

E-I [REDACTED]  
Appeal No.: \_\_\_\_\_

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

HIS MAJESTY THE KING

v.

[REDACTED]

Accused

---

T R I A L  
(Excerpt)

---

Edmonton, Alberta  
February 9, 2026

Transcript Management Services  
1901-N, 601 - 5 Street SW  
Calgary, Alberta T2P 5P7  
Phone: (403) 297-7392  
Email: TMS.Calgary@just.gov.ab.ca

This transcript may be subject to a **publication ban** or other restriction on use, prohibiting the publication or disclosure of the transcript or certain information in the transcript such as the identity of a party, witness, or victim. Persons who order or use transcripts are responsible to know and comply with all publication bans and restrictions. Misuse of the contents of a transcript may result in civil or criminal liability.

## TABLE OF CONTENTS

Description		Page
February 9, 2026	Morning Session	1
Ban on Publication		1
Discussion		1
Sentence		4
Certificate of Record		20
Certificate of Transcript		21

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

2

3

4

5 February 9, 2026

Morning Session

6

7 The Honourable Justice M.E. Burns

Court of King's Bench of Alberta

8

9 J. Avey

For the Crown

10 Y.R. Ziv

For the Accused

11 M. Papadopoulos

Court Clerk

12

13

14

15 **Ban on Publication**

16

17 **Discussion**

18

19 THE COURT:

For the record, Justice Burns. We are here on the

20 Cote matter and we are here to receive a sentencing. However, one little thing happened. I

21 asked for the file because I was looking for something and when I went through the file I

22 realized that at the sentencing hearing we did open a victim impact statement from [REDACTED]

23 [REDACTED] and that was marked as an exhibit, but I found another impact statement on the file.

24 This is also from [REDACTED]. It is a different victim impact statement than the one that

25 was put onto the file. What do we do with it?

26

27 MR. AVEY:

Justice, are --

28

29 MR. ZIV:

Can I speak --

30

31 MR. AVEY:

-- are --

32

33 MR. ZIV:

-- can I speak?

34

35 MR. AVEY:

-- are either of them dated?

36

37 THE COURT:

Yes, the one -- this one that we did not open was

38 dated September 29th, 2022. The one we did open, I have it was filed January 6, 2023.

39

40 MR. ZIV:

Might I speak to my friend --

41

1 THE COURT: Or six, maybe -- is it a six?  
2  
3 MR. ZIV: -- might I just -- might I speak --  
4  
5 THE COURT: Oh, that is when it was filed.  
6  
7 MR. ZIV: -- might I speak with my friend quickly?  
8  
9 THE COURT: Sure.  
10  
11 MR. ZIV: Thank you.  
12  
13 (DISCUSSION OFF RECORD)  
14  
15 MR. AVEY: Thank you, Justice. If I could just have a moment  
16 to speak with [REDACTED].  
17  
18 THE COURT: Okay.  
19  
20 (DISCUSSION OFF RECORD)  
21  
22 MR. AVEY: Thank you for that time, Justice. What [REDACTED]  
23 [REDACTED] has indicated to me is that at the time of sentencing what she wanted to convey to  
24 the Court was contained in the later of the two victim impact statements, which, as I  
25 understand, is the one that we read and marked as an exhibit. So, my suggestion would be  
26 that the Court rely on the victim impact statement that was presented and can disregard the  
27 initial one.  
28  
29 THE COURT: Okay. So, I am going to shred it. Is that --  
30  
31 MR. AVEY: That's --  
32  
33 THE COURT: -- satisfactory to everybody?  
34  
35 MR. AVEY: -- that's fine with the Crown.  
36  
37 THE COURT: Okay, so I will just make a note. Madam clerk,  
38 you can make sure that this one is shredded, the one that is dated marked -- or September  
39 29th, 2022.  
40  
41 THE COURT CLERK: Okay.

1  
2 THE COURT: Because it was a surprise to find it, so ...  
3  
4 MR. ZIV: Yeah.  
5  
6 MR. AVEY: Yes.  
7  
8 MR. ZIV: I -- I am not sure about the shredding procedure,  
9 but I do agree with my friend, Justice.  
10  
11 THE COURT: You think it should be kept --  
12  
13 MR. ZIV: I think it should just be --  
14  
15 THE COURT: -- on the file?  
16  
17 MR. ZIV: -- kept on the file, but just an order that it not be  
18 opened without further court order.  
19  
20 THE COURT: Okay, well we can continue to seal it. I mean,  
21 technically --  
22  
23 MR. ZIV: Yeah.  
24  
25 THE COURT: -- it -- I am the one who opened it because --  
26  
27 MR. ZIV: Oh.  
28  
29 THE COURT: -- it surprised me that it --  
30  
31 MR. ZIV: Oh, certainly.  
32  
33 THE COURT: -- it existed. So, we will reseal it then --  
34  
35 MR. ZIV: Thank you.  
36  
37 THE COURT: -- and we will just put it on the file.  
38  
39 MR. ZIV: And then just -- and then just an order can go  
40 then it's not to be opened without further court order.  
41

