.1(2), find an offender to be a long-term offender if it is satisfied that
>
> (a) it would be appropriate to impose a sentence of imprisonment of two years or more for the offence for which the offender has been convicted;
>
> (b) there is a substantial risk that the offender will reoffend; and
>
> (c) there is a reasonable possibility of eventual control of the risk in the community.

(2) The court shall be satisfied that there is a substantial risk that the offender will reoffend if

> (a) the offender has been convicted of an offence under section 151 (sexual interference), 152 (invitation to sexual touching) or 153 (sexual exploitation), subsection 163.1(2) (making child pornography), 163.1(3) (distribution, etc., of child pornography), 163.1(4) (possession of child pornography) or 163.1(4.1) (accessing child pornography), section 170 (parent or guardian procuring sexual activity), 171 (householder permitting sexual activity), 171.1 (making sexually explicit material available to child), 172.1 (luring a child) or 172.2 (agreement or arrangement — sexual offence against child), subsection 173(2) (exposure), 212(2) (living on the avails of prostitution of person under eighteen), 212(2.1) (aggravated offence in relation to living on the avails of prostitution of a person under the age of eighteen years) or 212(4) (offence — prostitution of person under eighteen) or section 271 (sexual assault), 272 (sexual assault with a weapon) or 273 (aggravated sexual assault), or has engaged in serious conduct of a sexual nature in the commission of another offence of which the offender has been convicted; and
>
> (b) the offender
>
> > (i) has shown a pattern of repetitive behaviour, of which the offence for which he or she has been convicted forms a part, that shows a likelihood of the offender's causing death or injury to other persons or inflicting severe psychological damage on other persons, or
> >
> > (ii) by conduct in any sexual matter including that involved in the commission of the offence for which the offender has been convicted, has shown a likelihood of causing injury, pain or other evil to other persons in the future through similar offences.

[73] For reasons that will become apparent later in my decision I have concluded that Mr. B is not a suitable candidate for long-term offender designation. Given his long history of sexual assaults and his diagnosis as a psychopath with an anti-social personality disorder along with the sexual sadism paraphilia which renders him completely unable to feel empathy for his victims or remorse for his actions

there is no reasonable possibility of eventual control of the risk he presents in the community.

[74] Obviously if I ultimately conclude that he fits one or more of the four definitions of dangerous offender under section 753(1)(a)(i), (ii), (iii) or (b) I would then be obligated to find him a dangerous offender. There is no discretion other than to impose an indeterminate sentence on him in a penitentiary.

BACKGROUND EXAMINATION OF THE OFFENDER

[75] I will next turn my attention to the portrait of the offender, Mr. B, and how he presents to the Court.

[76] I will then look at the series of criminal assaults and sexual assaults committed by the offender from the time he was 15 years of age.

[77] I will pay particular attention to the evidence and the likely facts relied upon by the Jury in convicting Mr. B for the sexual assault on SM and the host of related offences included on that Indictment.

[78] Although Ms. M's name has been used by me on several occasions the necessary steps to protect her identity and the identity of the various other victims of Mr. B's criminal conduct will be taken prior to the publication of this decision.

[79] I have relied on the written submissions of Crown counsel to show Mr. B's background and to reveal the circumstances that led up to the sexual assault and other offences committed against Ms. M.

[80] I have also attached as Appendices to this decision the summaries of the events that resulted in Mr. B being convicted of various assaults, sexual assaults and other criminal offences involving:

1. JH in 1985;
2. LZ in 1986;
3. DW in 1987;
4. GW in 1987;
5. BM in 1997; and
6. LB in 1999.

[81] As indicated I will provide more detail with regards to the predicate offences involving Ms. M. And, as indicated earlier, I have relied on the version of events provided by Crown counsel for which I express my gratitude.

[82] SM was 19 years-old at the time of these offences. She first met Mr. B in the Summer of 2008, when she was employed at a local pizza shop. Mr. B often visited this establishment as he knew the owner. During his visits, SM and Mr. B would have what she described as casual conversations.

