

Action No.: 171350168Q1
E-File Name: ECQ20NASLUNDH
Appeal No.: _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

HER MAJESTY THE QUEEN

v.

HELEN DORIS NASLUND
NEIL SCOTT NASLUND

Accused

PROCEEDINGS

Edmonton, Alberta
October 30, 2020

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1 Proceedings taken in the Court of Queen's Bench of Alberta, Courthouse, Edmonton, Alberta

2

3 October 30, 2020

Morning Session

4

5 The Honourable Mr. Justice Sanderman

Court of Queen's Bench of Alberta

6

7 D.J. Sopko

For the Crown

8 D.D. Sprake

For the Accused H. Naslund

9 L.R. Fleming

For the Accused N. Naslund

10 B. Clarke

Court Clerk

11

12

13 (PORTION OF PROCEEDINGS NOT RECORDED)

14

15 THE COURT CLERK:

Can you just start over?

16

17 MR. SOPKO:

At the very beginning?

18

19 THE COURT CLERK:

The very beginning. I can read into the record

20 what you said.

21

22 MR. SOPKO:

That's okay. I'll start at the beginning.

23

24 THE COURT CLERK:

Okay.

25

26 MR. SOPKO:

I had asked that the Agreed Statement of Facts

27 that's six pages in length that's been signed by all parties and was previously read in to the

28 Court become Exhibit S-1 in these proceedings.

29

30 MR. SPRAKE:

By way of consent, Sir.

31

32 MR. SOPKO:

Thank you.

33

34 **EXHIBIT S-1 - Agreed Statement of Facts Relating to Helen Naslund**

35

36 MR. SOPKO:

I confirm for the record that both accused are

37 present in person, along with their counsel.

38

39 As you will recall, Sir, there was a guilty plea entered and accepted on count 2 to the lesser

40 offence of manslaughter, and we're here today, Sir, submitting that an 18-year period of

41 incarceration is a fit and proper sentence as it relates to Ms. Naslund and that she is entitled

1 to four months of pretrial credit, taking into account a short period of time in custody
2 followed by approximately a year on relatively moderate house arrest. So we're jointly
3 proposing that the sentence left to serve should be 17 years and 8 months.
4

5 As it relates to ancillary orders, I note in accordance with section 109(2) this is primary
6 designated offence. The minimum weapons prohib you can impose is ten years, and the
7 Crown is seeking life in the circumstances of this case. It's a primary designated DNA
8 offence. The Crown seeks that order. And, lastly, the Crown is seeking forfeiture of
9 Ms. Naslund's interest in all items that were seized by police as part of this investigation.
10

11 Crown is not alleging a record. It is a true joint submission in every sense of the word, as
12 is contemplated by the Supreme Court of Canada in *Anthony-Cook*, so I'll be relatively
13 short in my submissions, unless the Court has questions obviously, Sir.
14

15 I'll start from the premise that it's been repeatedly noted that the sentence for manslaughter
16 has the largest range of any sentence in the *Criminal Code*. It can go anywhere from a non
17 period of incarceration up to 25 years in gaol. *Laberge* is the guiding light as it relates to
18 manslaughter, addresses moral culpability of accuseds and acts as a guide for determining
19 what a fit and proper sentence is.
20

21 It's my respectful submission that in this case, we're nearing murder as it relates to the
22 moral culpability of Ms. Naslund. It's at the higher end of the spectrum and justifies the
23 sentence closer to the higher end of the range that's contemplated by the *Criminal Code*.
24

25 As it relates to mitigating factors, there is one very significant one. It's her guilty plea. It's
26 well in advance of trial, and I'm asking on behalf of both parties that it be attributed as
27 substantial mitigation in the circumstances.
28

29 The other factor which some Courts classify as mitigating and some don't is that she made
30 it to 56 years of her life with no prior criminal record, being otherwise a prosocial, hard-
31 working, contributing member of society. Whether that's mitigating or just another factor
32 is something that I'd ask you to consider in the joint submission that's before the Court.
33

34 There are a number of aggravating factors, Sir, that I'd ask you to consider in the
35 circumstance. First, in accordance with section 718.2 of the *Code*, this offence involved an
36 intimate partner and position of trust.
37

38 Second, it involved the use of a firearm. The reasonable foreseeability of harm with a
39 firearm involved is obviously greater.
40

41 Number three, this occurred in the victim's own home, a place where he's entitled to feel

1 safe.

2

3 Number four, he was particularly vulnerable in this case not only by being in his own
4 house, but being in a sleep in the bed that he shared with the accused in this case.