1 THE COURT: Okay.  
2  
3 MR. ZIV: Thank you.  
4  
5 THE COURT: Okay, we will just make a note on the file. All  
6 right, so ...  
7  
8 MR. ZIV: But I am in agreement with my friend that we  
9 should just proceed with what is on the record.  
10  
11 THE COURT: Yes --  
12  
13 MR. ZIV: Yeah --  
14  
15 THE COURT: -- and I was going to proceed --  
16  
17 MR. ZIV: -- yes.  
18  
19 THE COURT: -- anyways, I was just going to give you an  
20 opportunity --  
21  
22 MR. ZIV: Thank you.  
23  
24 THE COURT: -- to look at it, if you did.  
25  
26 MR. ZIV: No.  
27  
28 THE COURT: I was not going to delay this for that purpose --  
29  
30 MR. ZIV: Thank you.

31  
32 **Sentence**  
33

34 THE COURT: -- but okay. I guess we can just proceed. So, I  
35 just, for the record, remind everyone that there is a publication ban because I will be talking  
36 about or using the first name of the complainant.  
37  
38 On [REDACTED], a jury found [REDACTED] guilty of one count of sexual  
39 interference and guilty of one count of luring as against a 14-year-old boy, [REDACTED]. I am now  
40 ready to sentence.  
41

1 The Crown seeks a sentence of 4 years for sexual interference; 3 years consecutively for  
2 luring; and a 1 year decrease for totality; for a total sentence of 6 years incarceration along  
3 with ancillary orders.

4  
5 The defence argues for a 2 year sentence for sexual interference and 18 months concurrent  
6 for luring.

7  
8 The fundamental principle of sentencing found in Section 718.1 of the *Criminal Code* is  
9 that there must be proportionality to the gravity of the offence and the degree of  
10 responsibility of the offender. For violent crimes against children Section 718.01 mandates  
11 an emphasis on deterrence and denunciation. Deterrence can be specific, discouraging  
12 repeat behaviour by the offender; or general, warning the public. Denunciation expresses  
13 society's disapproval as noted in the *M(CA)* case, [1996] 1 SCR 500. Parity ensures similar  
14 sentences for similar circumstances, but I note that sentencing remains an individualized  
15 process with judicial discretion to accord significant weight to all factors.

16  
17 First, I want to note that I must give due consideration of the Supreme Court of Canada's  
18 2020 decision in *Friesen*. The defence argues that *Friesen* did not change the law. I do not  
19 have to determine that, but I must apply *Friesen*. In *Friesen* the Supreme Court of Canada  
20 provided guidance so that sentencing judges impose sentences that accurately reflect the  
21 nature of sexual offences against children and their impact on the victim. In *Friesen* the  
22 Supreme Court of Canada recognized that sentencing is an important mechanism that  
23 Parliament has chosen to employ to protect children from sexual violence, and to hold  
24 perpetrators accountable, and to communicate the wrongfulness of sexual violence against  
25 children. A sentencing judge must give full effect to the Parliament's initiatives.

26  
27 The Supreme Court of Canada has directed that I must recognize and give effect to, firstly,  
28 the inherent wrongfulness of the offence; and, secondly, the potential harm that flows from  
29 the offence; and, thirdly, the actual harm suffered.

30  
31 In *Friesen* the Supreme Court of Canada notes that Parliament has mandated that sentences  
32 for offences against children must increase and it has expressed its will by increasing  
33 maximum sentences and by prioritizing denunciation and deterrence in sentencing for  
34 sexual offences against children.

35  
36 Given the context of these sentencing principles, we must start with the circumstances of  
37 the offence.

