

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Chief Judge Phelps

REX

v.

ADAM JOHN LOUGHEED

Appearances:
William McDiarmid
Kevin Drolet

Counsel for the Crown
Counsel for the Defence

**This decision was delivered from the Bench in the form of Oral Reasons.
The Reasons have since been edited without changing the substance.**

REASONS FOR SENTENCE

[1] PHELPS C.J.T.C. (Oral): Adam John Lougheed is before the Court having entered guilty pleas to four *Criminal Code* offences, being that:

Count #4: On or about the 13th day of June in the year 2024 at or near the City of Whitehorse in the Yukon Territory, did operate a conveyance while prohibited from so doing by reason of an order pursuant to s. 320.24 of the *Criminal Code*, contrary to s. 320.18(1)(a) of the *Criminal Code*;

Count #5: On or about the 13th day of June in the year 2024 at or near the City of Whitehorse in the Yukon Territory, did operate a conveyance in a manner that was dangerous to the public and thereby caused the death of Joseph Morrison contrary to s. 320.13(3) of the *Criminal Code*;

Count #6: On or about the 13th day of June in the year 2024 at or near the City of Whitehorse in the Yukon Territory, while operating a conveyance and knowing, or being reckless as to whether, the conveyance had been involved in an accident with a person or another conveyance, and knowing at the time of the failure, or being reckless as to whether the accident caused death of another person, failed without reasonable excuse to stop the conveyance, give their name and address and, if any person has been injured or appeared to require assistance, offer assistance, contrary to s. 320.16(3) of the *Criminal Code*; and

Count #13: On the 21st day of June in the year 2024 at the City of Whitehorse in the Yukon Territory, did operate a conveyance while prohibited from doing so by reason of an order pursuant to s. 320.24 of the *Criminal Code*, contrary to s. 320.18(1)(a) of the *Criminal Code*.

[2] An Admission of Facts was filed with the Court and entered as Exhibit 2 on sentencing. The facts admitted include that on June 13, 2024, at approximately 8:30 a.m., Joseph Morrison was riding a bicycle northbound along the Alaska Highway in the Rabbit's Foot Canyon area of Whitehorse, Yukon, when he was struck from behind by a black Chrysler 300 sedan. Mr. Morrison was thrown from his bicycle as a result of the collision. The Chrysler did not stop after striking Mr. Morrison, and it continued travelling at the same rate of speed northbound along the highway.

[3] The area of the highway where the Chrysler struck Mr. Morrison allowed for a single lane of motor vehicle traffic in either direction. At the time of the collision, the northbound lane was generally clear of traffic, and the southbound lane had heavy bumper-to-bumper traffic. It was daylight and the weather was clear. The road was dry. Driving conditions were good, and visibility was excellent.

[4] Mr. Morrison was riding his bicycle on the shoulder of the road, which was separated from the motor vehicle lane by a solid white line. He was wearing an aerodynamic bicycle helmet and clothing with fluorescent strips.

[5] As the Chrysler was driving northbound along the highway, it crossed into the shoulder of the road when it was approximately 75 to 100 feet behind Mr. Morrison. There was no traffic or any obstruction between the driver of the Chrysler and Mr. Morrison, and there was no obstacle on the roadway. The Chrysler maintained its speed and struck Mr. Morrison, making impact at the front right passenger side headlight. The Chrysler's headlight, fender, and bumper were damaged by the collision, and pieces of the motor vehicle were left on the road. When Mr. Morrison was struck by the Chrysler, the impact caused him to be thrown from his bicycle and through the air, landing in the ditch at roadside. The driver of the Chrysler did not stop, slow down, return to the scene, or do anything to assist Mr. Morrison. The driver did not contact the police or an ambulance.

[6] Multiple motorists in the southbound lane of traffic exited their vehicles and attended to Mr. Morrison. He was breathing but unresponsive. A motorist called 911, and police and ambulance attended. The ambulance transported Mr. Morrison to Whitehorse General Hospital, where he was placed in the intensive care unit. He remained unresponsive. Later that day, Mr. Morrison died from the injuries he sustained in the collision.

[7] Twelve Victim Impact Statements were filed with the Court as well as two Community Impact Statements. The 12 Victim Impact Statements include statements

from each of Mr. Morrison's three children, his wife, his siblings, his cousins, his aunt and uncle, his father-in-law, and a witness that went to his side to comfort him at the scene. The Community Impact Statements were from the school he taught at for a number of years, being Holy Family Elementary School, and the second from the broader community of Whitehorse and adjacent communities.

