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CANADIAN SENTENCING DIGEST QUANTUM SERVICE Nadin-Davis & Sproule Release No. 9, September 2026

This release brings you a wealth of new case law digests covering a wide range of offences, with an emphasis on updates to Chapter 4 (Offences Against the Criminal Code). The following are of particular interest and importance:

- **Offences Against Rights of Property—Theft—Theft: Over \$5,000**—The accused, aged 72 at the time of the offences and 82 at sentencing, was convicted after a jury trial of theft by a person holding power of attorney and theft over \$5,000. The Crown sought a sentence of between twelve and eighteen months imprisonment, followed by probation and restitution. The defence argued for a conditional sentence order (“CSO”). The victim was the accused’s late common law partner. The victim had granted the accused a continuing power of attorney for property, at a time when she was already experiencing symptoms of dementia and not long before her admission into a long-term care facility. The power of attorney was terminated by the court three years later. The accused cynically and methodically breached his partner’s trust by using her money as his own and by fraudulently disposing of her property or fraudulently converting it to his own use. The accused misappropriated tens of thousands of dollars, if not hundreds of thousands of dollars (approximately \$150,000.00 was proven).

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- Mew J. commented that the accused effectively used the deceased as his personal automated teller machine. After claiming bankruptcy, the accused took out a Canadian Tire card in the victim's name, increasing the limit up to \$15,000.00. There was ongoing civil litigation with regards to the power of attorney and the will which named the accused as beneficiary. The PSR revealed that the accused was currently living in the home he previously shared with the deceased, with his partner who had moved in while the victim was in long term care. The accused had worked in sales and marketing for many years and then as a meeting planner. In connection with claiming bankruptcy, he was convicted of contravening the *Bankruptcy and Insolvency Act* by making false statements. The accused was still able to undertake a wide range of activities of daily living and his physical health was relatively good. He had moderate to severe depression and anxiety. He denied any wrongdoing and painted himself as a victim. The court agreed with the Crown's characterisation of the accused's conduct as intimate partner violence, through coercive and controlling behaviour. The aggravating factors included this and the accused's attempts to keep the victim's family at bay. The accused's bankruptcy convictions, the way he miscondacted himself when previously given a community sentence for those offences, and his repeated failure to follow court directions and orders prior to the recent trial were also relevant factors. There were no mitigating factors. Denunciation and deterrence (specific and general) were the primary sentencing principles. Mew J. had very little confidence in the accused's ability to be rehabilitated. After considering the accused age and health, the judge concluded that the accused should go to prison. However, nothing would be gained by adding a term of probation. The court imposed a sentence of one year imprisonment on the count of theft by a person holding power of attorney and a concurrent term of imprisonment of one year for theft over \$5,000. The court also made a restitution order of \$82,489.22 payable to the deceased's estate: *R. v. Ehrhardt*, 2025 CarswellOnt 20499 (Ont. S.C.J.).
- **Sexual Offences, Public Morals and Disorderly Conduct—Offences Tending to Corrupt Morals—Child Sexual Abuse and Exploitation Material**—The accused, aged 44, pleaded guilty to possession of child pornography. The Crown proceeded by way of indictment. The Crown sought a custodial sentence of between six to nine months, followed by one year of probation. The defence argued for an 18-month conditional sentence order ("CSO") with one year probation. A cleaning lady cleaning the accused's home found transcribed text messages between the accused and his co-accused, his romantic partner of 6 years, describing in detail sexual acts involving the latter co-accused's teenaged daughter. The messages were graphically vile, explicit, and revolting. The cleaning lady reported her findings to the girl's father and the police. Later, when confronted by the girl's father, the accused maintained the messages were pure fantasy and that he would never act on them. There was no dispute between the parties that the text messages constituted "child sexual abuse and exploitation material" ("CSAM"). The accused was employed in the technology industry. He was not in a position of trust vis-a-vis the 15-year-old girl. The mitigating circumstances included the early guilty plea; the accused had no criminal record; and he was remorseful. The accused had been actively involved in treatment. The aggravating factors included that the accused initiated the text exchange and the text messages constituted abuse of a child under 18 years of age (statutorily aggravating). Primary consideration was to be given to the objectives of denunciation and deterrence where sexual offences against children are involved. Regarding parity, the co-accused had been sentenced to three years probation. However, there were some distinguishing features including that the co-accused pleaded guilty to a different offence and possibly the woman's medical or mental health issues. The principle of parity however is secondary to proportionality. The parties agreed that there was no applicable mandatory minimum sentence in this case and that a sentence of less than two years was appropriate in the circumstances. Shoyele J. noted that *Friesen* had prescribed that sanctions for sexual offences against children (i.e., CSAM offences) should increase on a go forward basis. Penitentiary sentences were now the norm. CSOs were considered rare. Their availability must be limited to exceptional circumstances that would render incarceration inappropriate. The definition of CSAM is neither dependent nor based on the motive of the person who created the child pornographic material. A fantasy claim is not an exceptional circumstance. The accused's text stating that his "demographic is 12-13 years old" was profoundly worri-

