



IN THE PROVINCIAL COURT OF SASKATCHEWAN

Citation: 2019 SKPC 19

Date: March 22, 2019
Information: 90159984
Location: Melfort

Between:

Her Majesty the Queen

- and -

Jaskirat Singh Sidhu

Appearing:

Thomas Healey and Tyla Olenchuk
Mark Brayford, Q.C. and Glen Luther, Q.C.

For the Crown
For the Accused

SENTENCING DECISION

I.J. CARDINAL, J

Introduction

[1] On April 6, 2018, at approximately 5:00 p.m., a catastrophic collision occurred between a bus and a semi-tractor unit at the intersections of Highway 35 and Highway 335 near Nipawin, Saskatchewan. The bus was carrying the Humboldt Broncos hockey team, on their way to a playoff game. Twenty-nine people were on the bus, including the bus driver, hockey players, coaches, and others associated with the team. Sixteen people died and thirteen people suffered bodily harm.

[2] Jaskirat Singh Sidhu, the sole occupant and driver of the semi-tractor unit, was charged and pled guilty to sixteen counts of dangerous driving causing death, contrary to section 249(4) of

the *Criminal Code*, RSC 1985, c C-46 (*Code*). He also pled guilty to thirteen counts of dangerous driving causing bodily harm, contrary to section 249(3) of the *Code*.

[3] The sentencing hearing spanned four days from January 28, 2019 to January 31, 2019. Counsel filed an Agreed Statement of Facts, as well as a Forensic Collision Reconstruction Report (the Report): A number of victim impact statements were filed with the court.

[4] I must now determine, in all of the circumstances, a just and appropriate sentence that is in accordance with the objectives and principles of sentencing.

Factual Background

[5] The following is a summary of the facts.

[6] On April 6, 2018, at approximately 5:00 p.m., Mr. Sidhu was travelling west, on secondary Highway 335, toward the intersection of that highway with Highway 35. Highway 35 is considered a major arterial highway that connects the communities of Nipawin and Tisdale.

[7] The semi-tractor unit with its “Super B” configuration operated by Mr. Sidhu was 25.27 meters in length. It consisted of the semi-tractor unit followed by the lead trailer, then the pup trailer. With its load of 900 bales of sphagnum peat moss over the two trailers, the total weight of the semi-tractor and trailers was approximately 45,364 kilograms (Report, page 58).

[8] On Highway 35, the Humboldt Broncos transport bus, driven by Glen Doerksen, was travelling north towards Nipawin, and approaching the intersection with Highway 335. A car was stopped at the intersection on Highway 335 west, waiting for the bus to pass, and two vehicles were following behind the bus.

[9] The maximum speed limit on both highways is 100 km/h. It is accepted that Mr. Sidhu was approaching the intersection at a speed between 86 and 96 km/h. Prior to the collision with the bus, Mr. Sidhu passed the following signs:

- a) a "Junction Highway 35" sign located approximately 406 meters east of the intersection;
- b) a "Stop Sign Ahead" sign located approximately 301 meters east of the intersection;
- c) a "Gronlid ahead/Tisdale left/Nipawin right" sign located approximately 199 meters east of the intersection;
- d) a "Highway 35 South/Highway 335 West/Highway 35 North" junction sign located approximately 104 meters east of the intersection; and
- e) a "Stop" sign located approximately 19 meters east of the center of the intersection. This was an oversized stop sign, four feet in diameter, affixed to the light standard on the north shoulder of Highway 35. A functional red "traffic" light, which flashed once per second, was attached to the light standard, just above the stop sign (See photo on page 44 of the Report).

[10] The semi-tractor unit did not stop prior to entering the intersection. It left no tire marks due to braking.

[11] Immediately prior to the collision, the bus driver took evasive action and applied a hard brake. However, there was no way the bus driver could avoid the collision. The bus started to skid approximately 24 meters south of the point of impact, and struck the semi-trailer unit just forward of the wheels of the lead trailer.

[12] At the point of impact, Mr. Sidhu was travelling at a speed between 86 km/h and 96 km/h. The semi-tractor unit, together with the two trailers, was completely in the intersection and spanning all lanes of Highway 35, when it was struck in a T-bone fashion by the bus. At the point of impact the bus was travelling at a speed of 96 km/h to 107 km/h.

[13] The road conditions at the scene were suitable for safe driving. Both highways were observed to be smooth, dry, level asphalt, with no surface failures such as broken pavement, washboard, or potholes. The road surfaces in and around the intersection were unremarkable (Report, page 45).

[14] No environmental conditions contributed to the collision. The sky was clear and the position of the sun leading up to the collision was not a factor. The intersection was clearly visible to Mr. Sidhu as he was approaching it prior to the collision. Specifically, the trees in the south east quadrant, at the corner of the intersection, would not have obstructed Mr. Sidhu's ability to observe the bus approaching the intersection if he had stopped the semi-tractor unit to check for traffic before entering the intersection, as required by the posted signage.

[15] The semi-tractor unit was in good working order and the post-collision inspection revealed no mechanical issues.

[16] Alcohol and drugs were not a factor in the collision, nor was Mr. Sidhu believed to have been distracted as a result of using his cell phone at the time of the collision.

[17] The actions of Mr. Sidhu while operating the semi-tractor unit caused the collision. As can be seen in the photographs on pages 8, 9 and 15 of the Report, the collision resulted in massive damage to the bus, especially to the front portion.

[18] As a direct result of the collision, all 29 people on the bus were injured or killed.

[19] As a direct result of the collision, the following 16 people died:

- | | |
|---------------------------|--------------------------|
| 1) Tyler Bieber, age 29; | 9) Logan Hunter, age 18 |
| 2) Logan Boulet, age 20; | 10) Jaxon Joseph, age 20 |
| 3) Dayna Brons, age 24; | 11) Jacob Leicht, age 19 |
| 4) Mark Cross, age 27; | 12) Connor Lukan, age 21 |
| 5) Glen Doerksen, age 59; | 13) Logan Schatz, age 20 |
| 6) Darcy Haugan, age 42; | 14) Evan Thomas, age 18 |
| 7) Adam Herold, age 16; | 15) Parker Tobin, age 18 |
| 8) Brody Hinz, age 18; | 16) Stephen Wack, age 21 |

[20] Fourteen of the sixteen deceased individuals died at the scene of the collision; the remaining two deceased individuals died in hospital as a result of the injuries they suffered during the collision.