[8] The Victim Impact Statements set out the profound loss that was suffered as a result of the offences committed. Mr. Morrison was clearly a loving and kind man who was dearly loved by those in his family and circle of friends.

[9] Without naming individuals, I will set out some select quotes to highlight the impact of this loss.

From a witness at the scene of the accident:

The single most enduring memory is the violence of what I saw. I witnessed a car deliberately leave the roadway, line up, and strike Joe while he rode his bike. I left my daughter in our car to run across the road and was among the first at Joe's side. I held his hand as he gasped for breath. I told him, "You are not alone." Those moments will never leave me.

It continues:

I have become considerably more anxious than before witnessing Joe being hit and responding. Even as I actively worked to reduce other stressors in my li[f]e, my overall level of anxiety remains high. I feel my baseline for anxiety is significantly higher than before the incident.

A quote from one of his children:

From that day on, happiness turned into continuous anger, fear, isolation, dismantlement. A loss of trust in everyone and everything. Joy was replaced with a sense of misunderstanding and thoughts of "Did I deserve this?" After

that awful day, a home once filled with laughter, heartfelt conversations, motivation and happiness turned into a household where we step on eggshells around each other, trying our hardest not to upset one another. And I have to live the rest of my life knowing it was all ONE person's fault.

From another Victim Impact Statement:

Instead of happiness, I now witness my family wrapped in sadness day after day. I witness my daughter growing thin and drawn with worry and strain. My grandchildren withdrawing from the things they used to enjoy with their dad. Silence pervades where laughter and fun once were the norm.

From another Victim Impact Statement:

Joe was the person in our family who provided us with fun, lightheartedness, sense of adventure, inspiration for physical activity. He was our role model for working to save the planet through thoughtful choices, recycling, dedication to not wasting food, and active transportation. We no longer have that. The family is no longer the same family. We have lost that lightheartedness and joy.

From a sibling Victim Impact Statement:

Now our family has a wound that will never heal. You didn't just take my brother's life - you destroyed the lives of all of us who loved and knew him. Because of your choices, I've suffered mentally and physically. My body is constantly in stress mode, terrified something else will happen to another family member. I've needed therapy and medication to function and try to process my grief.

Also from a sibling Victim Impact Statement:

He was my go-to for advice, my sounding board when life felt confusing, and the one person I knew truly understood me - and who I deeply understood. We had a bond I can't fully explain. It was just always there. Strong. Constant. Safe.

The statement continues as follows:

...You didn't just take my brother. You took a father from his children. A husband from his wife. A mentor from his

students. A selfless friend from his friends, and a son from his Mother. As well as a leader from his community.

A man who mattered deeply to so many.

Also from one of his children the following:

...I feel that through the last year, I have almost become desensitized to the sadness and violence of what happened because it's becoming just a reality of my life. I'm always angry. It feels like nothing can be as bad as what happened to my dad. No one deserves to die this way. How could someone do this? How could something like this happen? Who hits someone with their car and doesn't even stop? What's stopping him from doing it again? The system failed. The system failed my dad and it failed my family.

And it continues:

Through all of this, I have learned to value family. I have a deeper appreciation for the importance that family holds in my life. But I am always scared that something will happen to them. Every day I hug my mum goodbye, and I worry that she won't make it home. I can't leave for school without thinking I may never see them again.

From a Community Impact Statement, the following:

The last day of school, the day the children learned of his death, was heartbreaking. The grief in the school was overwhelming. Students were inconsolable. Parents, teachers, and Joe's friends came together that day to support one another, but the pain of loss was immense.

His loss has left a deep void in our lives. My 10-year-old daughter continues to express how much she misses him, noting each milestone without him: "This is the first book fair without Mr. Morrison". "This is the first Christmas without Mr. Morrison, "Let's make Valentines for Mr. Morrison." She even included him in a family tree project for people she's lost, and she's made drawings and cards for him after his passing.

From the broader Community Impact Statement:

Respondents who knew Joe overwhelmingly and effusively described his diverse and dedicated involvement in the

community. Joe was exceptionally kind, friendly, thoughtful inclusive, enthusiastic. His contributions were felt daily, were exceptional and noted by all who encountered him.

It continues with a quote from somebody who did not know Mr. Morrison:

I remember the day we learned of the cyclist being struck by a vehicle, and then soon learning it was a hit and run. Several of my staff on my team bike to work, me included, and we shared shock as we waited to hear updates. The updates only became more horrific, and at the end of the day, everyone biking home was somber and alert – hypervigilant to the vehicles around us, a heightened sense of anxiety merely because of our choice of transportation.