some and concerning. The accused was also the initiator of the conversations. The defence pointed out that the offence did not involve videos or images that were typically found in most cases dealt with by the existing jurisprudence. However, Shoyele J. held that the privacy factor or consideration (that is, that sexual abuse and exploitation of children typically occurred in circumstances of privacy) alone militated against a CSO. The court noted that It was concerningly disturbing that one would never know what could have realistically happened, in the typical privacy that surrounds CSAM scenarios, especially considering that the girl was about to leave on a trip with the accused and her mother. The court imposed a period of 7 months incarceration, followed by 18 months probation, to include counselling and treatment. The court also made a 10-year SOIRA order and a 5-year s.161 order: *R. v. GRL*, 2025 CarswellAlta 3089 (Alta. C.J.).

- **Offences Against the Person and Reputation—Assaults—Assault**—The accused, aged 29 at the time of the offences and 31 at sentencing, was convicted after a judge alone trial of assault, assault causing bodily harm and mischief to property. The accused assaulted the victim, his intimate partner, on two occasions causing significant bruising and a fractured rib. The first assault involved the accused attempting to digitally penetrate the victim and spitting in her face, acts that were designed to humiliate and demean her. He also drove his vehicle into hers, when he became angry suspecting she was with another man. In her victim impact statement, the victim described how she suffered physical and psychological harm with ongoing issues. The accused reported a positive childhood. He was single and employed on a full-time basis as a heavy-duty equipment technician/mechanic. His employer described him as one of his best employees. The offences, committed in the context of an intimate partner relationship, were extremely grave. The accused's moral culpability was at a very high level. His offences did not involve negligence or carelessness but were intentionally committed because of jealousy and his desire to control the victim. Gorman J. stated that an assault against an intimate partner was not only an offence against the victim, but also against the community due to the long term and serious societal harm these offences cause. The changes to the *Criminal Code* enacted by Parliament supported enhanced penalties for perpetrators of domestic violence with denunciation and deterrence as the primary sentencing objectives (per *R. v. Cunningham*). Rehabilitation had a lesser role. In Newfoundland, significant periods of incarceration were being imposed for intimate partner offences, even when the offender had no prior convictions. Sentences for domestic violence must shift upwards. An offence involving abuse of an intimate partner was an aggravating factor on sentencing. Gorman J. reviewed and applied the relevant caselaw. The periods of imprisonment were to be served on a consecutive basis as each offence was separate and distinct. The sentence should not be unduly long or harsh. The Crown sought a sentence of incarceration of 9 months, followed by probation. The defence argued for a period in the range of six to eight months of incarceration, followed by probation. The judge advised counsel he had concerns with the range of sentence and provided counsel with the opportunity to make additional submissions. The court imposed a total sentence of 15 months (adjusted from 17 months in consideration of the mitigating factors) incarceration as follows: 7 months for assault, 7 months for assault causing bodily harm, consecutive, and one month for mischief, consecutive. The court also imposed a period of two years probation so that the accused could avail himself of long-term counseling and to offer protection to the victim. The accused was given 9 days of credit for time spent in pre-sentence custody: *R. v. Sheppard-Jones*, 2025 CarswellNfld 364 (Nfld. P.C.).