[21] As a direct result of the collision the following 13 people were injured:

- | | |
|-------------------------------|---------------------------------|
| 1) Graysen Cameron, age 19; | 8) Layne Matechuk, age 18 |
| 2) Brayden Camrud, age 19; | 9) Derek Patter, age 19 |
| 3) Kaleb Dahlgren, age 20; | 10) Nicholas Shumlanski, age 20 |
| 4) Bryce Fiske, age 20; | 11) Tyler Smith, age 19 |
| 5) Morgan Gobeil, age 18; | 12) Ryan Straschnitzki, age 18 |
| 6) Matthieu Gomercic, age 20; | 13) Jacob Wasserman, age 18 |
| 7) Xavier Labelle, age 18; | |

[22] Their injuries were significant as outlined in these passages from the Agreed Statement of Facts:

1. **Graysen Cameron** suffered back injuries including a fractured L4 vertebrae, a femur avulsion fracture, a concussion, and a cracked orbital bone. Graysen had surgery in November to remove metal rods and screws that had been placed in his back

in an attempt to improve his mobility.

He is currently in physiotherapy and rehabilitation.

2. **Brayden Camrud** suffered brain hemorrhages, some nerve damage to his left forearm, aspiration pneumonitis, as well as abrasions and small cuts to his hands.

At this time Brayden continues attending physiotherapy as a result of his injuries.

3. **Kaleb Dahlgren** suffered an acquired brain injury, head injuries including a fractured skull and scalp degloving as well as a puncture wound to the skull. He also suffered cervical or neck injuries including C3 and C7 fractures and cracks in his C4, C5, & C6 vertebrae. Furthermore, he suffered back injuries including fractures to his T6, T7, T8, and T9 vertebrae. He also had blood clots in one arm and behind one eardrum.

Kaleb continues to receive rehabilitation for the injuries he suffered. He is seeing a leading Neurologist in relation to his brain injury and in an attempt to determine if he will be able to play competitive hockey in the future. He is currently attending York University as a full time student.

4. **Bryce Fiske** suffered a neck fracture at his C1 vertebrae, the back of his skull was fractured, his left shoulder blade was fractured, his pelvis was fractured, his spleen was lacerated, his S1 vertebrae was fractured and his left lung was punctured. His jaw was fractured in 4 places, he is missing two teeth, and his tongue was severely injured. He was given a trach and has a significant scar on his lower lip and neck from the accident.

Currently, Bryce is able to move freely on his own. He has a significant amount of jaw pain and is still in treatment for his injuries. The majority of his treatment is for his jaw; he will require at least 1 more surgery for his jaw to be reconstructed. The range of movement and motion for his jaw is still limited and restricted at this time.

5. **Morgan Gobeil** suffered a traumatic brain injury. As a result of

the collision he had multiple skull fractures and a significant intracranial injury. He also suffered 3 facial fractures, multiple minimally displaced right sided rib fractures, a fractured right kneecap, an open fracture of his right ankle, a liver laceration and a spleen laceration. In addition, he suffered multiple bilateral minor contusions and lacerations to his head, arms, hands and legs, including a laceration on his right knee.

Morgan is currently a patient on the Rehabilitation ward at City Hospital in Saskatoon. He takes part in intensive physical therapy sessions where he is working on balance, sitting on his own, standing on his own, and taking steps, but he has not been able to do any one of those things independently yet. In speech therapy, he works on breath/diaphragm strength and has to completely relearn to talk. Occupational therapy is working with Morgan on motor function and daily living tasks such as eating, brushing teeth, etc. Morgan is medically stable at this time. He takes daily medication to control seizures as a result of the traumatic brain injury he suffered.

6. **Matthieu Gomercic** suffered a separated shoulder injury (AC Joint), and a concussion (he had bleeding in the brain). He also suffered abrasions to his right hand and the right side of his chin. As a result of the accident, Matthieu's spleen was enlarged, his teeth shifted, and his jaw was slightly displaced. He had a laceration on his right foot and bruising to his knees. The laceration to his foot became infected and he was hospitalized to deal with the infection.

At this time Matthieu continues to get regular headaches as a result of the collision and has problems with one shoulder. In addition, Matthieu continues to deal with emotional issues as a result of the collision on a daily basis.

7. **Xavier Labelle** suffered a fractured skull, facial fractures and lacerations as well as a traumatic brain injury resulting in post-traumatic amnesia for 2 weeks. He will have a neuro-psych assessment in April 2019 as a follow up to the brain injury. As a result of the collision, he had deep lacerations including a 20 cm facial laceration from his hairline, down the middle of his forehead and across his nasal bridge and left eyelid as well as

associated nerve palsy. He also suffered deep lacerations on his right occipital scalp. He now has scarring on his face, neck, head, arms, and back as a result of the trauma. These severe facial and other injuries made him unrecognizable, resulting in a mis-identification, to exacerbate the chaos, heartbreak, and complication for so many.

He suffered tears and sprains to his cervical spine ligaments. He had a right hemopneumothorax which required a chest tube, and bilateral severe pulmonary contusions. He suffered fractured ribs, a fractured scapula, a lacerated liver, a lacerated kidney, and a right sternoclavicular sprain. He suffered 16 fractures to his spine, including a burst L5 vertebrae which required surgery to stabilize. Unfortunately, at follow up in October, x-ray results showed that this fusion failed, indicated by two broken titanium screws embedded in the vertebrae, and loose rods, thereby requiring additional, and on-going investigation, medical/surgical assessment, which is currently in progress.

The L5 burst fracture also damaged the nerves to both of his legs affecting the right side more than the left. This initially affected his walking significantly, which has improved, but will take 1-2 years before the extent of healing is known. There was nerve damage to his left arm resulting in left shoulder muscle atrophy, affecting range of motion, strength and mobility. Xavier underwent surgery on December 19, 2018 to try to repair the damaged nerve involving about a 25 cm incision. The success of this surgery will not be known for 6-12 months.

These injuries resulted in initial 62 days in the hospital and have required an entire year to be dedicated to recovery including many appointments, physiotherapy, additional radiation from X-rays, CT scans, and other treatment, additional surgery, and investigation procedures. Xavier continues to face daily challenges associated with the injuries inflicted on April 6.

8. **Layne Matechuk** suffered a very severe traumatic brain injury. He suffered extensive facial fractures (sinus, orbital and mandible). He had numerous skull base fractures and a sternum fracture. Both of his lungs collapsed and he fractured his 2nd, 3rd and 4th ribs. His right index finger was also dislocated. He has been released from the hospital but is still suffering with very

significant injuries that are expected to be long term.