And finally, from the same Community Impact Statement:

As a parent, I feel significantly more anxious when my sons leave the house on their bikes. As a husband, I worry about my wife every day on her commute to and from work. As a teacher, I worry about my students, and I feel angry that many have stopped biking or bike less often, because they feel less safe. I am only one of countless parents, spouses, and teachers who feel the same way.

[10] Adam Lougheed is 42 years old and a member of the Taku River Tlingit First Nation in Atlin, B.C. He comes before the Court with a lengthy criminal record dating back to his youth in 1996. It is continuous in nature until 2016, filled primarily with break and enter, theft-related offending, and violations of court orders. The criminal record next has entries in 2023. I note, in February 2023, possession of property obtained by a crime over \$5,000, obstructing a peace officer, and resisting arrest, for which he received a combined 120 days. In August 2023, break and enter and commit, contrary to ss. 348(1)(b) of the *Criminal Code*, possession of property obtained by crime over \$5,000, and flight while pursued by a peace officer. He received concurrent sentences of 355 days for the break and enter and possession of property and a 180-day conditional sentence on the flight while pursued by a peace officer. On that offence, he

received a 12-month driving prohibition, which was the driving prohibition he was on in June 2024.

[11] A Pre-Sentence Report (“PSR”) was filed with the Court. It had been prepared in July of this year for a proceeding in Alberta, being an aggravated assault matter. It relates to a conviction after the incident that is before this Court, but an act that was committed before this matter. The PSR sets out that Mr. Lougheed is one of four siblings. With respect to family history, I quote from the PSR:

...Mr. Lougheed said his dad drank often and frequently cheated on his mother, which led to their separation when he was five years old. Mr. Lougheed said that he has very little memory of his dad growing up. He said that his dad was a guide hunter who worked as a journeyman carpenter. He said that his dad [redacted] passed away when he was 12 years old. A year later, his stepdad passed away. ...

[12] His mother was a residential school survivor, and he suffered abuse at her hands growing up. There are clear *Gladue* factors present in his upbringing, as highlighted by his counsel in submissions. He has a grade 10 education and aspires to be a heavy-duty mechanic. He also has a history of employment in the mining industry.

[13] The PSR sets out a significant drug problem from a young age. This drug problem is a contributor to the criminal behaviour set out in his extensive criminal record. I note that the PSR was quite helpful for the Court in understanding Mr. Lougheed and his background.

[14] There are a number of support letters that were filed with the Court. One from Tony Ens in November 2024, a part-time chaplain at the Whitehorse Correctional

Centre; another one from Ricki Tardiff, a clinical counsellor, also from November of 2024. There is a letter from Nathan Schultz, a clinical counsellor with the Forensic Complex Care Team from November 2024. And I quote from that letter:

Mr. Adam Lougheed [redacted] was referred to the Forensic Complex Care Team by the Whitehorse Correctional Centre on July 2nd, 2024. Between July 12th, 2024, and present, Mr. Lougheed has attended 9 counselling appointments with me.

Our focus together has been on relapse prevention and referral to substance use treatment. Over our time together, Mr. Lougheed has consistently articulated that he is motivated to attend substance use treatment.

[15] Finally, there is a letter from Jerry Soltani, a resident elder at Whitehorse Correctional Centre. This letter is from September 2024. I note from that letter the following:

He has made an honest attempt to maintain his grounding and his ties to culture. He sews with hide and also does beading. Currently, he has beaded several orange hearts and tee-shirts for Truth and Reconciliation Day (September 30). As well, he assists an older inmate on a daily basis to become accustomed to the routines of WCC.

[16] In addition to the support letters, a number of certificates have been provided to the Court dating from July 2024 to September 2025. They include Traffic Control Person and Flagging; Pandemic Awareness; Hydrogen Sulfide; Chainsaw Safety Learning; R.D.A.P. Challenge Thinking; Living Without Violence; Healthy Relationships Group; Getting Started Program, part of the Courage to Change series; R.D.A.P. Opportunity to Change; Courage to Change; Social Values Program; and finally, Preventing Violence, part of the Strategies for Change series.

[17] In this sentencing, I am required to apply the principles set out in s. 718 of the *Criminal Code*. Section 718 states as follows:

The fundamental purpose of sentencing is to protect society and to contribute, along with the 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 or to the community.