38  
39 As this was a jury trial, I am guided by Section 724 of the *Criminal Code* that provides  
40 that,

41

1            “In determining a sentence, a court may accept as proved any  
2 information disclosed at the trial or at the sentencing proceedings and  
3 any facts agreed on by the prosecutor and the offender.”  
4

5 Further, where the court was composed of a judge and jury, I must accept as proven all  
6 facts expressed or implied that are essential to the jury’s verdict of guilty to each charge  
7 and I may find any other relevant facts that were disclosed by evidence at trial to be proven  
8 or hear evidence presented by either party with respect to that fact.  
9

10 In this case I have an agreement as to the facts I should find. I am not bound by that  
11 agreement if I did not agree with it, but in this case I accept the agreed to facts and I accept  
12 that they were the essential relied upon by the jury in its findings. They have been entered  
13 as Exhibit S-1 for the purpose of this sentencing and I accept all the facts as agreed to.  
14

15 With respect to the circumstances of the offences, just briefly.  
16

17 As disclosed in the Agreed Statement of Facts I find at the time in question, the victim,  
18 ██████, was 14-years-old. ██████ and ██████ met on Grindr in ██████ of ██████. Grindr is  
19 an online dating app for gay men. Grindr is intended to be used by adults. Users are required  
20 to agree that they are at least 18 years of age when they sign up for an account. ██████  
21 and ██████ exchanged electronic messages through the app for a time before exchanging  
22 phone numbers and continuing to communicate by text message.  
23

24 Text messages were exchanged between ██████ and ██████, ██████. ██████ told ██████  
25 ██████ that he was 14 years old.  
26

27 ██████ and ██████ met in person on at least 3 occasions. The first two times they met, ██████  
28 gave ██████ a small item, a vape or a dab pen, but there was no physical contact  
29 between them. In the early evening of ██████, ██████ picked up ██████ and took  
30 him to the ██████. While there, ██████ purchased an Airsoft  
31 pistol and gave it to ██████. ██████ and ██████ then returned to ██████ vehicle and ██████  
32 drove to a parking lot. While at the parking lot, ██████ pulled ██████ pants down  
33 exposing his penis and performed oral sex on ██████ until ██████ ejaculated. After he  
34 finished, ██████ indicated he needed to home. ██████ drove ██████ back to where he had  
35 picked ██████ up.  
36

37 Then I must also consider the circumstances of ██████.  
38

39 ██████ is currently ██████ years old. He was ██████ at the time of the offence and there is no  
40 presentence report. I am advised by counsel, and accept, that ██████ was born in ██████  
41 and was ██████ years old when his family moved to ██████. He has one sister and his father is

1 still alive.

2

3 He had stable employment most of his life and had one period of 27 years employment  
4 with the same company.

5

6 He was married for 7 years and the marriage did not end well, but he did obtain custody of  
7 his son and his stepson upon separation. He raised the two boys as a single father. They are  
8 both adults now.

9

10 He has an apparent love and talent for woodworking.

11

12 He has two very dated offences for driving.

13

14 I have 16 letters of support from friends and family of [REDACTED] describing his good  
15 character and I will mention those later.

16

17 I also have a victim impact statement. The purpose of allowing victim impact statements  
18 into evidence is to bring information to the Court about the impact of the crime for which  
19 the offender is to be sentenced. Through Section 722 of *Criminal Code* Parliament has  
20 indicated the importance of treating victims with courtesy, dignity, and respect, and giving  
21 regard to the views and concerns of victims in order to craft a fit sentence by taking into  
22 consideration all relevant legal principles and the circumstances of the offence and the  
23 offender. However, following a sexual assault conviction, the Court does not require  
24 evidence of a victim to recognize in general terms the degree of harm caused by a sexual  
25 assault. All victims of sexual assault experience physical and psychological harm; that is  
26 from *Goldfinch* at paragraph 37.

27

28 Here I have one victim impact statement from the victim's grandmother, who is raising  
29 him. She talks about [REDACTED] difficulties and challenges, some of which clearly started  
30 before the interference. She is clearly worried for him and doing her best to cope in a  
31 challenging situation.

32

33 So, with that background I must consider what a fit sentence is.

34

35 The Supreme Court of Canada in *Friesen* requires that in sentencing I recognize that sexual  
36 offences against children are inherently wrong. They have potential to harm children and  
37 in many case result in actual harm, which may not materialize for years into the future.  
38 Sexual offences against children merit more severe punishment than sexual offences  
39 against adults. Sentences for sexual offences against children should be sufficiently  
40 denunciatory to reflect the gravity of these offences and their long-term consequences.

41

1 I must start with denunciation and deterrence as the primary sentencing objectives.

2  
3 I also note that the our Court of Appeal has recognized that sexual assault is a volitional  
4 conduct. It is not accidental. Therefore, deterrence is an important objective of any sexual  
5 offence, that is in *Arcand*.