5

6 Number five, the accused's conduct which she's admitted to included six years of deceit
7 after killing the victim in this case. It involved false allegations to the police that consumed
8 resources, involved searches, and involved a suspicion of others who were innocent parties,
9 in an attempt to conceal what she had in fact done. There are other cases including *White*,
10 which I'm sure you're familiar with, where the father in that case -- or the husband in that
11 case was in front of the media saying we need to find, help me find. And at the end of the
12 day, it ended up being him who had committed the offence. And the Court was clear in that
13 case that that type of conduct needs to be denounced and deterred.

14

15 Lastly, the indignity that was done to his body after the fact, though she's not entering a
16 plea to that count, it is an aggravating factor for you to consider.

17

18 Here, Sir, I respectfully submit that when we look at section 718 in the *Criminal Code*, the
19 primary sentencing objective here must be denunciation and deterrence, though we can
20 never lose sight of the other factors outlined in section 718 of the *Code*.

21

22 I would submit on behalf of both parties that what we are proposing to you is, in fact, a fit
23 and proper sentence, and it is proportionate to the gravity of the offence and the degree of
24 responsibility of the accused in this case, which is the primary sentencing objective for
25 you, respectfully, Sir, as a sentencing judge.

26

27 Again, Sir, I reiterate that this is a true joint submission between me as a somewhat
28 experienced counsel and my friend as a very experienced counsel, taking into account both
29 the risks and benefits of proceeding to trial and coming to a conclusion that this is a fit and
30 proper sentence jointly put before you, as contemplated by the Supreme Court in *Anthony-
31 Cook*, Sir.

32

33 Subject to any questions that you have in relation to Ms. Naslund, those are my
34 submissions.

35

36 THE COURT:
37 questions.

No. Thank you very much, Mr. Sopko. I have no

38

39 MR. SOPKO:

You're welcome, Sir.

40

41 THE COURT:

Okay. Mr. Sprake.

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Submissions by Mr. Sprake

MR. SOPKO: My Lord, let me firstly begin by thanking my friend for his very fair submissions in this respect, but, secondly, thank him for his approach to this matter. I can advise you that he has been fair, open-minded, and has listened to the defence throughout. This is been a long-term negotiation that began between the Crown and the defence, as I became involved in the manner, in the spring of 2019, with meetings both by way of telephone and in person throughout the summer of 2019 and progressed from there.

When my friend indicates that this is a true joint submission, the words “plea bargain” come to mind. There was significant bargaining on both parties’ behalf in the sense that there were major triable issues. There was certainly evidentiary concerns. There was incredible risk on behalf of the accused, certainly significant jeopardy in that respect, and I believe that through the year of negotiating to get to this point -- and it was quite intensive negotiations, Sir -- that the fairest position was achieved. And, as a result, I would certainly urge you to accept the joint submission.

My friend is again correct in his recitation of both mitigation and aggravation in the circumstance and aggravating circumstances as described in 718. The guilty plea here avoided what was scheduled to be six weeks of trial. Numerous witnesses, significant police resources went into the investigation, and it would have been -- would have had to have been recounted.

Again, my friend is correct in that the lack of criminal record in this respect may not necessarily be considered mitigating, but given the seriousness of the act before you, in my most respectful submission, it is a rare individual that appears before these Courts at her age, with her background, having been charged and now convicted of an incredibly serious offence. It is rare in that respect.

By way of personal circumstances, Your Honour, I can -- My Lord, I can advise you that Helen Naslund comes before you by way -- she’s 56 years of age. I can advise you that she was raised by her married birth parents on a dairy farm in the Meeting Creek area of Alberta, between Camrose and Stettler. She’s from a large family and is the last born of eight children, with four older brothers and three older sisters.

Her upbringing was, I suspect, typical of the era and the approach by her parents in that outwards affection and expressions of love were different than what we see today. It was a very hard-working family. Each member of the family had their jobs on the farm, and that hard-working value that was instilled in Helen Naslund continued. She left home at the age

1 of 18 years and moved to the Camrose area. I can advise you that it was shortly thereafter
2 that she met Miles, her now deceased husband. Pardon me, and I apologize. The date range
3 I provided you was incorrect. She left home at the age of 16.
4

5 Her and Miles, the deceased, dated for two or three months, then moved in together, and
6 they were married October 1st, 1983. She was 19 at the time. He was 21 at the time.
7

8 During the course of their relationship, they lived in a number of places, and in 1985 moved
9 to their permanent home, which was a farmhouse on a large piece of land that they farmed.
10 It has now become a ranch, but up until two days ago, My Lord, she still lived on that
11 property. The property was sold, and she was able to negotiate a rental situation where she
12 remained in that particular farmhouse, paying both rent and working the land a little bit on
13 behalf of the new owners of the property.
14