[83] SM left this job in the Fall of 2008 and began a new job at a pizza shop in a local shopping mall. One day she saw Mr. B in the mall and said "Hi" to him. Mr. B asked SM if she wanted another job on the side. He told her that he and a friend had a scuba superstore in Orlando, Florida, and that they needed a model. He told her that because she was a friend of his, he would put the other applications for the modelling job aside. Mr. B told her that the name of the company was "LB Scuba and Watersports." He provided her with his phone number and invited her to check out the business' webpage on the internet.

[84] While SM had always been interested in being a model, she was nevertheless unsure of Mr. B's proposal. However, she and her boyfriend "Googled" LB Scuba and Watersports, found the website, and felt satisfied that it represented a legitimate business. SM testified that she became excited at the possibility of this modelling job, and told her mother and friends about it.

[85] SM contacted Mr. B and told him that she was interested in the modelling job. He told her that there would be an initial photo-shoot for which she would be paid $1,000 and, if they liked her pictures, she would be flown to Orlando, Florida, where there would be additional photo-shoots.

[86] Following this initial telephone conversation, SM and Mr. B had three or four subsequent telephone conversations in which Mr. B further explained the plans for the photo-shoot. He told her that the photo-shoot would take place on Thursday, December 4, 2008 at the Lord Nelson Hotel in Halifax, Nova Scotia. He told her there would be female photographers present to make her feel more comfortable. He said she would be modelling scuba gear and that she should bring bathing suits to wear. He told her that she would need to bring $100 as down payment on the hotel room and, additionally, that if she had any extra extension cords for the lights she should bring them. Finally, Mr. B told her that there would be some "props" used to help her, as a new model, hold certain poses. The props included rope and tape.

[87] During these telephone calls, SM inquired with Mr. B about having her boyfriend present at the photo-shoot. Mr. B said her boyfriend could drop her off and pick her up, but that he was not allowed at the photo-shoot as the photographers did not like to have other people on the set.

[88] On the morning of December 4, 2008, the boyfriend of SM, along with two of her friends, drove her down to the Lord Nelson Hotel. Her boyfriend gave her a rose as they approached the hotel. SM and her companions met Mr. B at the entrance to the hotel. After a quick hello, SM's companions left her with Mr. B.

[89] Mr. B informed Ms. M that they were going to go to lunch first at the Oasis restaurant.

[90] At lunch, Mr. B explained that the Lord Nelson Hotel was double-booked and that they were first going to go to another photo-shoot located at a different hotel, before returning to the Lord Nelson Hotel to complete the originally planned photo-shoot. He further explained that the photographers were still in flight, and were slightly delayed in arriving. Mr. B showed SM a copy of a modelling contract that he had on his phone, claiming that he had not yet had an opportunity to print it. During lunch, Mr. B asked SM if she was interested in "x-rated stuff." SM unequivocally stated that she was not.

[91] SM had a BLT sandwich and a beer for lunch. She recalled leaving to go to the bathroom part way through the meal, before returning and finishing it.

[92] After finishing lunch, Mr. B called a cab. Upon entering the cab, Mr. B asked SM to go to the nearby dollar store in the Parklane Mall, as he felt that they may need an additional extension cord for the photograph equipment. SM took the money, and purchased an extension cord. As she was walking back to the cab, she started feeling dizzy and sick. She noticed that her vision was starting to get fuzzy and that her body felt really heavy. She felt like she was going to be sick. She went into the bathroom at the mall. She was unsure why she was feeling ill, as she had been feeling normal before lunch.

[93] SM returned to the cab where Mr. B was waiting. The cab proceeded to drive to the Point Pleasant Lodge, a local hotel often utilized by out-of-town patients of the nearby hospital.

[94] SM exited the cab and vomited near the side of the building. Upon entering the hotel, Mr. B went to the front desk and paid $165 for the room. SM recalled

how Mr. B described her to the hotel employee as his health care worker. This comment momentarily puzzled her; however, she did not dwell on it as she was focused on, and distracted by, her ill-health.

[95] Mr. B and SM proceeded to a hotel room within the Point Pleasant Lodge. She recalled expecting a party room and was surprised to find that they had a normal hotel room. SM sat in a chair in the corner of the room. She still felt ill. She vomited again. Mr. B told her that he felt bad about how she was feeling, gave her some water, and told her that this had not happened to any of the other models before. Despite her sickness, he said that they needed to start working. He told her that he was going to take some test photographs of her so that once the photographers arrived they could quickly review the poses and select ones that looked best.