6  
7 While denunciation and deterrence are first considerations, however, sentencing is at its  
8 core an individualized process where focus is primarily on the gravity of the offence and  
9 the circumstances of the offender. The sentence I impose here should be similar to  
10 sentences imposed for similar offences committed by similar offenders.

11  
12 To give a proportional sentence, I must consider the aggravating and mitigating factors  
13 which will impact both the gravity of the offence and the moral culpability of [REDACTED].

14  
15 The Crown asserts the following aggravating factors.

16  
17 Firstly, the duration of the communications. At paragraph 7 of *Bertrand Marchand*, Justice  
18 Martin wrote that,

19  
20 “The duration and frequency of the communications are important to  
21 the extent that they may generate cumulative or more severe harms, and  
22 increase the gravity of the offence and the moral blameworthiness of  
23 the offender. Because repeated and prolonged acts of sexual violence  
24 increase the long-term harm suffered by the victim ... sending a large  
25 volume of messages, or sending messages in a persistent and  
26 unrelenting way, is aggravating .... In addition, while a shorter duration  
27 of communication is not a mitigating factor, maintaining online  
28 communications for a long period of time is aggravating ...”

29  
30 Here [REDACTED] communicated with [REDACTED] for at least 55 days. The communications are  
31 found in Exhibit 4. Reading the messages gives some context. I ask, can it be said that the  
32 messages were “persistent and unrelenting”? Many were initiated by [REDACTED], many were not;  
33 many were not overly sexual, but many were. I think this particular factor is mildly  
34 aggravating and while it is not argued by the Crown, I would also find that this is not a case  
35 where grooming is present for reasons similar to those given by Justice Renke in *Simmons*.

36  
37 Secondly, the Crown argues that there was graphic and explicit language. There is no doubt  
38 that some of the conversation between [REDACTED] and [REDACTED] was overtly sexual and used  
39 explicit language. While “continuous high level of sexual content is aggravating”, this is  
40 on the low end of a continuum of graphic and explicit language, but, nonetheless, mildly  
41 aggravating.

1  
2 Next, emotional manipulation. There is no doubt that ██████ expressed his affection for  
3 ██████ throughout the text messages. Representations of a romantic affection from an adult  
4 to a child are aggravating.  
5

6 Next, degree of physical interference. Society does now recognize that even mild, non-  
7 consensual touching of a sexual nature can have profound implications for a child victim.  
8 The degree of physical interference and the intensity of physical and psychological  
9 violence vary depending on the facts of the individual case, but any physical contact is  
10 violence. While there is no hierarchy of physical acts that harm children, these factors do  
11 go to the gravity of the offence. Increased degrees of physical interference increases the  
12 wrongfulness of the act. In this case, ██████ put ██████ penis in his mouth. This is a  
13 clear violation of ██████ sexual integrity.  
14

15 Impact on the victim. As noted above, *Friesen* warns the impact on the victim may not  
16 manifest immediately. While ██████ was a troubled youth before this and one can point to  
17 ██████ attempts to manipulate the situation, at the end of the day he is a child. ██████ is  
18 the adult. There is no doubt that this interaction harmed ██████ even without knowing the  
19 particulars.  
20

21 With respect to mitigating factors, the Crown argues that there are no mitigating factors  
22 and notes the matter went to trial and before sentencing ██████ had not expressed any  
23 insight or remorse. I note and the Crown concedes that the fact that ██████ exercised his  
24 right to a jury trial is not aggravating, it is simply not mitigating.  
25

26 I also note for mitigating factors that I received the 16 letters of good character on behalf  
27 of ██████. I must decide whether they disclose any mitigating effect.  
28

29 The Alberta Court of Appeal in *Quintero-Gelvez* noted that, “good character” in the broader  
30 sense of personal traits and past actions may or may not have a mitigating effect. Having  
31 had past advantages does not necessarily reduce an offender’s moral blameworthiness.  
32

33 In *KS* it was recognized that good character can be confused sometimes with family  
34 stability, work history, popularity, and success.  
35

36 Character references have limited value when sentencing for a major sexual assault. This  
37 concern was explained in *Shrivastava* where Justice Antonio, as she then was, noted that  
38 good character traits,  
39

40 “... displayed in public are of questionable relevance to offences  
41 committed in secrecy. In particular, since sexual offences are “usually

1           perpetrated in private, out of sight and knowledge of friends and  
2           associates”, evidence of community reputation has “little probative  
3           value” .... Sexual offences “are committed by people from all walks of  
4           life, out of the public eye, clandestinely and secretly, often to the  
5           surprise of people who thought they knew the perpetrator best ...”  
6