15 From that residence, the family that her and Miles created was raised: Wesley, date of birth
16 December 1st, 1984; Darrel, date of birth April 18th, 1988, and Neil, who is before you,
17 age 26. I can advise you that Wesley is also present in court. I will refer to some of our
18 conversation shortly, but he is here with his wife in support of his mother, seated in the
19 back row, Sir.
20

21 I can advise you that during the course of my preparations for the sentencing, numerous
22 friends and family members reached out in support of Helen. I can state that each of them
23 could barely understand the justification and fairness of what was to happen today.
24 Obviously not particularly well-informed in the legal principles involved in this matter, but
25 each of them spoke to an individual with remarkably high character, well liked, well
26 supported in her community, family, friends, employers, all of whom who had nothing
27 negative to say about Helen and did comment on what they believe to be an appropriate
28 circumstance here. It just goes to show that this was incredibly out of character and a
29 decision of last resort, in my most respectful submission.
30

31 I can tell you that I am advised by Ms. Naslund for the first two or three years of the
32 relationship with Miles, she continued with her long -- lifelong hobbies of rodeo event
33 barrel racing. She and a friend, a next-door neighbour of similar age, would attend barrel
34 racing events. Unfortunately, disapproval from a member of the family ended that hobby,
35 as it did a number of other issues.
36

37 Over the course of time, Miles Naslund, whose main occupation was farming, moved on
38 into other areas of work, including water hauling, running a water truck company, and
39 brought other family members, including the children, into that business over the course of
40 time. Despite those efforts and despite Helen Naslund working out of the home, as you've
41 referred -- at least you have reviewed in the Agreed Statement of Facts, she had a number

1 of jobs, but most significantly working at A1 Rentals for a number of years. She was
2 required to work outside the home, given the financial circumstances. Despite that and
3 despite the other companies of water hauling and the farm being involved, the family debt
4 increased year over year, creating a very significant situation of stress, which exacerbated
5 the violence in the home.

6
7 She describes her relationship with Miles, indicating that, when I was in public, he was
8 always right there. If I talked to a friend, he had to be there to include his input. I couldn't
9 go anywhere without him. I had to get rid of the horses. I couldn't go to events. It was do
10 as I say or else, that's the way it's going to be. It was always the third degree in terms of
11 questioning, and if I went to town, he would ask where exactly did you go, who exactly
12 did you speak with. So the relationship was strained from a very early point.

13
14 Mrs. Naslund and family members recount numerous experiences of difficulties within the
15 home. Alcohol was a significant issue, as was violence, as well as gun play.

16
17 I'll be quite frank. This was a circumstance wherein the central issue for the defence was
18 whether or not the application of the concept of battered woman syndrome would apply.
19 This was the struggle for the defence in that respect. I'm not alleging any particular
20 circumstances. Given the joint submission, I don't think it to be appropriate.

21
22 At the time of the offence and after receipt of reports in that respect, I can advise you that
23 she was diagnosed with severe depression. Her depression was an ongoing circumstance.
24 It certainly was a consideration at the time of the offence, but prior to the offence, that
25 depression led to suicide attempts. I can confirm documentary support in that respect
26 received from medical practitioners, and so in that respect, my friend has certainly taken
27 into account her moral culpability. The moral culpability in relation to the admission of
28 manslaughter is high, and yet in respect to the original charges, other arguments certainly
29 would have been made.

30
31 We're not presenting any letters of reference in this respect, but I can advise you that, after
32 significant interviews with Wesley Naslund over the last couple of days, he described his
33 mother as loving, caring, and always there to protect her sons. He described the house as
34 one of constant struggle as he was growing up, and yet he describes and wished to express
35 his gratitude to his mother for all she had done to protect he and his brothers.

36
37 He explained that his experience with his father was much different, and although it was
38 incredibly emotional, he described it as evoking every emotion except love. He said every
39 aspect of his life with his father was problematic and often thought the only way out was
40 as, unfortunately, it ended here.

41

1 I can advise you, Sir, that I received contact from Laura Coen. She is Helen Naslund's
2 sister. She wished me to express to the Court her family's support, the entire family's
3 support for Helen and how much they are looking forward to her release and continuation
4 with the rest of her life subsequent to her paying her debt to society.
5

6 Maybe most importantly in reflection of Ms. Naslund's support in the community was my
7 conversation with Lisa Turnbull, who is the husband (sic) of Guy Turnbull, and the family
8 together owned A1 Rentals, who have employed Helen from before the offence through to
9 now and offer their support and continued employment upon her release, if that is to occur.
10 To be clear, the new owner of the residence where she resided in that piece of land was
11 that family, Guy and Lisa Turnbull. Throughout these circumstances, knowing Helen and
12 knowing her circumstances, they have continued to support her through employment,
13 allowing her to maintain her residence as she had known it, and their support has never
14 waived. And in my most respectful submission, to gain that type of support through an
15 employment situation is remarkable and certainly speaks to her character other than this
16 particular offence.
17