Layne is able to walk, but has a significant limp. Lane continues to have great difficulty using his one arm, in part as a result of the injury to his brain.

Moving forward, it is expected that the difficulties with Layne's leg and arm are expected to continue for the remainder of his life. It is not possible at this point to determine the extent to which Layne will recover from the Traumatic Brain Injury he suffered.

9. **Derek Patter** suffered a subdural hemorrhage, a right tibia (shin) fracture, a right fibula fracture and a nasal bone fracture as well as other significant cuts and bruises.

At this time Derek's recovery is ongoing. Derek continues to struggle at times with his leg. He was recently experiencing issues with his leg and visited with the surgeon who told him he still has healing to do, and that as a result of the rod in his leg, and screws still in his knee, his leg will never again be like it was before the accident.

10. **Nicholas Shumlanski** suffered a fractured right mastoid (behind the ear), and an L4 lumbar avulsion fracture.

Nick has been advised that the physical injuries to his ear may never heal but he does not expect that this particular injury will have a significant effect on him in the future. His back seems to have healed, but he continues to deal with emotional issues as a result of the collision.

11. **Tyler Smith** suffered 2 broken ribs, a broken shoulder blade, a broken collar bone and a punctured lung. Tyler had 6 inches removed from his small intestines due to the injuries he suffered. As a result of the accident, Tyler also suffered a stroke, and he is required to take aspirin daily; it is expected that he will require an MRI yearly going forward. Tyler also suffered severe nerve damage to his left shoulder and arm. He has recovered approximately 90% of the use of his hand, but doctors are unable to say whether he will ever regain 100% use of his hand again.

While working on his broken collar bone, doctors were required to use a plate and screws in an attempt to repair the damage.

- 12. Ryan Straschnitzki** suffered a “brain bleed” or stroke-like symptoms, concussion with memory loss, cracked right shoulder blade, collapsed right lung, bruising to the chest, neck and right side, chest contusion, altered or loss of sensation to right arm and right leg down to fingers and foot, right knee damage, as well as possible molar and partial plate damage.

At this time as a result of the accident Ryan continues to have no sensation to his lower body or his extremities.

In summary Ryan is now paralyzed from the chest down; he has the use of his arms and his hands. Ryan says his arms are now required to serve as his legs. This injury is expected to be permanent.

- 13. Jacob Wasserman** suffered a brain injury, a broken shoulder blade, a broken xiphoid bone (bone at the bottom of the breast bone), 5 fractured ribs, and nasal bone fractures. Both his left and right lung collapsed and he had mid back injuries (T9 and T10 fractures). He suffered a spinal cord injury which resulted in a complete lack of motor and sensory function below the level of his injury on his mid back.

In summary Jacob is now paralyzed from the navel down and it is expected to be a permanent injury.

Moving forward, Jacob’s brain injury will be reassessed after one year, his lungs and broken bones, (except for his spine) have healed. He now has 2 titanium rods and 10 screws in his back which cannot be removed for 2 years. Jacob attends physiotherapy approximately 3 times a week to get stronger and learn new ways to live with paralysis.

Victim Impact Statements

[23] Pursuant to s. 722(1) of the *Code*, when determining the sentence to be imposed, the Court must consider any statement of a victim describing the physical or emotional harm, property

damage or economic loss suffered by the victim as the result of the commission of the offence and the impact of the offence on the victim. Other information, such as a recommendation as to the length of sentence, is not part of the victim impact statement, and must be disregarded by the Court (s. 722(8)).

[24] Ninety (90) victim impact statements were filed with the court. The majority were read in open court by family members or by Ms. Olenchuk, Crown counsel. Four survivors of the collision declined to provide victim impact statements, as is their right.

[25] In addition to having heard and observed those who presented victim impact statements in court, I have reviewed all victim impact statements filed. It is impossible for me to refer to each and every one of the statements, but I will try to summarize what many of the victims have expressed. I want all victims and families to know their voices have been heard in these proceedings.

[26] The loss expressed by the families and friends of those killed and injured is staggering. It was extremely difficult for them to come forward, in the wake of this horrific event, to share their experiences in a public forum, and to speak to this most intimate of pain and overwhelming sorrow.

[27] Those who died or were injured were not defined just by their association with hockey. They were gifted athletes, community leaders, and team builders with hopes and dreams for the future. Some were going to university, or considering employment, while others were already in the workforce. Some were dreaming of having a family, while others were already raising their families. Some were dreaming of a hockey career in the national league, while some were pursuing other avenues. They were simply going about their daily lives prior to the collision.

[28] As they learned of the collision, families, desperate, began phoning around for information of their loved ones. Some spoke of the frenzied drive to the scene or the hospital, only

to find they had to go elsewhere for answers – answers to questions they did not want to ask and answers to questions they did not want to hear.

[29] The sights and sounds they experienced at the scene, the hospital and the morgue haunt many. Most find the pain and heartache unbearable. Survivors feel a sense of guilt at having survived the horrific crash when so many perished.

[30] Families have been torn apart over the loss. Unable to cope, some cannot return to work. They are listless and find it difficult to concentrate on the task at hand. Careers and personal relationships seem unimportant when death and serious injuries are at the front of one's mind. Most do not know how to respond to a simple inquiry as to how they are doing. They are prone to depression, anxiety and emotional outbursts. Many are in counselling, or taking medication to help them deal with the emotional turmoil. Some turn to their faith and friends for comfort. Others turn inward and isolate themselves.

[31] Many families of survivors feel that while their loved ones are slowly recovering, these young men are putting on a brave face in an attempt to be strong and so as not to upset others. Concerned, they know they will face significant hurdles coping once the full impact of their loss and injuries materialize. While they have received an outpouring of support and love, all would rather their loved ones were back with them as they were before this tragedy consumed them.

[32] Just as their response to the suffering varies, so too does their response to Mr. Sidhu. Some are and will remain angry. Some have, and others might eventually, forgive him for his actions. Some never will.

Circumstances of the Offender

[33] Jaskirat Singh Sidhu is thirty years of age, married, with no children. He is originally

from India, where he obtained a commerce degree. In late 2013 he came to Canada and obtained a diploma in business administration while working part-time. While most of his family remains in India, Mr. Sidhu has the continued support of his family and friends.

[34] In the summer of 2017, Mr. Sidhu took a short training course and obtained a commercial truck driver licence. On March 17, 2018 he began driving for a small trucking company in Calgary, Alberta, driving a “B-train”. During the first two weeks of his employment, he drove with another person, whether it was another driver or the owner of the company. He began driving on his own in the third week.