[96] SM went to the bathroom and put her two-piece bathing suit on. She believed she vomited again in the bathroom.

[97] After exiting the bathroom, Mr. B began to take photographs of SM with his cellular phone. He had a piece of paper listing various poses which he was using to direct her. After taking some pictures of her in standing poses, Mr. B directed her to sit in a chair in the corner of the room near the bed. He took out some tape and said that they were going to use it for a few poses. She held her arms out as directed, expecting that Mr. B would only put a little bit of tape on.

[98] Mr. B quickly kept wrapping the tape around her arms.

[99] SM began to panic.

[100] SM tried to get out of the chair, but when she did so, Mr. B quickly put a noose made from a shoelace over her head and tried to stuff a sock into her mouth. She resisted the sock, despite his yelling at her to put it in her mouth.

[101] SM attempted to escape from Mr. B by running across the bed; yet, unbeknownst to her, the shoelace around her neck was tied to the wheel-chair of Mr. B. Her unsuccessful attempt at fleeing resulted in both Mr. B and SM landing on the floor. Mr. B began to tighten the ligature around SM's neck saying that he was going to choke her to death. SM screamed until she felt she was going to pass out. She tried to kick at LB. He kept choking her. She tried to work her arms free from the tape. LB told her that he would kill her if she did not stop struggling. She managed to work her hands free to pry the ligature from around her neck to

her mouth. She tried to chew threw the ligature. As Mr. B continued to tighten the rope, SM stopped struggling as she felt she would pass out. She did not want to pass out.

[102] Mr. B directed her to slide towards him. He demanded that she put her now freed arms under her back. He pulled down her underwear and began to lick her vagina. He began to digitally penetrate her vagina. He then told her to pass him his bag as he said he had a toy in it. He retrieved a cucumber from the bag, removed its plastic wrapping and began to put it inside of her. SM pleaded with him not to, as it would hurt. Mr. B ignored her pleas. SM testified that at this point, "I just gave up. I didn't think there was any point in trying and I just wanted to die."

[103] Other guests in the hotel were disturbed by the noise from Mr. B's room. They contacted the front desk. Soon after, Mr. Michael Manuel, the manager of the hotel, began to knock at the door of Mr. B's room. Mr. Manuel had been notified that guests in the surrounding rooms reported hearing screaming.

[104] Mr. B responded to Mr. Manuel's knocking by stating that everything was okay and to go away. Mr. Manuel was undeterred. He stated that he wanted someone to present themselves at the door.

[105] Mr. B took the ligature off SM's neck and told her to open the door. He threatened her by stating, "don't do anything stupid or there's going to be a shoot-out." SM opened the door and quickly ducked into the closet alcove, thinking that if Mr. B shot, he would not be able to hit her. She mouthed the words, "Help me, let me out." Mr. Manuel, upon seeing the scantily clad SM and the lower extremities of Mr. B, who had been evidently upset from his wheelchair, did not know what to make of what he saw. However, SM quickly fled past Mr. Manuel and ran down the hallway into the elevator. Mr. Manuel directed her to go into his office, where she curled up like a ball under his desk.

[106] The police were called to the hotel. The police cleared the nearby rooms, and forcefully entered Mr. B's room. LB was found in the bathroom where he was arrested.

[107] SM was taken to the hospital. She suffered innumerable spots of petechial hemorrhaging to her face as a result of the ligature that was repeatedly tightened around her neck. She suffered a cut which encircled the perimeter of her neck from the ligature. She suffered a cut to her mouth area. She suffered cuts to her

arms in her struggle to remove the tape. She suffered scratches to her neck from her own efforts to remove the ligature. She suffered vaginal tears from the insertion of the cucumber.

[108] Samples of Ms. M's blood and vomit revealed the presence of two powerful narcotic analgesics: hydromorphone and oxycodone. SM testified that she had never knowingly taken such drugs. Found in the jacket pocket of Mr. B, which was recovered from the hotel room at the Point Pleasant Lodge, was a vial containing beads of hydromorphone.