18 I do not wish to minimize nor justify her actions. She has pled guilty and accepted
19 responsibility for Miles Naslund's death. In that respect, however, with all of the
20 circumstances considered, My Lord, I would suggest that the 18 years with consideration
21 for the 4 years as a joint -- pardon me, 4 months in consideration for pretrial custody and
22 time spent on release is appropriate. It is a true joint submission. It is well within the range,
23 given all of the factors taken into consideration here, and I would urge this Court to accept
24 it.
25

26 THE COURT: Thank you very much, Mr. Sprake.
27

28 MR. SPRAKE: With respect to the ancillary orders, My Lord, I
29 have instructions not to oppose each of those applications.
30

31 MR. SOPKO: My Lord, may I please address one issue I failed
32 to? The Crown has complied with the *Victims Bill of Rights*. The victims and the family
33 has been advised of the right to file victim impact statements. It has been confirmed that
34 there aren't any on the record.
35

36 THE COURT: Thank you, Mr. Sopko. Thank you.
37

38 MR. SPRAKE: Sir, and I apologize for rising again. Although I
39 did not canvas it this morning, I canvassed with Ms. Naslund whether or not she wished to
40 make any statement to the Court. As of last night at 6 PM, she did not wish to.
41

1 Ms. Naslund, do you wish to state anything to the Court? She's indicating she does not
2 wish to, Sir.

3

4 THE COURT: Fair enough.

5

6 MR. SPRAKE: I thank my friend.

7

8 THE COURT: Do you want me to deal with Ms. Naslund now,
9 or should we deal with Mr. Naslund as well, and then I can make some general comments
10 at the end?

11

12 MR. SOPKO: I'm in the Court's hands.

13

14 MR. SPRAKE: That would be acceptable, Sir. Thank you very
15 kindly.

16

17 THE COURT: Mr. Fleming, you are ready to go?

18

19 MR. FLEMING: I am, My Lord.

20

21 THE COURT: Okay.

22

23 MR. FLEMING: My Lord, if I could offer two brief letters of
24 reference. I've given a copy to the clerk.

25

26 THE COURT: Yeah.

27

28 MR. FLEMING: And I believe there's one there for you.

29

30 MR. SOPKO: I have --

31

32 MR. FLEMING: Crown has seen a copy.

33

34 THE COURT: They will be -- there was the two Agreed
35 Statement of Facts, so these will be collectively Exhibit S-3, then, on the sentencing
36 hearing, the letters.

37

38 MR. FLEMING: Thank you, My Lord.

39

40 MR. SOPKO: And that's by consent, Sir.

41

- 1 THE COURT CLERK: So the second Agreed Statement of Facts is S-2?
2
- 3 MR. SOPKO: Yes.
4
- 5 THE COURT CLERK: And the two letters collectively S-3.
6
- 7 MR. SOPKO: Please, Sir. Yes, if the five-page --
8
- 9 THE COURT CLERK: Sorry. There's also a criminal record, just to
10 remind you.
11
- 12 THE COURT: Okay. So these would be S-4, then.
13
- 14 MR. SOPKO: Thank you.
15
- 16 MR. FLEMING: No objection. Thank you.
17
- 18 MR. SOPKO: Is it all right -- so if the five-page Agreed
19 Statement of Facts in relation to Neil Naslund has been signed by all parties and read in on
20 the last date could become S-2?
21
- 22 THE COURT: Yes.
23
- 24 **EXHIBIT S-2 - Agreed Statement of Facts Relating to Neil Naslund**
25
- 26 MR. SOPKO: There's a one-page criminal record that has
27 entries in my pen that has been reviewed with the accused. If it could be S-3.
28
- 29 **EXHIBIT S-3 - Criminal Record Relating to Neil Naslund**
30
- 31 MR. SOPKO: And then if the two letters provided by my friend,
32 which the Crown is consenting to their entry, could collectively be S-4, My Lord?
33
- 34 THE COURT: Yes.
35
- 36 MR. FLEMING: Agreed.
37
- 38 THE COURT CLERK: Okay. Thank you.
39
- 40 **EXHIBIT S-4 - Letters Authored by Jeannot Carmier and Lisa Turnbull**
41

1 MR. SOPKO: Is it --

2

3 THE COURT: Yes, go ahead, please, Mr. Sopko.

4

5 **Submissions by Mr. Sopko**

6

7 MR. SOPKO: Sir, just to confirm again, count 1 on your
8 Information, I'm not sure why it ended up as count 1 as opposed to the first-degree murder,
9 but that's a separate issue, Sir. I understand on the previous occasion Mr. Naslund entered
10 a guilty plea to count 1, which was offering an indignity to human remains.