[35] He did not testify at the sentencing hearing, but learned counsel on behalf of Mr. Sidhu explained events leading up to the collision. He was well rested on April 6, 2018, when he drove from Saskatoon to Carrot River to pick up a load of peat moss at a fertilizer plant. He had not been to this area before, and got lost and stuck on the side of the road. A passerby helped and he was able to attend to the plant, load and tarp his cargo and start his return journey. Approximately 10 to 15 minutes away from the fateful intersection, he noticed air was getting under a tarp and it was flapping. He pulled over, fixed it, and started on his way again.

[36] Unfortunately, as he drove, Mr. Sidhu focused on the tarps and the trailers behind him. He used the two side mirrors of the semi-tractor unit to keep an eye on the trailers, and given their lengths, he spent spans of time looking in the mirrors towards the back of the trailers. He saw the signs as he approached the intersection, but was so concerned about the tarps and the trailers that the signs and signals did not register.

[37] After the collision, he climbed up and out of the side of the overturned semi and heard the horrible sound of children crying, which continues to haunt him. Gradually he realized that he had gone through the intersection and caused the collision. He cooperated with police and voluntarily remained in Canada waiting for a decision concerning charges. Arrested in July 2018,

he was released on conditions, and has complied with them fully.

[38] He has no criminal record and has a clean driving record. He has not driven since the collision, and it is a condition of his release that he not drive.

[39] He accepts full responsibility for the collision. He realizes he took on more than he ought to, given his level of training and lack of driving skill.

[40] Mr. Sidhu expressed his profound and deep remorse in open court for the tragedy he has caused and the pain he inflicted on the victims and their families. He stood and addressed the families directly, and apologized to them.

Position of the Parties

[41] In addition to oral submissions, both counsel filed written briefs of law with sentencing decisions from across Canada. Counsel agree there is no similar case involving the offence of dangerous driving where such tragic consequences ensued.

[42] The Crown submits a sentence of 10 years of incarceration on each of the twenty-nine counts, concurrent to each other, is appropriate in the circumstances. They recognize the mitigating factors of early guilty pleas and the sincere remorse expressed by Jaskirat Sidhu. However, the Crown urges the Court to find Mr. Sidhu bears a high level of moral blameworthiness, as his actions led to the loss of sixteen lives, and left the thirteen survivors with significant injuries. The aggravating factors outweigh those in mitigation and demand the imposition of a lengthy period of incarceration.

[43] Mr. Sidhu submits the appropriate range of sentence is fourteen months to four and one half years' incarceration. He is a young man, thirty years of age, with no criminal record and a

clean driving record. He entered guilty pleas to all twenty-nine counts at the earliest opportunity, and is extremely remorseful. Further, as he is a permanent resident of Canada, but is not a Canadian citizen, he will be subject to an order of removal.

[44] Both parties agree a driving prohibition of ten years is appropriate. Neither party takes a position on other ancillary orders such as a firearm prohibition and providing DNA samples.

[45] Although there are sentences available that are less restrictive than incarceration, the parties properly agree that a period of incarceration is appropriate in these circumstances.

The Offences

[46] The offences of dangerous driving causing bodily harm and dangerous driving causing death arise from the underlying offence of dangerous driving. Section 249 of the *Code* states:

249. (1) Every one commits an offence who operates

(a) a motor vehicle in a manner that is dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place;

...

...

(3) Every one who commits an offence under subsection (1) and thereby causes bodily harm to any other person is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

(4) Every one who commits an offence under subsection (1) and thereby causes the death of any other person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

[47] By entering guilty pleas, Mr. Sidhu has relieved the Crown of its burden of having to prove the offences beyond a reasonable doubt. He admits his manner of driving meets the threshold of criminal conduct, and that he committed both the *actus reus* (guilty act) and had the necessary *mens rea* (guilty mind).

[48] Briefly, this means that he admits that he drove, in the words of the enactment, “in a manner that is dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place”. He also admits that he drove in a manner that showed a “marked departure” from the standard of the reasonable, prudent driver.

[49] The *actus reus* and *mens rea* of dangerous driving are the same whether the offence is dangerous driving *simpliciter*, or dangerous driving causing bodily harm or death (*R v Beatty*, 2008 SCC 5 at para 46, [2008] 1 SCR 49, at para. 46). However, the mental element of the offence, the *mens rea*, only attaches to the underlying offence, in this case, the offence of dangerous driving, and not to the consequences, that is, of causing death or bodily harm.

[50] While it is true Mr. Sidhu did not foresee that his manner of driving would cause death or injury, foreseeability of the consequences of dangerous driving is not a required element of the offences. As stated by the Supreme Court of Canada in *R v DeSousa*, [1992] 2 SCR 944 [*DeSousa*] at page 967:

...One is not morally innocent simply because a particular consequence of an unlawful act was unforeseen by that actor. In punishing for unforeseen consequences the law is not punishing the morally innocent but those who cause injury through avoidable unlawful action. Neither basic principles of criminal law, nor the dictate of fundamental justice require, by necessity, intention in relation to the consequences of an otherwise blameworthy act.

[51] Finally, this passage from *R v Bosco*, 2016 BCCA 55, 382 BCAC 212 serves as a reminder to all drivers:

[39] Driving offences are unusual in that otherwise law-abiding citizens... may be inclined to commit them without fully appreciating their criminality. Driving is a commonplace activity, and, to varying extents, human frailties like impatience, inattentiveness and impulsivity are ubiquitous. When drivers irresponsibly indulge such frailties from behind the wheel they imperil others in their orbit, sometimes with catastrophic consequences. All drivers are expected to know this and govern themselves accordingly. When they do not and harm ensues, the result is no mere accident. It is a true crime... [citations omitted]

Purposes and Principles of Sentencing

[52] Sentencing is not an easy task. As noted by the Supreme Court of Canada in *R v Lacasse*, 2015 SCC 64, [2015] 3 SCR 1089 [*Lacasse*]:

[1] Sentencing remains one of the most delicate stages of the criminal justice process in Canada. Although this task is governed by ss. 718 et seq. of the *Criminal Code*, R.S.C. 1985, c. C-46, and although the objectives set out in those sections guide the courts and are clearly defined, it nonetheless involves, by definition, the exercise of a broad discretion by the courts in balancing all the relevant factors in order to meet the objectives being pursued in sentencing. . . .

...

[3] The credibility of the criminal justice system in the eyes of the public depends on the fitness of sentences imposed on offenders. A sentence that is unfit, whether because it is too harsh or too lenient, could cause the public to question the credibility of the system in light of its objectives.