[109] Mr. Chris Keddy, a toxicologist employed with the Royal Canadian Mounted Police, testified that the symptoms suffered by SM on December 4, 2008 were consistent with the effects of hydromorphone and oxycodone. Additionally, Mr. Keddy testified that the onset of SM's symptoms on December 4, 2008, was consistent with her being administered these drugs during the period of time in which she was at lunch. Taken together, the only possible conclusion from the jury's verdict, and the testimony of various witnesses, is that Mr. B covertly slipped these drugs into either SM's food or drink.

[110] A review of Mr. B's criminal history including the offences perpetrated against SM reveal a number of common elements. They relate to choice of victim, manipulating and orchestrating the situation to gain an advantage and the manner in which the offences were carried out. They include:

1. All victims are female;
2. LB knew or was familiar with all victims;
3. All victims were isolated before they were attacked;
4. Isolation was achieved by means of a ruse or taking advantage of an opportunity;
5. All offences involved violence to gain compliance (this may have involved actual physical violence, threats of violence, use of weapons, use of constraints or gags or administration of substances, or some combination of all these elements);
6. All victims were attacked at the neck;
7. All offences were committed in high risk situations where LB was known to the victim or was easily identified.

[111] The Crown has provided a chart that lists the common features of the attacks against the seven different females. I have included it in my decision and attached it as a separate appendix.

[112] The pattern of behaviour began a little over 29 years ago when Mr. B was 15 years of age. Since then he has continued to commit attacks on females despite the intervention by the courts and increasing periods of incarceration. Clearly this demonstrates a pattern of repetitive behaviour as well as a pattern of persistent aggressive behaviour.

[113] Furthermore, as was exhibited in the latest attack on Ms. M, the level of violence employed by the offender keeps escalating and is of such a brutal nature both physically and emotionally that one can only conclude that his behaviour in the future is unlikely to be inhibited by normal standards of behavioural restraint.

[114] Mr. B has had the opportunity to be assessed and to receive treatment. He has, in the past, agreed to take pharmacological sex drive reduction treatment but later reneged on this undertaking stating in so many words that he only said it to avoid a dangerous offender designation.

[115] He has also demonstrated that the normal aging process and his physical limitations that cause him to rely on the use of a wheel-chair to assist his mobility have done little to impede his predatory behaviour against women. Indeed, it seems that the latter is less of a hindrance and more of a prop to gain an advantage when setting up his trap to snare another victim.

[116] As Dr. Hy Bloom stated in his assessment report:

> As noted, Mr. B's risk has not been contained by his physical limitations. The most recent (predicate) offences speak volumes to that. He is still a young man (at age 41). There is no clear evidence of physical deterioration to an extent where it could play an important role in impeding re-offence. It appears to me that Mr. B's physical limitations did not so much affect his ability to plan and execute physically and psychologically injurious sexual actions against unsuspecting females. His physical limitations did, however, confer some benefit on his victims, as they were able to better resist him and escape. I would not be confident that Mr. B could not or would not employ the same contrivances to access a victim, or that he has sufficient upper body strength to accomplish an assault.

[117] Dr. Bloom also offered his assessment of Mr. B after considering the entirety of his history. On p. 64 of his report he stated:

> Mr. B's life pursuits have very much centred on gratifying or serving his every need or wish; this invariably involved the exploitation or abuse of others to his benefit and to their detriment.
>
> The predicate offences, in fact, are a testament to the triumph of the pursuit of his potentially sadistic gratification of sexual and other needs over the wellbeing of the victim, the legal and moral edicts of society, any self-awareness and motivation for change, the presumptively deterrent value of the risk of a severe custodial sentence (which Mr. B has already faced), and even his own physical limitations.
>
> There is, in the end, nothing to displace the historically and clinically based view that Mr. B will continue to pursue any workable opportunity to gratify his sexual impulses and need for power and control over others. The likelihood is considerable that he will continue to prey on anyone who is actually weaker, or whom he perceives to be weaker and exploitable, as has evidently occurred, notwithstanding the course of physical decline and limitation. In this regard, individuals with highly problematic personality pathology, and who fit the criteria for the construct of 'psychopath', are actually quite gifted at getting their needs met in circumstances in which they have need to adapt to or manipulate.