11

12 I am putting the record before you, Sir. You'll note, however, the convictions post-date
13 this offence, and none of them relate to violence. So they are of very little if no value to
14 you, but I'm compelled to provide them to you and bring them to your attention.

15

16 I can confirm, Sir, that my friend and I are jointly proposing to you that a three-year period
17 of incarceration is a fit and proper sentence for this offence. And similar to Ms. Naslund,
18 this gentleman spent a very short period of time in custody, but was on moderately strict
19 house arrest for a period of one year as well. And we're jointly submitting that a four-
20 month credit be attached to that, leaving a sentence of two years and eight months to serve,
21 if you accede to our joint submission.

22

23 In relation to ancillary orders, it's a secondary DNA offence, but given the circumstances
24 in which this offence occurred, I'm respectfully submitting that the DNA order should go
25 in this case.

26

27 And then, lastly, I'm seeking forfeiture of Mr. Naslund's interest in all items that were
28 seized as part of the police investigation, Sir.

29

30 In relation to my sentencing submissions, again, I'll be relatively short given this is a joint
31 submission, unless the Court has any concerns.

32

33 I note as a starting point that the maximum sentence for this offence is five years in custody.
34 Generally, from my review and my understanding of my friend's review of the cases, most
35 of the cases fall between the two- and four-year range, given the aggravating and mitigating
36 factors in each of those cases. And in my research and experience, quite often a conviction
37 for this offence is in tandem with a conviction for another serious offence, usually
38 manslaughter. So the sentences may tend to drift down towards the two-year range, but
39 that's taking into account totality for usually a manslaughter conviction, which has a
40 higher, much higher, total number, or it's concurrent to a life sentence. So that number can
41 be somewhat misleading in the circumstances, Sir.

1
2 The mitigating factor in this case here again is the guilty plea. It's truly a mitigating factor.
3 It was well in advance of trial, and I'm asking that it be given the true mitigation that it
4 deserves as an early guilty plea in this case.
5

6 On the aggravating side of the ledger, Sir, I note four particularly aggravating factors. Again,
7 firstly, this was committed on a family member, a family member who was removed after
8 he'd died from his own home.
9

10 Secondly, on the spectrum of indignity side, I respectfully submit this is closer to the higher
11 end. It involved multiple acts, multiple movement of the body, welding the toolbox shut
12 and putting him in the bottom of the dugout. When you look at the spectrum in which this
13 offence can include, I'd respectfully submit this is getting to the closer high -- the higher
14 end as it relates to the actus reus of the offence.
15

16 The third I would note is that it was done as part of assisting another who he knew had
17 committed a serious offence involving manslaughter in this case.
18

19 And then, lastly, again, you have six years of deceit.
20

21 The case law is clear that an accused person has a right to silence, has no obligation to
22 make admissions or tell the police what has happened, but it's a material -- materially
23 different thing to tell the police something that's true to fabricate a version of events and
24 point the finger at somebody else in an attempt to cover up an offence that someone else
25 had committed. And that's an aggravating factor that I'd ask the Court to consider in this
26 case.
27

28 Again, Sir, for this offence, I'd respectfully submit that the primary sentencing factors
29 should be general and specific denunciation and deterrence, though we can never lose sight
30 of the other factors contained in section 718 of the *Code*.
31

32 I'd respectfully submit, Sir, that this is a true joint submission, that it is a fit and proper
33 one, that it takes into account proportionality and looks at the gravity of the offence and
34 the circumstances of this offender, and I'm respectfully submitting that it is a true joint
35 submission as contemplated by the Supreme Court in *Anthony-Cook*, and I'd respectfully
36 ask that you go along with it.
37

38 Again, Sir, I've turned my mind to the *Victims Bill of Rights*. The victims and their families
39 have been advised of their right to file victim impact statements, and I've been informed
40 that there are none, Sir.
41

1 THE COURT: Thank you.

2

3 Mr. Fleming.

4

5 **Submissions by Mr. Fleming**

6

7 MR. FLEMING: Thank you, My Lord. I will add as well my
8 thoughts with respect to the fairness of the Crown throughout. The Crown has been open
9 to considering all aspects of this complicated matter, difficult matter, and I thank my friend.
10 And I have that to say about it.

11

12 I agree with the -- with the suggestion of aggravating and mitigating factors. The one thing
13 that I would add is that there is an absence of statutorily aggravating circumstances, as set
14 out in 718.2(a).

15

16 Much of the family background has been set out here, and I won't repeat it, but I do have
17 some brief personal circumstances that I would offer you, My Lord.