[53] As stated in *R v M.(C.A.)* [1996] 1 SCR 500 [*M.(C.A.)*] at page 559:

... In the final analysis, the overarching duty of a sentencing judge is to draw upon all the legitimate principles of sentencing to determine a “just and appropriate” sentence which reflects the gravity of the offence committed and the moral blameworthiness of the offender

[54] I am guided by the purposes and principles of sentencing contained within ss. 718 to 718.2 of the *Code*.

Fundamental Principle of Sentencing

[55] Proportionality is the fundamental principle of sentencing. Section 718.1 of the *Code* states: A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[56] The Supreme Court of Canada commented upon the principle of proportionality in *R v Nasogaluak*, 2010 SCC 6 at paras 41 and 42, [2010] 1 SCR 206:

[41] It is clear from these provisions that the principle of proportionality is central to the sentencing process... This emphasis was not borne of the 1996 amendments to the *Code* but, rather, reflects its long history as a guiding principle in sentencing... . It has a constitutional dimension, in that s. 12 of the *Charter* forbids the imposition of a grossly disproportionate sentence that would outrage society’s standards of decency. But what does proportionality mean in the context of sentencing?

[42] For one, it requires that a sentence not *exceed* what is a just and appropriate, given the moral blameworthiness of the offender and the gravity of the offence. In this sense, the principle serves a limiting or restraining function. However, the rights-based, protective angle of proportionality is counter-balanced by its

alignment with the “just deserts” philosophy of sentencing, which seeks to ensure that offenders are held responsible for their actions and that the sentence properly reflects and condemns their role in the offence and the harm they caused. Understood in this latter sense, sentencing is a form of judicial and social censure. Whatever the rationale for proportionality, however, the degree of censure required to express society’s condemnation of the offence is always limited by the principle that an offender’s sentence must be equivalent to his or her moral culpability, and not greater than it. The two perspectives on proportionality thus converge in a sentence that both speaks out against the offence and punishes the offender no more than is necessary. [*Citations omitted*]

[57] More recently, in *Lacasse*, the Supreme Court of Canada reiterated the importance of proportionality, at paragraph 12:

[12] In such cases, proportionality is the cardinal principle that must guide appellate courts in considering the fitness of a sentence imposed on an offender. The more serious the crime and its consequences, or the greater the offender’s degree of responsibility, the heavier the sentence will be. In other words, the severity of a sentence depends not only on the seriousness of the crimes’ consequences, but also on the moral blameworthiness of the offender. ...

and at paragraph 53: ...

[53] ...Proportionality is determined both on an individual basis, that is, in relation to the accused him or herself and to the offence committed by the accused, and by comparison with sentences imposed for similar offences committed in similar circumstances. Individualization and parity of sentences must be reconciled for a sentence to be proportionate: s. 718.2(a) and (b) of the *Criminal Code*.

Gravity of the Offence

[58] The maximum sentences Parliament has assigned to these offences is an indication of the

gravity of these offences. Mr. Sidhu is subject to a maximum sentence of fourteen years' incarceration for each of the counts of dangerous driving causing death and for a maximum sentence of ten years incarceration for each of the counts causing bodily harm. The fact that Parliament has recently increased the maximum sentence for dangerous driving causing death to life imprisonment and for dangerous driving causing bodily harm to fourteen years imprisonment also underscores the gravity of these offences. As the offences occurred before the increases in the maximum penalties came into force on December 18, 2018, as a matter of law, Mr. Sidhu is subject to the lesser penalties.

[59] The Supreme Court of Canada has stated on a number of occasions that the gravity of the offence, or the consequences of one's criminal actions, will be an important factor in the sentence given to an offender. In *DeSousa* at pages 966-967, our highest court observed:

Conduct may fortuitously result in more or less serious consequences depending on the circumstances in which the consequences arise. The same act of assault may injure one person but not another. The implicit rationale of the law in this area is that it is acceptable to distinguish between criminal responsibility for equally reprehensible acts on the basis of the harm that is actually caused. This is reflected in the creation of higher maximum penalties for offences with more serious consequences. Courts and legislators acknowledge the harm actually caused by concluding that in otherwise equal cases a more serious consequence will dictate a more serious response.

Moral Blameworthiness

[60] Determining an offender's moral culpability, or moral blameworthiness, is not the same as determining the *mens rea* of an offence. The assessment of moral blameworthiness was recently visited in *R v Stonechild*, 2017 SKQB 138. There the Court adopted this passage from *R v LaBerge*, 1995 ABCA 196, 165 AR 375:

[7] How should a court determine the moral blameworthiness of an offender for a crime? What makes one offender more or less culpable than another for what he has done? The first point is that, for sentencing purposes, one must make a clear distinction between fault in terms of an offender's *mens rea* at the time of the commission of an offence and fault in terms of an offender's overall moral blameworthiness for the crime. The two are not the same. Confusion sometimes arises because fault for conviction purposes generally turns on the question of an offender's *mens rea*. This doctrinal aspect looms large in assessing criminal culpability because of the need to ensure that the offender's mental state meets the constitutionally required level of moral blameworthiness to convict him of the offence in question: *R v Martineau*, [1990] 2 S.C.R. 633.

[8] However, for sentencing purposes, a court is not limited to evaluating moral blameworthiness in terms of an offender's mental state. Indeed, it would be quite wrong to engage in that kind of acontextual analysis. That is because the offender's level of moral culpability will be influenced by other factors. ...

[9] ...Only when the offender's proven mental state at the time of commission of the offence is evaluated in the context of the crime itself, in other words in terms of its relative degree of seriousness, is it possible to classify for sentencing purposes the degree of fault inherent in the crime committed.

[10] To complete the moral blameworthiness picture and to ensure that an offender is properly situated in terms of sentencing *vis a vis* others convicted of the same offence, the court must also have regard to those personal characteristics of the offender which would mitigate or aggravate culpability.

[61] It is important to remember that moral blameworthiness is a determination of where the accused's behavior fits within the range of seriousness for the offence for which he is convicted. Dangerous driving offences occur in many different circumstances. As the seriousness of the

accused's behavior increases, so too does his moral blameworthiness.

Fundamental Purpose of Sentencing

[62] As stated in s. 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 and the harm done to victims or to the community that is caused by 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.

[63] While the objectives of sentencing vary from case to case, it is clear that denunciation and deterrence play a major role in sentencing offenders whose dangerous driving results in death or bodily harm.