[118] In respect to management, supervision and risk reduction recommendations Dr. Bloom had this to say:

> As suggested above, I am compelled, by a review of Mr. B's history, up until 2002, considered together with his history since then (including the predicate offences) to conclude that the prospect for treatment and rehabilitation is bleak. Mr. B has a more than 20 year history of substantial denial of responsibility for the core element of his sexual offence history and aggression towards females, disavowal of any sexual problem or issues with females, and reluctance to accede to sexological assessments, investigations, and interventions which potentially could have – years ago – positively impacted on his dangerousness.
>
> Put succinctly, his motivation is markedly poor. All of this suggests a rather malignant prognostic picture. Mr. B has skirted around the issue of psychopharmacological intervention (i.e. sex drive reducing medication). I would not, based on his history, have any confidence in Mr. B's claim, were he to make it, that he will take medication of this kind. To his credit, he has seemingly admitted in the past that he only entertained a discussion about this intervention to be seen as motivated, with the potential that this would avert the worst possible penal outcome.

[119] Despite his stated concerns about Mr. B's poor motivation and insight, Dr. Bloom still recommended that he undergo "a detailed sexological evaluation" in order to gain "a fuller appreciation of the bulk of Mr. B's paraphillic problems, and the dynamic forces underlying his sexual offending, aggression, and negative attitude towards women,…" (pp. 64 and 65 of Dr. Bloom's report).

[120] Even if Mr. B did submit to such an evaluation, Dr. Bloom was still of the opinion that:

> In the circumstances, I do not see any realistic recommendations emanating from the psychiatric / sexological realm that could reduce Mr. B's risk to others
>
> My colleagues earlier on noted that individuals with predominately psychopathic makeup sometimes get worse – their criminality and aggression increases – by being exposed to psychosocial treatments aimed at changing them. It seems that individuals with psychopathic personality learn the wrong things from these programs – meaning that the information only seems to increase their criminal and exploitative acuity.

[121] I am not ceding my responsibility to decide whether the offender meets one or more of the definitions of dangerous offender as set out in section 753(1)(a)(i), (ii), (iii) or para (b) of that section.

[122] But unlike the last time Mr. B was the subject of a dangerous offender hearing, there is no one suggesting that he could be properly and adequately supervised under any type of release program.

[123] Nor has Mr. B agreed to take any form of anti-androgen medication. Perhaps I should have said, Mr. B has not tried to once again mislead the Court into believing he will take such sex-drive reduction medication.

[124] And, based on Dr. Bloom's diagnosis of Mr. B's mental pathology and Mr. Peter Wickwire's testimony regarding offender supervision after release and factoring in Mr. B's extensive criminal history and his documented behaviour while incarcerated, I cannot foresee of any kind of plan of supervision that could effectively control his behaviour and which would adequately protect the public from the likelihood of his re-offending and causing serious personal injury or perhaps death to another hapless victim.

[125] I am satisfied on the totality of the evidence that LEB meets each of the four definitions of dangerous offender found in section 753 (1)(a)(i), (ii), (iii) and para. (b).

[126] I am further satisfied that there is no reasonable expectation that a lesser measure will adequately protect the public against the commission by the offender of murder or a serious personal injury offence.

[127] As a result of the foregoing I find Mr. LEB to be a dangerous offender and pursuant to section 753(4)(a) of the ***Code*** I sentence him on:

Count 1 s. 272(1)(a) as a dangerous offender to an indeterminate sentence

Count 2 s. 272(1)(a) as a dangerous offender to an indeterminate sentence

Count 3 s. 272(1)(a) as a dangerous offender to an indeterminate sentence

Count 4 s. 272(1)(c) as a dangerous offender to an indeterminate sentence

Count 5 s. 246 as a dangerous offender to an indeterminate sentence

Count 6 s. 246 as a dangerous offender to an indeterminate sentence

Count 7 s. 279(2) as a dangerous offender to an indeterminate sentence

Count 8 s. 264.1(1)(a) 5 years deemed served by time on remand

Count 9 s. 753.3 10 years less time on remand (credit 1:1 for total of 5 years, 183 days as of June 20, 2014) sentence on a go forward basis 4 years 182 days.