[18] I must also be mindful of the principle of proportionality set out in s. 718.1 of the *Criminal Code*, which states:

A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[19] I am also required to balance aggravating and mitigating circumstances, as set out in s. 718.2 of the *Criminal Code*. And in this case, particular attention must be given to s. 718.2(e), which states:

all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

[20] There are also statutory aggravating factors set out in s. 320.22 of the *Criminal Code*, particularly subparagraphs (a) and (g). That section states as follows:

A court imposing a sentence for an offence under any of sections 320.13 to 320.18 shall consider, in addition to any other aggravating circumstances, the following:

(a) the commission of the offence resulted in bodily harm to, or the death or, more than one person;

...

(g) the offender was not permitted, under a federal or provincial Act, to operate the conveyance.

[21] The aggravating factors before me are as follows. Mr. Loughheed was travelling on a highway when he crossed a solid white line and drove on the shoulder without slowing down. The shoulder of the road, given the time of day, can be expected to have cyclists or pedestrians on it. He had 100 or more feet to travel and did so without slowing or swerving to avoid Mr. Morrison. Mr. Morrison, who was obeying the rules of the road, was properly equipped and attired and would have been highly visible, given the conditions on that day. As noted, it is statutorily aggravating that he was prohibited from driving at the time and that his actions caused the death of Mr. Morrison. Also, his criminal record is also noted, signalling a lifetime of engagement in criminal behaviour and non-compliance with court orders.

[22] Mitigating factors to be considered are the guilty plea that brought us here today. That avoided the necessity of a trial, a trial which would have been difficult for Mr. Morrison's family and friends to endure, as well as the civilian witnesses at the scene who would have been required to testify. There was an emotional apology given to the family and to the friends of Mr. Morrison and an acknowledgement of the harm done. I took the apology to be sincere. I acknowledge that his words did not attempt to deflect blame. They showed remorse for his actions.

[23] A number of cases were filed with the Court which I will address, starting with the decision of *R. v. Edmiston*, 2023 YKTC 24, from this Court. The circumstances of the case are set out in paras. 5 to 7 as follows:

5 The circumstances of the offence are set out in an Agreed Statement of Facts that was filed as Exhibit 1 at the sentencing hearing. On the date in question, Mr. Edmiston was the driver of one of two cars that were proceeding together on a family outing to Army Beach located about 45 kilometres southeast of Whitehorse. Mr. Edmiston, who has never been licensed to drive, attempted to pass the other car at a very high rate of speed, going uphill on a curved portion of the Alaska Highway that was marked with a double solid yellow line, because oncoming traffic could not, from his vantage point, be seen. When the oncoming traffic appeared over the crest of the hill, Mr. Edmiston attempted to re-enter his side of the roadway, but that spot was then occupied by the car he had been trying to pass. This resulted in a collision between the two cars that caused his car to spin and continue its travel along the oncoming lane.

6 Two cars approaching in the oncoming lane were able to take evasive action but Mr. Adams, travelling on his motorcycle directly behind them, did not have a chance to avoid the collision. He died instantly on impact, but he and his motorcycle were thereafter forced underneath the vehicle operated by Mr. Edmiston. The motorcycle's gasoline tank ruptured and, after emerging from underneath the car, caught fire.

7 There were two other occupants in Mr. Edmiston's car. The sole rear seat passenger was his common-law partner, Nicole Sanderson. She was catastrophically injured in the collision and after a period of acute distress, died at the scene. The other front seat occupant, Zachary McCutcheon, suffered serious injuries that required him to be flown by medevac first to the Whitehorse Hospital and then to Vancouver for life-saving spinal and other surgical operations.

[24] Mr. Edmiston was 28 years old at the time of sentencing. There were numerous emotional Victim Impact Statements at the sentencing, and the judge addressed them at paras. 78 to 81 as follows:

78 ...I now wish to make it clear there is no question that impact on victims can be considered an aggravating factor, and on the facts of this particular case as described is a significant aggravating factor. I rely on guidance provided by the Supreme Court of Canada in *Lacasse*, where, at para. 85, the Court stated as follows:

My colleague also states that "the impact on those close to the accused cannot be considered an aggravating factor that would justify a harsher sentence for the accused"... He cites s. 718.2 of the *Criminal Code* in support of this assertion. But the list of aggravating factors in that section is not exhaustive. Also, this factor, like that of intoxication, played a secondary role in the determination of the sentence. ...