[64] Concerning denunciation, the Supreme Court of Canada in *M.(C.A.)*, at para 81 noted:

[81] ...The objective of denunciation mandates that a sentence should also communicate society's condemnation of that particular offender's conduct. In short, a sentence with a denunciatory element represents a symbolic, collective statement that the offender's

conduct should be punished for encroaching on our society's basic code of values as enshrined within our substantive criminal law. ...

[65] Recently, in *R v Lavoie*, 2017 SKQB 265 [*Lavoie*], Madame Justice Dovell noted at paragraphs 33 and 34:

[33] In dangerous driving cases, however, denunciation and deterrence play a significant role in maintaining public confidence in the administration of justice.

[34] Although this Court in 2015 made the point in *R v Dunford*, 2015 SKQB 386, 92 M.V.R. (6th) 26 (Sask. Q.B.), that sentences in dangerous driving cases must deter others from driving dangerously, particularly in a highway construction zone, we keep getting situations in which individuals are convicted of dangerous driving within those construction zones. This must stop. Not only truck drivers driving huge heavy "death machines" but all drivers of all vehicles driving in construction zones must follow the law and reduce their speed and drive attentively. Just too many things can go wrong. Construction zones are very dangerous places to be in for everyone, both the construction workers and the occupants of every vehicle that enters that construction zone.

[66] These comments apply equally to situations where a major intersection is involved and drivers are required to adjust their driving to meet their responsibility to stop at an upcoming stop sign.

Other Sentencing Principles

[67] The secondary principles that a court which imposes a sentence shall also take into consideration are stated in s. 718.2:

(a) a sentence should be increased or reduced to account for any

relevant aggravating or mitigating circumstances relating to the offence or the offender...;

...

- (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 and consistent with the harm done to the victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

[68] I must consider the relevant aggravating and mitigating factors that play a part in determining a fit sentence.

[69] With respect to the aggravating factors, the most significant aggravating factor is that Mr. Sidhu's actions directly killed sixteen innocent people, and caused life altering injuries to thirteen innocent people. The devastating impact this collision and its aftermath have had on the survivors and the families and friends of those on the bus simply cannot be measured. Those injured face life-long challenges as a result of physical and psychological injuries, as do those who lost loved ones or must now help the injured cope with their loss. The impact of this catastrophe will reverberate across Canada for years to come.

[70] Mr. Sidhu was operating a large, heavy commercial vehicle. Its extended length and overall weight mandated extra care and attention by the driver to his surroundings and especially to other drivers on the highways.

[71] Jaskirat Sidhu was a trained, professional commercial driver who was working at the time of the collision.

[72] This was not a momentary lapse of attention but a prolonged period of inattention to the task at hand. He missed five highway signs, including a stop sign, four feet in diameter, with a flashing light above it that was visible well in advance of the intersection. He had ample time to stop his unit and avoid the collision. Yet, he did not brake, reduce his speed nor take any evasive action.

[73] Although he was not speeding, his speed was excessive given he was approaching a major intersection that was clearly visible, and had multiple signs indicating a reduction in speed was required.

[74] Concerning the mitigating factors, a significant mitigating factor is that Mr. Sidhu entered guilty pleas to all twenty-nine charges at the earliest opportunity. This saved the Crown, and the public, from having to call a number of witnesses over a number of days, at great expense. Most importantly, it saved the survivors and all families of those killed and injured from having to relive the tragedy in its entirety. In my opinion, this moves Mr. Sidhu's sentence out of the range of the maximum sentence for these offences.

[75] I accept that Mr. Sidhu is sincere in his remorse for the devastation his actions have caused. He turned to address the victims and their families and expressed his deep regret to them for the harm he has inflicted. Although he was not physically injured, I accept he will suffer psychologically knowing the destruction he has wrought.

[76] Other mitigating factors include that Mr. Sidhu is a young man, being thirty years of age, who has no previous criminal record and a clean driving record. No alcohol or drugs were

involved, nor was Mr. Sidhu using his cell phone at any point prior to the collision while he was driving. He also faces the prospect of deportation as a result of these convictions.

Sentencing Cases

[77] Parity in sentencing refers to ensuring that offenders who have committed similar crimes in similar circumstances are given similar sentences. Judges often refer to other judicial decisions to determine the applicable range of sentences. Parity plays a role in a sentence that is proportionate, as noted in *Lacasse*.

[78] However, sentencing ranges are not “straightjackets”, or “averages” but merely guidelines to assist judges in exercising their discretion to arrive at a fit and proper sentence (*Lacasse*, para. 57).

[79] Sentencing is an individualized process. As stated in *Lacasse* at para. 58:

[58] There will always be situations that call for a sentence outside a particular range: although ensuring parity in sentencing is in itself a desirable objective, the fact that each crime is committed in unique circumstances by an offender with a unique profile cannot be disregarded. The determination of a just and appropriate sentence is a highly individualized exercise that goes beyond a purely mathematical calculation. It involves a variety of factors that are difficult to define with precision. This is why it may happen that a sentence that, on its face, falls outside a particular range, and that may never have been imposed in the past for a similar crime, is not demonstrably unfit. Once again, everything depends on the gravity of the offence, the offender’s degree of responsibility and the specific circumstances of each case. ...

[80] Thus, while counsel have filed numerous decisions concerning sentences imposed in cases of dangerous driving, these will serve as a guide only. Usually a court looks across its own

province to determine a range of sentences, as we are bound to follow the range of case law outlined by the superior courts in our province. However, both counsel indicate there is no case in Saskatchewan similar to the case before me, nor is there one in Canada. I find that a review of cases across Canada, rather than just Saskatchewan, may assist in determining an appropriate sentence.

[81] I will focus upon similar cases involving similar offenders operating similar vehicles to that of the accused. In all of the cases that follow, the courts place some emphasis on the fact the accused was operating a large heavy truck or semi unit. It is well recognized in the cases submitted by both parties that professional drivers are under a heavier obligation and greater responsibility than non-professionals.

[82] In *R v Saini*, 2018 ONSC 5260 [*Saini*], the accused was found guilty after trial of four counts of dangerous driving causing death and nine counts of dangerous driving causing bodily harm. The 72 year old professional driver was operating a fully loaded transport tractor and trailer travelling through a construction zone on Highway 401 in Ontario. Weather and visibility were good and the roads dry. No alcohol or drugs were involved. He failed to foresee stopped and slowing traffic due to the construction and lane closures. His speed was excessive in the circumstances, and he failed to slow down or apply his brakes in a timely manner. He collided with a vehicle ahead of him but kept moving without taking evasive action. Twenty vehicles were involved in the domino effect caused by his driving. The collision area was 1.6 km inside the construction zone. Mr. Saini had a clear, unobstructed view of the collision scene for some distance and could have stopped his vehicle within 60 to 63 meters with a hard braking.