18

19 Mr. Naslund is 28 years of age born March 4th, 1992. He's a Canadian citizen.

20

21 THE COURT CLERK: Mr. Fleming, I think we're having a problem
22 hearing you on Webex, so if you could just speak a little bit louder.

23

24 MR. FLEMING: All right. That is a rare moment.

25

26 He's a Canadian citizen, and he's lived in the Holden, Camrose, and Edmonton area all of
27 his life. He has the support of friends and family, partially exhibited by the two brief letters
28 of reference. You'll note that one of them is from Lisa Turnbull, and you've heard some
29 comments about that family and its support. He has family members here and friends that
30 are here and are here to support him and his mother, and it speaks well to the prospects of
31 rehabilitation, My Lord.

32

33 He has been residing in a common-law relationship for about five years. There's one child
34 of that union, age 3, a daughter, and, in addition, he assists in the care of a 12-year-old girl,
35 who is the child of his spouse from a previous relationship.

36

37 With respect to education, he fell one course short of a grade 12 degree, and his
38 employment record has been in the oilfield industry, where he has worked all of his adult
39 life for corporations such as Syncrude, Suncor, Imperial Oil, Sunshine Oil, building ice
40 roads, where he ultimately became a lead hand in that -- in those endeavours and has
41 worked as well for a local family in the Camrose area, the Turnbells, as previously

1 described, on and off from time to time.

2

3 Criminal record, as the Crown has indicated, is minor and much of it subsequent to the
4 charges here.

5

6 With respect, as I said, to the aggravating factors, the only thing I would add to the Crown's
7 submissions is the absence of statutorily aggravating circumstances.

8

9 In mitigation, you do have the guilty plea, as the Crown indicated, and with that guilty plea,
10 you have the expression of remorse.

11

12 You have a true joint submission, as my friend says, for 36 months, less 4 months debt
13 time, and so I urge upon you the accused's request that you accede to the joint submission
14 of 32 months at this time. And I have no comment to make with respect to the ancillary
15 orders applied for by the Crown.

16

17 And I understand the Crown will have an application at the conclusion of -- with respect
18 to the count 2.

19

20 MR. SOPKO: Yes.

21

22 THE COURT: Thank you.

23

24 MR. FLEMING: Those are my submissions, My Lord, unless you
25 have any questions.

26

27 THE COURT: Mr. Naslund, I am addressing these comments to
28 you just -- I have to. Please stand, sir. The *Criminal Code* says I have to ask if you have
29 anything to say. This is your sentencing hearing. Your mother has declined to say anything.
30 When I extend that invitation to you, I am not trying to embarrass you, and I am not trying
31 to turn you into a pulpit speaker against your will. I am not trying to high-centre you in any
32 fashion whatsoever.

33

34 My function is to impose a fit and proper sentence, but if you believe that Mr. Sopko and
35 Mr. Fleming have told me everything I need to know in order to do that, you can say, I
36 have nothing to say. I couldn't draw an adverse inference. I am not going to hold that
37 against you. I --

38

39 THE ACCUSED N. NASLUND: I believe Mr. Fleming said everything.

40

41 THE COURT: Okay. Fair enough. That's all I needed to know.

1 11:05.

2

3 MR. SOPKO: Thank you, Sir.

4

5 THE COURT: Be back at 11:05.

6

7 MR. SOPKO: May I ask for one thing on behalf
8 of -- Mr. Wakefield has been in and out. Is it okay if the accredited media is provided
9 copies of the filed Agreed Statement of Facts?

10

11 THE COURT: Oh, absolutely. Absolutely.

12

13 MR. SOPKO: Thank you.

14

15 THE COURT: Yes. And any exhibits that they find of interest.

16

17 MR. SOPKO: Thank you.

18

19 (ADJOURNMENT)

20

21 THE COURT: Please be seated, everyone.

22

23 Mr. Sopko, Mr. Sprake, Mr. Fleming, anything further?

24

25 MR. SOPKO: No, My Lord.

26

27 MR. FLEMING: No, My Lord.

28

29 MR. SPRAKE: Nothing further, My Lord. Thank you.

30

31 **Sentence**

32

33 THE COURT: Thank you.

34

35 I have worked in this building for a period of time that has been measured in decades in
36 various capacities, and it is on days like today that the point is really driven home to me
37 that there is not a heck of a lot of joy in this building. It is a very, very sad building for a
38 number of reasons, and I am not just talking about criminal cases. If you go down to family
39 chambers and you see parents fighting about children, you see a lot of tears in a courtroom
40 like that.