[25] Judge Gill continues:

79 Now when applying the foregoing guidance, I must nonetheless be mindful of the wise words from the British Columbia Court of Appeal in *R. v. Berner*, 2013 BCCA 188, where at paras. 24 and 25, the Court stated as follows...

80 The Court continued para. 25 of that decision as follows:

There are other dangers. While a sentencing judge must try to understand a victim's experience, he or she must do more than that. He or she must craft a fit sentence by taking into consideration all relevant legal principles, and the circumstances of the offence and the offender. In emotionally charged cases such as this, a sentencing judge must keep in mind his or her position of impartial decision maker. The sentencing judge must be wary of the risk of valuing victims, based on the strength of feelings expressed in the victim impact statement. ...

[26] Judge Gill continues:

81 I will only add what I expect is obvious to all, namely that sentencing in cases such as this is by no means intended to be compensatory. Rather, the Court must be guided by sentencing legislation and sentencing principles as described by Parliament in the case authorities. All life being precious, the loss is incalculable, and no sentence can adequately reflect that, and indeed many of the victims have themselves stated that no sentence could ever be sufficient.

[27] Mr. Edmiston himself was very remorseful, as set out in para. 89 of the decision.

The judge describes it as, "a genuine and indeed a tormented remorse."

[28] The judge thoroughly reviewed the case law on dangerous driving causing bodily harm or death and also noted the difficult background of Mr. Edmiston at paras. 140 and 141:

140 ...He has had an upbringing not just deprived or disadvantaged in any conventional sense but, rather, one that can only be described as one of abandonment and of physical, emotional, verbal, and sexual abuse, as he was shuttled from home to home. These features of his life are being related not out of a sense of forgiving sympathy but more in terms of their impact on how he has been brought up to see the world around him and how that has impacted

his cognitive response to risk-taking and thereby his capacity for moral blameworthiness.

[29] The judge continues:

141 A question arises as to whether this offender has any hope of rehabilitation. Despite the horrific consequences of his actions for which he is being sentenced today, it cannot be said that he previously led a life of crime. He had, prior to this offence, no criminal record whatsoever. Although his rehabilitation is not a primary sentencing principle on this proceeding, it must not be ignored entirely, in particular given this offender's relative youth, his genuine remorse, and the progress demonstrated while most recently on bail. Based upon all the material filed at sentencing, I believe his rehabilitation is a reasonable prospect. ...

[30] Mr. Edmiston was sentenced to a period of custody of four years and 11 months for dangerous driving causing the death of Mr. Adams; he was sentenced to four years and 11 months concurrent for dangerous driving causing the death of Nicole Sanderson; and he was sentenced to a period of custody of two years and five months concurrent for the dangerous driving causing bodily harm to Zachary McCutcheon.

[31] The case of *R. v. Al Jalmoud*, 2025 ONSC 1607, was also filed with the Court.

The facts of that case are set out in para. 9 as follows:

At that moment, so the officers described for the jury, and surveillance video confirms, the Escape accelerated very quickly, drove into the lane for oncoming traffic and around the minivan and sped off going straight, northbound on John Street, and passing through two red lights, at the second of which, at the intersection with Young Street, the Escape collided with a Hyundai Sonata being driven by an Uber driver named Hardik Patel. His passengers, both sitting in the back seat, were two friends, Ryan Valentim and John Wignall. I will return to the consequences of this collision later in these reasons, but note now that Mr. Patel was very

seriously injured as a result of this collision, and that Mr. Valentim and Mr. Wignall both died due to non-survivable blunt force injuries, Mr. Wignall at the scene after he was ejected through the rear window of the Hyundai and Mr. Valentim at the hospital.

[32] At para. 58 of his decision, the justice reviews 11 cases for similar offences, and concludes at para. 59 that the majority fall between four- and six-year sentences. The accused in this case was 20 years old without a criminal record or a driving record. Given his circumstances, he was sentenced to three years and three months.

[33] *R. v. Lojovic*, 2025 ONCA 319, was also filed. This case speaks to the issue of proportionality at paras. 63 and 64, and specifically to the legislative changes to the provisions of the *Criminal Code* in 2018. I quote from para. 64:

This case does not require resolution of these issues. However, I agree with the Crown that the 2018 change signals Parliament's intention that sentences for dangerous driving causing death should increase and five years should not be seen as the top of the range. The circumstances of these types of offences vary significantly and each sentence must be tailored to the specific circumstances of each case: *Perry*, at para. 21. A sentence of five years for Mr. Lojovic's conviction for dangerous driving causing death is nevertheless significant compared to sentences imposed post-2018 for similar offences: see, for example, *Perry*, *R. v. Kalyan Trivedi*, 2024 ONSC 3936, and *R. v. Al Jalmoud*, 2025 ONSC 1607.