[83] Unfortunately, there is no reported sentencing decision. An article by the Canadian Broadcasting Corporation was filed, reporting that Mr. Saini was sentenced to six years' incarceration and a ten year driving prohibition. Mr. Saini did not have a criminal record. It appears he did not accept responsibility for his actions. According to the article, the sentencing

judge indicated the sentence must send a message to others.

[84] In *R v Bagri*, 2017 BCCA 117 [*Bagri*], the accused was operating a semi-tractor, pulling two unloaded flat decks. He stopped at a brake check stop at the top of a downhill grade to check his brakes, but did not get out of his vehicle to do so properly. He pulled back onto the highway, which was wet, and had a series of curves. He felt he was travelling too fast through the first curve, and took his foot off the accelerator. This activated the engine-retarding brake, and the unit jackknifed across the road, striking a vehicle and killing all four occupants. He was found guilty after trial.

[85] The trial judge found that he was travelling in the range of 80 km/h, at about the posted speed limit, but above the 60 km/h posted limit on advisory warning signs at a number of intervals before the accident scene. He also travelled over the centre line, encroaching on the two lanes for oncoming traffic before the unit jackknifed. Mr. Bagri had no criminal record, and expressed empathy for the victims, but continued to deny culpability for his actions. He had a driving abstract with a number of offences, including two violations for using an electronic device while driving after the offence but before sentencing. He was 45 years of age, and a professional driver with nine years' experience. He was sentenced to three years' incarceration, concurrent, on each of the four counts of dangerous driving causing death, and a five year driving prohibition.

[86] In *Bagri* the British Columbia Court of Appeal, in upholding the sentence, noted:

[23] ...The critical aggravating factors considered: that the accused was a professional driver; and that, while his negligence had not lasted very long, it had caused more than one death;. ...

...

[29] In my opinion, the trial judge cannot be said to have erred in placing some emphasis upon the appellant's status as a professional driver and the fact he was driving a large heavy truck that posed a great risk to the public if driven dangerously. ...

[30] In the circumstances, I cannot say the case clearly fell at the low end of moral culpability. The trial judge did not err in giving effect to Parliament's intention to treat the consequence of death to be an aggravating factor and hence, to regard negligence causing multiple deaths to be deserving of a more severe sentence. ...

[87] In *Lavoie*, Madame Justice Dovel imposed concurrent sentences of three years' incarceration on each of three counts of dangerous driving causing death and one year incarceration concurrent on one count of dangerous driving causing bodily harm. Mr. Lavoie, a professional truck driver operating a loaded semi-tractor, drove through a construction zone without heeding any of the six signs within the first 600 meters of the zone. The victims were stopped in a line of vehicles and were killed instantly when Mr. Lavoie drove into the back of their small car, pushing it into a larger vehicle. The chain reaction seriously injured the flag person. At the point of impact, Mr. Lavoie was travelling at 84 km/h, exceeding the posted speed of 60 km/h. There were no skid or brake marks prior to the collision. He told police he could not recall driving through the construction zone and that he had gone into "auto pilot". No alcohol or drugs were involved. He had a dated conviction for impaired driving in 2001, but a clean driving record.

[88] In *R v Rij* (1993), 44 MVR (2d) 299 (Ont Ct J), the accused was a professional driver with 17 years' experience. He was driving a 5 ton truck and deliberately ran a red traffic light, striking another vehicle, killing one occupant and injuring another. He was sentenced to five years' incarceration. No alcohol or drugs were involved. He had a poor driving record. Both his lack of remorse and the deliberate nature of his actions were aggravating, but at paragraph 6 the Court noted "there is case law which I believe supports my view that professional drivers are under a heavier obligation and greater responsibility than non-professionals".

[89] In *R v Ernst*, [2006] AJ No 949 (QL) (Alta QB) [*Ernst*], the accused was convicted of one count of dangerous driving causing death and sentenced to two and one-half years

imprisonment and a six year driving prohibition. The accused, a professional driver, was operating a dump truck pulling a flatbed trailer with paving equipment. He ran into the back of a vehicle stopped at a red light, which killed the occupant, and caused a chain reaction involving nine other vehicles. No alcohol or drugs were involved. Prior to the collision, he had been weaving in and out of traffic, and did not slow down as he approached the amber light at the intersection. His estimated speed at the time of the collision was 45 to 50 km/h, but it was noted that “no high speed was recorded”. His truck was in proper mechanical condition, but the trailer brakes were not operational. He had an “unimpressive overall driving record”. The accused indicated the collision occurred because he had been driving for 12 to 14 hours per day for the previous four days and was tired.

[90] In *Ernst* at para. 25, the Court observed:

As we all know, a great deal of responsibility is assumed by those who drive professionally, and I have no doubt that by far the largest segment of the professional driving public here and elsewhere is comprised of mature adults, well-trained and capable of exercising good judgment. When we take to the streets each day, Calgarians exercise an act of trust, trust that others on the roadway are driving the way that the law requires. Trust that those operating large, heavy vehicles requiring special licences to even operate are being driven by responsible professionals. Those who fail to do so can produce catastrophic results. ...

[91] As is apparent, the actions of Jaskirat Sidhu are not comparable to any case cited by the Crown or defence. While the above cases provide a sense of the penalties imposed across Canada for dangerous driving causing death or bodily harm where a large vehicle is being operated by a professional driver, they are but a guide. As the cases themselves indicate, sentences are fact-specific. As the facts vary, and as the aggravating and mitigating factors vary, so too will the sentence.

Analysis

[92] I approach this matter with the recognition that no sentence I impose will make the victims or families whole again or ease the suffering they endure. Nothing can turn back the clock and return the victims, the families, or Mr. Sidhu to the place they were before this tragedy unfolded.

[93] This collision was avoidable. Jaskirat Singh Sidhu was solely responsible for this collision as evidenced by the forensic accident report. He missed key indicators of an approaching intersection, and his prolonged inattention resulted in the deaths of sixteen people and caused bodily harm to thirteen others.

[94] I accept that Mr. Sidhu did not deliberately drive through the intersection in the sense that he was trying to meet a deadline or that he was running late. However, the focus cannot simply be upon what occurred at the intersection. I must consider everything that led up to his driving through the intersection and the resulting catastrophic collision.