[128] The following ancillary orders are also appropriate in this case:

- DNA Order
- Firearms Prohibition Order (life)
- SOIRA Order (life)

[129] Given the indeterminate sentences imposed, the Long Term Supervision Order imposed on Mr. B on June 7, 2002 as a result of the decision of Justice Wright on June 7, 2002 but issued on his release in 2008, pursuant to s. 753.4(1) of the ***Code***, the Long Term Supervision Order is terminated.

THE COURT: That concludes my decision on the application. I offer my thanks to Crown counsel, Mr. Paul Carver and Mr. Mark Heerema, for their hard work, patience and endurance throughout this long ordeal. You have acquitted

yourselves with the utmost of professionalism throughout and you have been of great assistance to the Court in presenting the evidence that was required in order for me to make this decision.

Mr. B, you are to be taken from the Court room so you can be transferred ultimately to a federal institution to continue your sentence of indeterminate status. Good luck.

McDougall, J.

APPENDIX 1

Victim	H	Z	W	W	M	B	M
Gender	**Female**	**Female**	**Female**	**Female**	**Female**	**Female**	**Female**
B knew or was familiar to the victims	B knew the victim's son	B knew the victim from the community	B knew the victim's boyfriend and was staying with her	B knew the victim through his cousin, and they were neighbors	B knew the victim's mother	The victim was the personal care worker for B	The victim was an acquaintance of B
The victims were isolated prior to the attack	Victim was alone with B in her home	Victim was alone with B outside of her home	Victim was alone with B in her apartment	Victim was alone with B in his apartment	Victim was alone with B in his apartment	Victim was alone with B in his apartment	Victim was alone with B in a hotel room he rented
The victims were isolated through a ruse or by taking advantage of an opportunity	Victim was let into the house. He asked to use the bathroom	B removed the fuses of the victim's home to lure her outside	B was staying with the victim under the pretense of being a friend	B lured the victim to his apartment claiming that his cousin wished to speak to her	Victim was lured to B's apartment under the guise of a babysitting job	Victim assisted in covering the windows of B's apartment under the pretense of sickness	Victim was lured to a hotel room through the ruse of a modelling photo-shoot
Violence was used against the victims (either actual violence, threats of violence, weapons, constraints, or through administering drugs)	B grabbed and held scissors to the victim's neck	B grabbed the victim and choked her and put his hand over her mouth	B put a knife to the victim's throat, choked her, bound her, put sock in her mouth, smothered with a pillow, and threatened to kill her	B grabbed the victim by her shoulders, choked her, put his hands over her mouth, and threatened her	B put scissors to the victim's throat and threatened her	B choked the victim, threatened her, and bit her on the knee cap	B drugged, taped, gagged, choked, and threatened the victim while also inserting a cucumber into her vagina
The victims were attacked at the neck	Scissors held to throat	Victim choked by hands	Victim choked by hands	Victim choked by hands	Scissors held to victim's throat	Victim choked by hands	Victim choked with ligature
The offences were committed in high-risk situations	B was known to the victim	B was known to the victim	B was known to the victim and the victim's boyfriend	B was known to the victim	B was known to the victim and the victim's mother	B was known to the victim and the victim's employment agency	B was known to the victim and had met the victim's boyfriend

APPENDIX 2

JH:

On January 5, 1985, at approximately 2:00 a.m., Mr. B, who was then 15 years old, entered an unlocked residence in Annapolis Royal. The occupant, Ms. H, had just returned home. Ms. H knew Mr. B as a friend of her sons.

Mr. B entered the residence and asked JH if he could stay at her place. She said no. Mr. B then proceeded to ask JH if he could use her bathroom. She agreed. Mr. B went to the bathroom and emerged from it with a bathmat wrapped around his head. He told her, "You come in her with me". JH, feeling something was wrong, asked what he meant. Mr. B held a pair of scissors against her throat. JH tried to talk Mr. B out of what he was planning. While Mr. B initially persisted and again stated, "you're coming", he did eventually unwrap the bathmat from his head and put down the scissors.

After talking with Mr. B for a while, JH managed to het to her bathroom, at which point she locked the door. She stayed in her bathroom for a while. When she exited her bathroom, she ran from her residence and, while doing so, heard Mr. B yelling at her. JH sought refuge at a neighbor's and called the police.