41

1 It is in the criminal courtrooms, though, that you see an awful lot of unhappiness and a lot
2 of sorrow, and the reason for that is that we are always looking at tragedies. We are re-
3 examining them, and when I say “we”, I mean collectively those who are involved in the
4 case, looking at tragedies that took place sometime in the past. And then we re-examine
5 them and we try and understand them, have some understanding, because most people who
6 are charged with criminal offences in this building aren’t evil people. They are not bad
7 people. They are people who make mistakes because they are generally overwhelmed by
8 their personal difficulties. They react poorly when other options are open to them, but they
9 then have to pay for the manner in which they have overreacted because it offends our
10 sense of morality and our sense of the law.

11
12 And that is what we have here. We have a prime example of that. We have law-abiding
13 people, two individuals who are hard working. You know, they have a good worth ethic.
14 They have shown a dedication and a love for other human beings who have depended upon
15 them. They have committed themselves to making life good for them, and they find
16 themselves in a courtroom such as this, never having been in gaol before and facing
17 significant terms of incarceration in the penitentiary. That is the tragedy.

18
19 There are some evil people in this world, and we all know and recognize who they are.
20 These individuals aren’t them. They are two people who haven’t been able to deal with
21 problems in their lives, and they have committed serious crimes.

22
23 Courts operate on two levels. There is the legal level, and the legal level is this: it is the
24 function of the Court to impose a fit and proper sentence on an individual who has
25 committed a crime. What a Court takes into consideration is they take into consideration
26 the offence that they are charged with, because the *Criminal Code* sets out the parameters
27 of the sentencing, what can be done to that individual. They take a look at the circumstances
28 surrounding the commission of the offence; in other words, what did the person do?
29

30 The Court never loses sight of the fact that in this country we have individualized
31 sentencing hearings where I can’t lose sight of the fact that the two of you come into the
32 courtroom as discrete, distinct human beings. You bring in a past. You bring in, you know,
33 what you are all about, and we respect that, and we look at that. And we then try and tailor
34 the sentence to take into consideration all those factors and to impose a fit and proper
35 sentence, in other words, to do justice. So that is the legal level that we deal with.
36

37 There is also the human level, though, and both you, Mr. Naslund, and your mother
38 Ms. Naslund have seen that operate in this courtroom, because everybody recognizes that
39 this is a tragic situation. We have a 56-year-old mother and her son, who are going to lose
40 their liberty for a period of time and lose the liberty because they did something terrible,
41 but that is the only terrible thing they have done in their lives.

1
2 And Mr. Sopko has recognized that. He has recognized the human aspect of this case. He
3 just hasn't hammered the table on the basis of the legal aspect of it, but the human aspect.
4 You have heard both Mr. Sprake and Mr. Fleming this morning acknowledge that;
5 acknowledge that he has been compassionate in his view of the circumstances of the
6 commission of this offence. And I commend him for the maturity that he has exhibited
7 here. When I talk about maturity, I am not talking about personal maturity, the maturity of
8 a young man, I am talking about prosecutorial maturity, where he has been able to look at
9 a case, look at all aspects of it, and to resolve it on terms that he believes are fair and just.

10
11 Sometimes that is lacking in a prosecutor, and those are the types of cases that generally
12 go off the rails, because the prosecutor doesn't realize that this is still a human system. As
13 I said, he is to be commended for that.

14
15 Here, these are significant offences, yet all counsel have come into the courtroom today,
16 and they've said this would be a fair result. And so what a judge's function is when there's
17 a joint submission before the Court is to make sure that justice is still done. That is the goal
18 that we try to reach, that somebody isn't being taken advantage of.

19
20 Now, my knowledge of this case is much, much less than that of Mr. Sopko, much less
21 than that of Mr. Sprake and Mr. Fleming as well. They have lived with it for a period of
22 time. You have heard Mr. Sprake talk this morning about the many, many discussions that
23 have passed between he and Mr. Sopko and Mr. Fleming and Mr. Sopko. So they know
24 more about it than I do, and they are experienced lawyers. They are lawyers who have
25 handled cases like this in the past. No one is being taken advantage of here. Sometimes you
26 see that when you have a senior defence counsel and a junior Crown. That is not happening
27 here. So they have lived with it, and they are making a proposal to me.

28
29 Mr. Sopko arrives at the period of incarceration that he is suggesting based upon looking
30 at the aggravating and mitigating features here in relation to Ms. Naslund, and when he
31 made his submissions I was making notes that, indeed, he had more aggravating features
32 than I might have, but it can be summed up in this fashion: This was a callous, cowardly
33 act on a vulnerable victim in his own home, so his domicile, by a partner. That is
34 summarizing it, but I think it summarizes it quite nicely.

35
36 A firearm was used. That is another aggravating feature. And then the authorities were sent
37 on a wild goose chase by having the matter reported in a fashion that didn't occur. Now,
38 those are the aggravating features in relation to Ms. Naslund.