7           So, I have received and reviewed the 16 letters. As in *KS*, the letters before me while  
8           describing a reserved, respectful, and likeable single father, they can offer only a modest  
9           insight into his potential for rehabilitation. Justice Antonio in *Shrivastava* cautioned that  
10          allowing undue mitigation for good character can undermine the denunciative and deterrent  
11          functions of criminal sentencing.  
12

13          I will put some weight, but not significant weight on the letters in this case.  
14

15          With respect to the remorse, ██████████ when provided the opportunity by this Court briefly  
16          did express great remorse. Remorse coupled with insight and evidence of rehabilitation is  
17          a relevant mitigating factor, and that can be found *Friesen*.  
18

19          Other neutral factors. As noted above, ██████████ did not get the significant mitigating factor  
20          of a guilty plea. However, that is not aggravating. His lack of a relevant criminal record is  
21          also a neutral factor.  
22

23          With respect to the gravity of the offences. In *Friesen*, the Supreme Court of Canada  
24          recognized that sexual violence has the potential to cause several recognized forms of harm  
25          including harm that manifests in childhood and harm that only becomes evident in  
26          adulthood. The degree of physical interference and intensity of the physical and  
27          psychological violence vary depending on the facts of the individual case, but any physical  
28          contact is violence.  
29

30          In this case there was an initial encounter on an adult dating website. There were  
31          conversations on the dating app and then via text. This lasted a couple of months. Not all  
32          of the texting was graphic, but given the age of the child and the relationship, the texting  
33          was inappropriate. This relates to the offence of luring. I note the words of the Supreme  
34          Court of Canada in the decision of *WW* where they said,  
35

36                 “Depicting the appellant’s conduct and associated intention as  
37                 “flirtatious” is a serious mischaracterization for describing the  
38                 sexualized interaction between an adult — in this case a 52-year-old  
39                 man — and a child. Insofar as it can serve to normalize an adult’s  
40                 blameworthy conduct as simply playful, erotic or affectionate, instead  
41                 of inherently criminal, it has no place in an account of a charge

1 involving sexual violence towards children in our system of criminal  
2 justice. It bears recalling that a child can never consent to acts of a  
3 sexual nature committed by an adult. An adult's conduct in this  
4 connection is not playful but inherently abusive and exploitative and  
5 should be properly described as such ...”

6  
7 Here there was one instance where ██████ engaged in oral sex with ██████. This is a major  
8 infringement of ██████ sexual integrity.

9  
10 So when considering the gravity of these two offences, *Friesen* directs us to make it child-  
11 focused and to focus on the harm to the child. Here we did not have an abundance of  
12 evidence on the actual harm to the victim, but I did hear from his grandmother. In addition,  
13 the Supreme Court in *Friesen* cautions us not to downplay the impact of any act that  
14 involves a child's integrity and therefore causes harm.

15  
16 I note that while all sexual interference and luring is serious, like all crime, it exists on a  
17 spectrum of seriousness. Some factors that will push a crime towards a longer sentence  
18 often involve planning; deliberation, and here the original contact was not intended to be  
19 with a child; and violence, and here there was no physical violence other than the contact.  
20 A crime of sexual interference or luring that does not contain these aggravating elements  
21 can attract sentences of shorter duration.

22  
23 I find that the gravity of the offences are high, but not at the highest end of the continuum.  
24 Nonetheless, decisions such as *Pettitt* and *Friesen* remind us that the harm to the victim  
25 here reverberates beyond the victim and ultimately to the community as a whole.

26  
27 Then I must also consider degree of responsibility or blameworthiness. Addressing the  
28 question of degree of responsibility starts with the proposition that the greater the harm  
29 intended or the greater the degree of recklessness or wilful blindness, the greater the moral  
30 culpability. Moral culpability must also be assessed in the context of the offender's  
31 personal circumstances, mental capacity, and motive for committing the crime. The degree  
32 of moral culpability here is high. Though luring, while not initially intended, continued for  
33 2 months. Nothing about the duration of the communication and the features of the  
34 communications mitigate ██████ responsibility here. The communication following  
35 ██████ knowledge that ██████ was 14 cannot be characterized as impulsive or  
36 spontaneous, it was not a spur of the moment nor an isolated error of judgment. ██████  
37 had time to reflect.

38  
39 The sexual interference was one incident of fellatio, but given the degree of sexual  
40 interference with bodily integrity, it has been described by the Alberta Court of Appeal as  
41 a major sexual assault. ██████ was the adult and he knew what he was doing was wrong.