APPENDIX 3

LZ:

On the evening of April 26, 21986, LB went to the home of Ms. LZ. He went to the fuse box, which was on the outside of the home. He removed some fuses, cutting off the power. LZ, then 18 years old, was in her home doing dishes when the power went out. She exited her home to turn the power back on when she was attacked by Mr. B. Mr. B brought her to the ground, choked her and covered her moth. LZ was able to get away, though Mr. B grabbed her again, at which point she screamed. Mr. B released LZ and ran.

APPENDIX 4

DW:

On July 5, 1987, Mr. B lured Ms. DW into the apartment which he was occupying with his cousin. He lured DW by knocking on her apartment door, telling her that his cousin would like to see her, and asking her to come to his apartment. DW said she would come by later.

Ten minutes later, Mr. B again knocked on the door and further requested that DB attend his apartment as his cousin was about to leave. DB followed Mr. B to his apartment. After they entered, Mr. B locked the door. The apartment was empty and DB asked where Mr. B's cousin was. Mr. B indicated he was in the bathroom, and asked Ms. W to go down the hallway and knock on the door. As she was doing so, Mr. B grabbed her by the shoulders. DB tried to tell him to stop and began to scream. Mr. B wrestled her to the floor and put his hands over her throat and over her moth. He told her to be quiet, or he would kill her. Mr. B kept trying to hold her down while she resisted. On a couple of occasions, Mr. B was able to choke her hard enough that she could not breathe or scream. DB told Mr. B that her boyfriend, who was just down the hall, would come looking for him. This appeared to calm Mr. B and he let her go. DB sustained bruising to her hands, arms and neck.

APPENDIX 5

GW

On December 23, 1987, Mr. B was staying at the residence of Ms. GW, then 20 years old, and her boyfriend, who was a friend of Mr. B. Mr. B had been residing with the couple since August of that year.

On the day in question, GW and Mr. B were on the couch watching television. Suddenly Mr. B grabbed GW, held a knife to her throat and told her not to scream. Mr. B dragged GW to her bedroom. He put a sock in her mouth and tied a cloth around it so she could not scream. He choked her until she felt like she was going to pass out. Mr. B tied her hands behind her back. He started, "licking between my legs and playing with me." Mr. B made her keep her legs open. Mr. B proceeded to have intercourse with her, ejaculating in her. After he was finished, he rolled her over and tied her legs above her ankles. After sometime, he untied her, had intercourse with her again, and then re-tied her. Mr. B did this repeatedly, having intercourse with GW for a total of 5 times. In between raping her, Mr. B made GW come to the living room and watch TV with him. After the final rape, Ms. W tried to get away when Mr. B held a pillow over her face and began to smother her. She pleaded with him to stop and he did, after she agreed not to call the police.

APPENDIX 6

BM:

The victim, BM, is the daughter of SM. Ms. M and Mr. B met through a church group and had been involved in an intimate relationship. Their intimate relationship ended prior to the offence, although they remained on good terms at the time.

On December 20, 1997, Mr. B approached BM about babysitting two of his nieces who lived in Sackville, Nova Scotia. BM, who was 12 years old at the time, was interested in babysitting, and Mr. B knew this. Nevertheless, BM and her mother were initially hesitant and said no.

Mr. B stated they were willing to pay $36.00. Again BM said no. Mr. B stated that they really needed a babysitter as they were driving up to the Valley. Ms. M remained unsure but left the final decision to her daughter. BM was interested in earning $36.00, as it was a lot of money to her, especially at Christmas time, so she agreed.

It was arranged that Mr. B would pick up BM in his car, drive her to Beaverbank, and stay overnight with her while she babysat. Mr. B picked up BM on December 21, 1997. There were two women in the car with him. They drove to Sackville and dropped off the women. Mr. B appeared to try and call the parents of his nieces, but stated he could not as his cellphone battery was dead. He told BM that they would have to go to his apartment so they could call from there. BM suggested they should just go to the residence, as it was only minutes away. Mr. B ignored this suggestion and drove to his apartment in Halifax.

When they got to Mr. B's apartment, BM called her mother. Mr. B told her to tell her mother that she was at the residence in Sackville, that everything was okay, and that she would call again in the morning. As directed, BM lied to her mother and told her she was in Sackville.