39
40 In relation to Mr. Naslund, it is, once again, the concept of this crime being committed by
41 you against a family member. I agree with Mr. Sopko that the indignities that were visited

1 upon your father were serious, and, once again, you are guilty of the same factors there in
2 relation to your mother: the police were prevented from engaging in a proper investigation
3 because they were sent on this wild good chase.
4

5 There is another factor to Ms. Nasland, and I am certainly not trying to make you feel bad
6 or anything like that, but the reason that this particular section is in the Code isn't only to
7 deter people from covering up their crime in a fashion, but what it does in a lot of cases is
8 it prevents the family members and friends of the deceased from holding a proper end-of-
9 life ceremony. When I say end-of-life ceremony, it doesn't necessarily have to be in a
10 religious fashion. It prevents them from doing that, and that is why the section is in the
11 *Code*, and that is why people go to the penitentiary for committing this offence.
12

13 Now, both of you, though, have shown responsibility that is consistent with the way in
14 which you have lived your lives up until now. You know, the responsibility that you have
15 shown is in a public forum. In an open courtroom, in this community, the two of you have
16 stood up and said, I have done something terrible; I plead guilty to the offence, and I am
17 prepared to accept whatever penalty is imposed upon me.
18

19 Whenever a person does that, whenever they take public responsibility for an offence, they
20 are treated more leniently by the Courts, the Court of Appeal has said on a number of
21 occasions. First of all, you have given up your constitutional right to have a trial, and I
22 accept what counsel tell me, that in this case there were issues that could have been
23 litigated, but you have given up that right to litigate that. It is certainly a sign of remorse.
24 It is a sign of remorse when you accept public blameworthiness.
25

26 The Crown hasn't had to call a number of witnesses. They have been spared the need in
27 order to prove the case, because by the entering of the guilty plea, the two of you have
28 brought finality to this, and all of that is to your credit.
29

30 Still, when I look at the submission that is being made, although I have empathy for the
31 two of you, this requires a stern sentence. It requires a denunciatory sentence. Deterrence
32 is the main principle of sentencing that has to be looked at, deterrence and denunciation in
33 a case such as this, and when counsel tell me that they feel that this is fair, I agree with
34 them.
35

36 So, Ms. Naslund, you will be sentenced to serve a period of incarceration on the charge of
37 manslaughter to 18 years. You have already served 4 of those, so from this day forward,
38 the period of incarceration that you will serve is 17 years and 8 months.
39

40 While you are incarcerated, you will provide a bodily substance for the purpose of analysis
41 so that a DNA profile can be worked up and registered with the national databank.

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You will indeed be subject to a firearms prohibition. When you are released from prison, you will not be able to possess any firearms, ammunition, or explosives for the rest of your life.

Mr. Naslund, you will be sentenced to serve a period of incarceration of three years. You as well have already served the equivalency of four months, so from this day forward, you will serve a period of incarceration of 32 months.

Indeed, you will be subject to the same order in relation to DNA, that a bodily substance will be provided by you for the purpose of analysis so a DNA profile can be worked up and registered with the national databank.

All items that were seized by members of the RCMP during the course of this investigation are forfeit to Her Majesty the Queen.

Anything further, Mr. Fleming or Mr. Sprake?

MR. FLEMING: No. Thank you, My Lord.

THE COURT: Mr. Sopko.

MR. SOPKO: My Lord, I'd ask that count number 2 against Neil Naslund, that being the count of first-degree murder, that it be withdrawn at this time.

And in relation to Helen Naslund, I would ask that count 1, being the indignity to human remains, be withdrawn at this time.

MR. SPRAKE: No objection, My Lord.

THE COURT: Okay. Those charges are withdrawn.

MR. SOPKO: Thank you, My Lord.

MR. SPRAKE: Thank you, My Lord.

THE COURT: Thanks, gentlemen.

PROCEEDINGS CONCLUDED

1 **Certificate of Record**

2

3 I, Brendolyn Clarke, certify that the recording herein is the record of evidence of
4 proceedings, held in the Court of Queen’s Bench, in courtroom number 418, at Edmonton,
5 Alberta, on this, the 30th day of October, 2020, and that I, Brendolyn Clarke, was the court
6 official in charge of the sound-recording machine during the proceedings.

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1 **Certificate of Transcript**

2

3 I, Brandy Coyes, certify that

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5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best of
6 my skill and ability and the foregoing pages are a complete and accurate transcript of the
7 contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record and is
10 transcribed in the transcript.

11

12 Brandy Coyes, Transcriber

13 Order Number: AL5419

14 Dated: December 2, 2020

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