1 I find that the moral culpability is quite high.

2

3 Then I must consider parity. In considering the question of parity, I have considered the  
4 cases provided to me by the Crown and the defence, which include a number of them,  
5 *Friesen, Chung, MV, Simmons, Woodward, Bertrand Marchand, Morton, Moolli*  
6 *(phonetic), Klein, Power Romero, Hajar, Sayers, JNH, Lemay, and Rayo.*

7

8 I reviewed the cases provided and am cognizant of the need to be cautious of the pre-  
9 *Friesen* cases due to the Supreme Court of Canada's direction to increase sentences in cases  
10 involving the sexual abuse of children.

11

12 I note that deterrence and denunciation are the primary considerations. However, I also  
13 read the cases provided by the defence and recognize the importance of parity.

14

15 I recognize parity is not simply trying to pick out the most similar case and using that as a  
16 starting point.

17

18 With respect to the sexual interference, I accept that this case is not as serious as almost all  
19 of the ones cited to me other than *JNH* where a 20-year-old ejaculated on his niece and  
20 received 2 years in jail post-*Friesen*. I also note that that particular case referenced the  
21 decision of *Tungul*, which was not provided to me, where the offender was in a position of  
22 trust, she was a teacher, and on one occasion performed oral sex on a 15-year-old victim.  
23 The teacher in that case got 32 months.

24

25 I do not agree that this is a case where 4 years incarceration is a fit sentence for the sexual  
26 interference. That is disproportionate. I find that a sentence of 24 months is proportionate.

27

28 With respect to luring, as noted by Justice Renke in *Simmons*, the emerging range of  
29 sentences in luring cases in Alberta, according to him, is between 2 and 5 years. He found  
30 this after considering an Ontario Court of Appeal case in *MV* where it was noted that luring,

31

32 “... is a broad offence that can be committed by a wide range of  
33 offenders in varied situations, some of which may not deserve elevated  
34 levels of punishment .... The sentencing range that is established must  
35 not be narrow and must not have a harsh lower end.”

36

37 That said, the cases across Canada and at the Supreme Court of Canada seem to accept that  
38 a lower end of the range may even be lower than the 2 years accepted by Justice Renke.

39

40 Considering the cases provided to me and the fact that this matter involved a relatively  
41 short timeline, that the initial intent was not to engage with a minor, although he did not

1 disengage when he found out it was a minor, and the lack of aggravating photos being sent  
2 or received as in some of the comparator cases, I accept that a sentence of 18 months for  
3 luring is appropriate or proportionate.  
4

5 The question then for a sentence is whether the sentences are appropriate and whether they  
6 should be made concurrently or consecutively. Our Court of Appeal has made it clear it is  
7 within my discretion to be regulated by the principles of totality and restraint. As stated in  
8 *Roberts*, by our Court of Appeal,  
9

10 “... we decline to set down any bright lines as to when it is appropriate  
11 to impose consecutive sentences. The decision is a discretionary one  
12 and reviewed with deference .... Consecutive sentences are regulated  
13 by the principles of totality and restraint, to ensure the overall sentence  
14 is not unduly harsh. Concurrent sentences may need to be augmented to  
15 reflect the gravamen of the overall criminal conduct. ... The point is  
16 that multiple, appropriate pathways may be taken if they lead to a  
17 proportionate sentence. This is the central fundamental principle of  
18 sentencing. The sentence must be proportionate to the gravity of the  
19 offence and degree of responsibility of the offender.”  
20

21 I note that in *Morton* our Court of Appeal said,  
22

23 “Crown counsel points to another guiding principle that could justify  
24 the structure of the sentences imposed here. Consecutive sentences may  
25 be appropriate where the offences constitute “invasions of different  
26 legally protected interests” ...”  
27

28 The Crown here argues that the two crimes here strike at different legally protected  
29 interests.  
30

31 In *Bertrand Marchand* it was noted that Parliament’s creation of this preparatory offence  
32 of luring reflects its view that luring cases cause distinct and independent significant harm  
33 separate from the subsequent offence it may precede and it is sufficiently wrongful to  
34 justify criminal liability. The sexual interference addresses the physical invasion of Jurell’s  
35 body and sexual integrity. I agree. The legal interests sought to be protected here are  
36 different. I find that the sentence should be served consecutively.  
37

38 That being said, I must consider the question of totality and restraint. The sentence I make  
39 must reflect the principles of denunciation and deterrence that acknowledges that it was a  
40 serious sexual interference, but I must exercise restraint in the use of imprisonment for a  
41 first-time offender where proportionality and parity allow. The question is whether the

1 sentence is sufficiently harsh so that public condemnation is plain and other people are  
2 deterred.