After speaking with her mother, BM began to watch a movie. Mr. B offered her some ice cream. Mr. B brought her the ice cream and offered her $1.00 if she ate the whole bowl. The ice cream tasted different, it was a different colour and had a light powder on it. She did not eat the whole bowl.

BM fell asleep very quickly after eating the ice cream. Before she did so, it was agreed that she would sleep on the bed and Mr. B would sleep on the couch.

BM awoke on the bed to find Mr. B lying next to her. His hand was up inside her nightie and he was feeling her vagina both over and under her underwear. BM was scared and asked him what he was doing. The contact continued for se4veral minutes until BM got up and went to the washroom.

When BM returned to the bed, Mr. B again began to feel her vagina over her nightie. BM indicated she was going to the couch. At this point, Mr. B grabbed her, pulled her back to him, grabbed a pair of scissors from the night table, and put them to her neck. He told her to be quiet or he would shove the scissors down her throat.

BM was very scared. She started to cry and yell, but Mr. B put his hand over her mouth. She got the scissors from his hand and threw them across the room. Mr. B grabbed a second pair of scissors and put them to her neck. BM grabbed those scissors as well and threw them across the room.

BM grabbed the wheelchair that was next to the bed and tried to pull herself out of bed. She fell out of the bed and Mr. B did too, as he was still holding on to her. He tried to kiss her and she bit him on the hand. BM stood up and began to bang Mr. B's head against a door. Mr. B let her go and she sat on the floor. Mr. B got into his wheelchair and went to the washroom. BM was too scared to try and leave the apartment. She went back to bed and fell asleep.

In the morning, BM spoke with her mother on the phone and told her what had happened the night before. Her mother called the police and rushed to the apartment. BM was taken to the hospital.

APPENDIX 7

LB:

The victim, LB, was 31 years-old in 1999. She was employed as a personal care worker for Mr. B and had worked in this capacity for approximately six months prior to the assault.

On February 2, 1999, Mr. B called Ms. B and asked her whether she ever had a headache where she felt everything was going black and that she was going to pass out. Ms. B responded in the negative, but stated that she would be at his residence soon. LB attended the apartment of Mr. B in the early afternoon. Mr. B was alone. He asked LB if she could put blankets over the windows to darken the apartment to help his headache go away. LB did so.

Before leaving the apartment to run errands for Mr. B, LB went into Mr. B's room. Mr. B was sitting on the bed. He asked her to take the wheelchair out of the room, and bring in his walker. She did so. He then asked her to help him get off the bed and into the walker. She responded by saying that she did not need to help him, as he had always done this by himself. He asked her to help anyway.

Mr. B then asked LB if she was sure that she could help him with her jacket on. She responded that she could. LB put her arms under Mr. B's arms and attempted to lift him. When she did so, he felt heavy to her, and he fell back on the bed in a sitting position. Mr. B asked whether LB was sure that she could help him with her heavy leather jacket on. She told him that the jacket was fine. LB attempted to lift Mr. B again and this time they both fell on the floor. She felt as if he pulled her down. She told him to let her go, in order to start the process again. He told her to wait a minute so he could use his hands. She stated that he should let go of her as she could not help him if she was on top of him. Mr. B then asked her to re-position her legs a certain way. LB responded by saying that was stupid, as she needed to be on her feet to help him.

LB then felt Mr. B's hand go up her jacket, at which point she started to scream and struggle. Mr. B put her in a choke-hold. She continued to scream for help. He stated he would choke her and proceeded to put his right hand over her mouth and nose. While his left hand remained in the choke-hold position.

LB felt like she was passing out. She kept screaming and kicking. She managed to grab a wooden brush and began to strike him in the fact with it. She kept quiet for a moment and then suddenly jumped up, freeing herself from his choke-hold, although he maintained a hold on her leg.

LB grabbed the blanket off of the window and threw herself on the bed, trying to free herself from Mr. B's grasp. At that point, he bit her on the left knee cap. She freed herself from his grasp. She yelled at him, demanding to know why he did that. He responded by accusing her of stealing from him. She denied this accusation; left the bedroom, grabbed her knapsack, and fled the apartment.