[95] As he approached the intersection, Mr. Sidhu had a clear view of the scene in front of him. Nothing was blocking his view as the trees in the south-east quadrant were not an issue. However, he failed to take note of the approaching intersection, the approaching bus, or the five signs indicating an intersection with a stop sign was ahead. Had he done so, he should have made the conscious decision to start adjusting his driving so as to do what was required in the immediate future – to bring his large, heavy rig to a complete stop at the intersection.

[96] Despite its large size and weight, the semi-tractor and trailers could be brought to a stop in a short distance. Calculations were done to determine the “distance to skid” in a panic braking situation, based on the perception-reaction time of 1.5 seconds for a sober, rested driver (Report, page 44). This showed that at 86 km/h Mr. Sidhu could have stopped his rig in 99.61 meters. At

96 km/h, in a panic braking situation, the unit could have been brought to a stop in 119.10 meters.

[97] Using these calculations, and as illustrated by the chart at page 43 of the Report, Mr. Sidhu had ample time to react – over 400 meters and nearly 15 to 17 seconds – as he approached the intersection, had he been paying attention. As noted at page 44 of the Report, had he been travelling at 86 km/h, and only noticed the sign “Highway 35 South/Highway 335 West/Highway 35 North” immediately before the stop sign, and reacted by making a threshold braking application, the collision would not have occurred. This fourth sign was 104.3 meters east of the stop sign so the semi would have skidded to a stop before reaching the stop sign. Even if the semi was traveling at a speed of 96 km/h, it would have skidded past the stop sign, and the impact would have been narrowly, but completely, avoided.

[98] The semi-tractor unit with its “Super B” configuration was a huge, heavy, and deadly vehicle. It was made even more so by an inexperienced operator in unfamiliar territory who was not giving his full attention to the road ahead of him. He continued past the stop sign without any attempt at braking or evasive action. His large unit straddled both lanes of the highway and left no avenue of escape for the bus.

[99] It is baffling, and incomprehensible, that a professional driver, even one with little experience, could miss so many markers over such a long distance. His inattention displays risky behaviour given he saw the signs but they did not register because he continued to focus on the trailers behind him.

[100] I find Mr. Sidhu’s moral blameworthiness to be high, especially considering his prolonged inattentiveness while operating a large, loaded semi and the tragic consequences that flowed from his actions. These offences require a strong message of deterrence and denunciation be sent to ensure Mr. Sidhu never operates a vehicle in such a dangerous manner, and that others, especially operators of large vehicles, understand that the dangerous operation of a motor vehicle

will result in lengthy sentences of imprisonment.

[101] Somehow we must stop this carnage on our highways. It should not take an event such as this to make people realize that operating a motor vehicle requires the full attention of the driver. Stop signs must be obeyed and everyone, regardless of what type of motor vehicle they are operating, must come to a complete stop before proceeding. As is apparent in this case and the cases noted, seconds matter. Attention to the road matters.

Conclusion

[102] Arriving at a just and appropriate sanction requires a balancing of the relevant principles of sentencing, keeping in mind the overall sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. Having considered all of the sentencing principles outlined in the *Code*, the circumstances of the offence and the offender, aggravating and mitigating circumstances, as well as other sentences given to other offenders in similar circumstances, I find that a significant period of incarceration is warranted.

[103] If it can be said that there is a sentencing range outlined by the case law for these offences in Saskatchewan or Canada, based on the cases cited, then this case is clearly outside that range. The longest sentence handed down was in *Saini*, being six years' incarceration, after trial, where four died and nine were injured. Even taking into account Mr. Sidhu's guilty pleas, and even if it could be said his moral blameworthiness was less because his actions were not deliberate, a sentence of more than six years is mandated due to the horrific consequences of his actions.

[104] Concurrent sentences are appropriate, rather than consecutive, given the offences all arise from the same circumstances. The principles of totality and restraint also guide this decision. I prefer to assign a significant sentence and order all sentences concurrent to each other. If I were to order Mr. Sidhu to serve even short periods of incarceration consecutive to each other, it would

not send the same message as a single, lengthy sentence, and would otherwise result in an unduly long and harsh sentence given the number of counts in the information.

[105] On count one, dangerous driving causing death, I sentence Mr. Sidhu to eight years' incarceration. On each of counts 2 through 16, inclusive, the remaining counts of dangerous driving causing death, I impose sentences of eight years' incarceration, concurrent to count 1 and concurrent to each other.

[106] On each of counts 17 through 29, inclusive, being the thirteen counts of dangerous driving causing bodily harm, I sentence Mr. Sidhu to five years' incarceration, concurrent to each other and concurrent to counts 1 through 16 inclusive.

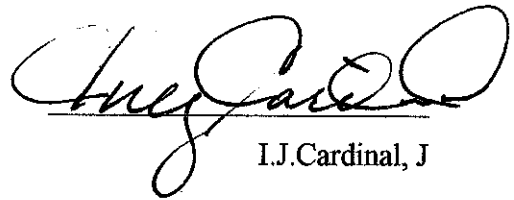
Ancillary Orders

[107] There are ancillary orders in the *Criminal Code* that flow from a conviction for dangerous driving causing death or bodily harm. Driving prohibitions are discretionary orders for each offence in the information. Pursuant to s. 259(2)(b), I exercise my discretion and, on count 1 make an order prohibiting Mr. Sidhu from operating a motor vehicle on any street, road, highway or other public place in Canada. This order starts today and is for a period of ten years plus any period to which he is sentenced to imprisonment.

[108] These convictions are secondary designated offences for which an order for forensic DNA analysis may be made at the discretion of the sentencing judge. In exercising my discretion, I conclude it is in the best interests of the administration of justice to make an order considering the factors as contained within s. 487.051 (3) of the *Criminal Code*. These factors include the nature of the offences, the circumstances surrounding their commission and the impact such an order would have on Mr. Sidhu's privacy and security of person. Therefore, on count 1, I make an order in Form 5.04 for the taking of bodily samples from Mr. Sidhu for the purpose of DNA

analysis. I give the authorities 30 days from today to obtain those samples.

[109] In addition, a firearms prohibition is mandatory pursuant to s. 109(1)(a) and 109(2) of the *Code*. On count 1, I make an order prohibiting Mr. Sidhu from possessing any firearm, other than a prohibited firearm or restricted firearm, and any cross-bow, restricted weapon, ammunition and explosive substance during the period that begins today and ends ten years after his release from imprisonment. Further, I make an order prohibiting him from possessing any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life. I make the same orders on counts 2 through 29, inclusive, concurrent to count 1 and concurrent to each other.



I.J. Cardinal, J