3

4 Forty-two months in jail for these two counts is significant, especially for a first-time  
5 offender. I am satisfied that a cumulative sentence of 3 years will fulfill the balancing of  
6 the deterrence and denunciation with the need for restraint and parity. So, I am going to  
7 reduce the luring sentence by 6 months to reflect a total of 36 months in jail.

8

9 [REDACTED], please stand.

10

11 [REDACTED], on the counts for which the jury found you guilty, I am going to sentence you to  
12 a total of 36 months in jail.

13

14 MR. ZIV: Thank you. And just for the record then, 2 years  
15 on the interference charge and 12 months on the --

16

17 THE COURT: Luring.

18

19 MR. ZIV: -- luring. Thank you.

20

21 THE COURT: So, in addition to that, I have to make the  
22 following orders. I am going to give a Section 487.051, which is a DNA order; a Section  
23 490.012 *Sexual Offender Information Registry Act* or a SOIRA order for a period of 20  
24 years as I am not satisfied that [REDACTED] presents an increased risk of committing a sexual  
25 offence in the future; and a Section 743.21 order prohibiting [REDACTED] from communicating  
26 directly or indirectly with [REDACTED] during his incarceration.

27

28 Mr. Ziv, I am not sure -- I did not have what your position was with respect to the Section  
29 109 firearms prohibition.

30

31 MR. ZIV: No, I -- I -- I don't have a position.

32

33 THE COURT: For 10 years. I think I have to give --

34

35 MR. ZIV: Yeah.

36

37 THE COURT: -- that, correct?

38

39 MR. AVEY: Yeah, it's a mandatory order, Justice.

40

41 THE COURT: Yes, so there will be a mandatory Section 109

1 firearms prohibition for 10 years.

2

3 I also do not know if I had your position, Mr. Ziv, with respect to the Section 161 order.

4

5 MR. ZIV: I think the Crown were asking for 10 -- for 10  
6 years. Yes, I was in agreement with that, Justice, that is a order that can be modified if  
7 necessary.

8

9 THE COURT: Okay. So there is a -- I did get a proposed order

10 --

11

12 MR. ZIV: Yes.

13

14 THE COURT: -- that I will give to madam clerk so that she can  
15 enter it. It is a Section 161 order, its duration is for 10 years, it has the specific provisions  
16 which are included, which include provisions under Section 161(a), (a.1), (b), (c), and (d)  
17 and I will give that to madam clerk so she can put that on the record.

18

19 Then the only other thing I noticed that I did not have a position on from you, Mr. Ziv, was  
20 the forfeiture of a cell phone apparently.

21

22 MR. ZIV: Of my client's cell phone?

23

24 THE COURT: Yes.

25

26 MR. ZIV: That -- I don't believe there's anything on that  
27 cell phone, I believe that can go back to my client.

28

29 MR. AVEY: Well, pursuant to Section 490.1(1), that is a -- a  
30 -- a device that was used during the commission of the offences. At a minimum, the  
31 communications remain on the device.

32

33 THE COURT: Yes.

34

35 MR. ZIV: If the communications are on the device, then the  
36 device should not be returned.

37

38 THE COURT: Yes.

39

40 MR. ZIV: My understanding is they did not find anything  
41 on the device though, so how can we say that is the device?

- 1  
2 MR. AVEY: I -- I -- I can't recall candidly whether the  
3 communications were, in fact, found. What I can definitely confirm is that no evidence was  
4 led to that effect. What I would say though, at the end of the day given the evidence, is that  
5 the phone was used in the commission of the offence.  
6
- 7 MR. ZIV: Well -- well, a phone might have been used. We  
8 don't know if it was that phone, so I -- I -- I don't really want to sort of get into a -- a --  
9
- 10 MR. AVEY: Well, it's -- it's a discretionary order, Justice, I  
11 -- I leave it to the Court.  
12
- 13 THE COURT: Can I order that it be returned as long as that app  
14 or the text messages have been deleted? I mean, I know that makes somebody have to do  
15 that if they are there.  
16
- 17 MR. ZIV: -- I'm -- I'm -- I know that the officer when he  
18 testified said that he did not find any of the communications that had been led on the phone.  
19 I don't know if that jogs my friend's memory.  
20
- 21 MR. AVEY: Well, I -- I can say for -- well, what I can say,  
22 Justice, is that there -- there was no evidence before the Court that they were found.  
23
- 24 MR. ZIV: That were taken for forensic analysis.  
25
- 26 MR. AVEY: That said, Justice, what I can also say and I -- I  
27 trust my friend won't take issue with these comments notwithstanding that we didn't quite  
28 lead evidence to this effect, is that there were no media files found that would constitute  
29 what used to be called child pornography or what is now CSAM on any of the devices and  
30 so I can say that if the phone were to be returned to [REDACTED], if our impressions are  
31 mistaken, what he would be receiving in respect of this would be chats. He would not  
32 receive anything that is on its face illegal to possess.  
33
- 34 THE COURT: Yes. No, I did not see --  
35
- 36 MR. AVEY: So, I --  
37
- 38 THE COURT: -- yes.  
39
- 40 MR. AVEY: -- trust that that would inform the Court's  
41 decision.

1  
2 MR. ZIV: Yeah.  
3  
4 THE COURT: Yes. Yes, I will order the phone to be returned --  
5  
6 MR. ZIV: Thank you.  
7  
8 THE COURT: -- and I would just hope that those texts do not  
9 exist anymore. But I am sure they would have been led if they were on his phone and they  
10 were not, there was no evidence. It was --  
11  
12 MR. ZIV: Yeah, I -- I --  
13  
14 THE COURT: -- all the evidence was from [REDACTED] phone.  
15  
16 MR. ZIV: -- my memory and it serves to be corrected, is he  
17 sent the phone to Lethbridge for analysis and -- and nothing came back. If I recall the -- the  
18 evidence of the officer --  
19  
20 THE COURT: Yes.  
21  
22 MR. ZIV: -- but that's --  
23  
24 THE COURT: Yes.  
25  
26 MR. ZIV: -- my memory.  
27  
28 MR. AVEY: Yes. Sorry, I -- my friend's comments about  
29 Lethbridge has -- has reminded me that was, in fact --  
30  
31 THE COURT: Me as well.  
32  
33 MR. AVEY: -- Corporal Pepper's testimony.  
34  
35 MR. ZIV: Okay.  
36  
37 THE COURT: Yes, so we will return the phone.  
38  
39 MR. ZIV: Okay. Thank you --  
40  
41 THE COURT: Okay, so I think --

1  
2 MR. ZIV: -- thank you very much.  
3  
4 THE COURT: -- that is everything. Anything else, madam  
5 clerk?  
6  
7 MR. ZIV: No, thank you.  
8  
9 THE COURT CLERK: Is -- if there's any other exhibits, are they forfeit  
10 to Crown?  
11  
12 THE COURT: Yes, I do not think there were any --  
13  
14 MR. ZIV: Yes.  
15  
16 THE COURT: -- but we will order it because to cleanup the file.  
17  
18 THE COURT CLERK: And then the victim fine surcharge, was there --  
19  
20 THE COURT: We will waive. He is going to be in jail for 3  
21 years.  
22  
23 THE COURT CLERK: -- okay. And then for the ancillary orders, are  
24 they on both counts or they on count 2 and not 3?  
25  
26 THE COURT: Wish I would think of this before?  
27  
28 MR. AVEY: I would suggest that they be attached to both  
29 counts. With respect to the mandatory --  
30  
31 THE COURT: I think --  
32  
33 MR. ZIV: No objection.  
34  
35 MR. AVEY: -- orders --  
36  
37 THE COURT: Yes.  
38  
39 MR. AVEY: -- they do apply.  
40  
41 THE COURT: Yes, I think both counts.

1  
2 MR. ZIV: Thank you.  
3  
4 THE COURT CLERK: Thank you.  
5  
6 THE COURT: All right. Thank you, madam clerk.  
7  
8 MR. ZIV: Thank you, Justice.  
9  
10 THE COURT: Good luck, [REDACTED].  
11  
12 MR. ZIV: Thank you, Justice. Thank my friend as well.  
13  
14 THE COURT: Thank you.  
15  
16 MR. ZIV: Thank you.  
17  
18 THE COURT: Thank you, mister sheriffs.

---

21  
22 PROCEEDINGS CONCLUDED

---

1 **Certificate of Record**

2

3 I, Michelle Papadopoulos, certify that this recording is the record made of the evidence in the  
4 proceedings in the Court of King’s Bench held in courtroom 511, at Edmonton, Alberta, and  
5 that I was the court official in charge of the sound-recording machine during the proceedings  
6 on February 9th, 2026.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

1 **Certificate of Transcript**

2

3 I, Deborah Bell, certify that

4

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

11

12 Deborah Bell, Transcriber

13 Order Number: TDS-1104092

14 Date: February 16, 2026

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41