[34] Mr. Lojovic was sentenced to five years for dangerous driving causing death, two years for failing to remain at the scene, and one year for breach of probation for a total of eight years.

[35] *R. v. Morgan*, 2024 ABCA 345, a case involving striking and killing a cyclist in a parking lot. The Alberta Court of Appeal addressed the 2018 *Criminal Code* amendments at para. 56 of that decision, noting:

The decision of Parliament to raise the maximum is material to the sentencing patterns and ranges going forward from that time. Although trial judges must respond to social and legislative changes and, in doing so, may increase the range of sentences beyond what was traditionally imposed, they must do so in a principled way, having regard to the fundamental principle of proportionality and the other sentencing principles. A trial judge should not, however, reflexively give a markup from an appropriate fit sentence to a higher sentence simply to reflect the change in legislation. ...

[36] The Court of Appeal adjusted the sentence in this case to four years for the dangerous driving causing death plus one year consecutive for failing to remain at the scene.

[37] *R. v. Gourlay*, 2018 BCSC 884, is a case that was filed primarily to address the offence of failing to remain at the scene. The Court addressed the offence starting at para. 43:

The case law clearly establishes that leaving the scene of an accident with intent to avoid liability is an extremely serious offence. In *R. v. Lisi*, 2001 BCCA 559 at paras. 7–8, the Court of Appeal said:

[7] ...As in all matters the range of sentence whether it be actually in custody or a conditional sentence of imprisonment is very, very broad. There are no limits in the *Criminal Code* and there is no minimum sentence for this offence, but this, in my view, is an extremely serious offence. Leaving the scene of an accident with intent to avoid liability can deprive law enforcement authorities of knowing

what the accused was like at the time and what condition he was in at the time the offence occurred, quite apart from the dangers to the victim, who may be alive and in need of assistance.

[38] The Court in *Gourlay* continues at para. 44:

Other cases have called the offence “morally reprehensible” or “contrary to any standard of decency and humanity”...

[39] The Court continued to address the offence in the context of the maximum sentence at para. 46:

The gravity of the offence of leaving the scene of an accident is reflected in the Parliament’s decision to set a maximum life sentence for the offence when death occurs. Three of the policy reasons for such a significant maximum sentence were fully explored by Justice Germain in *R. v. Didechko*, 2016 ABQB 552 at paras. 19–23. In summary and in brief, those policy reasons are:

...

(b) Because many cases in which a driver flees the scene of an accident also involve the driver’s use of alcohol/drugs or other criminal driving offences, the penalty for fleeing should be substantial enough to remove any strategic incentive available to the accused by fleeing. A dishonourable driver should not be advantaged by taking their chances of not being caught or being caught after they have sobered up. As Judge Germain said at para. 21, “Anything that minimalizes or trivializes an offence measured against the potential offences one could be attempting to avoid, is bad social policy...”.

[40] The Court continues to find the sentencing range for this offence to be between three months and 18 months.

[41] Finally, the decision of *R. v. Theriault*, 2021 NWTSC 17, is a Northwest Territories Supreme Court decision. The driving involved increasing the speed in the vehicle up to 192 kilometres per hour and losing control, the accident causing the death of one passenger and bodily harm to another passenger in the vehicle. The driver and an uninjured passenger fled the scene. The Court in this decision lists the principles to consider in sentencing for these offences at para. 22 as follows:

The Crown has filed a number of cases to assist in sentencing, some sentencing decisions and some are appellate decisions. There are decisions from the Northwest Territories and other jurisdictions across Canada. I do not intend to review them all, as counsel have thoroughly reviewed them, but there are a number of principles that emerge from the cases.

1. Dangerous driving causing bodily harm and causing death are recognized as serious offences. When an offender drives dangerously, passengers, other drivers and the public are needlessly placed at great risk of harm. While the consequences of bodily harm and death may be unintended, the driving behaviour of the offender that causes them is undertaken by choice. The offender makes a choice to drive dangerously and bears the consequences of that decision.
2. There is no set range of sentences for dangerous driving offences generally. This is because there is a wide variety of circumstances in which these offences occur, and the circumstances of the offenders can differ greatly.
3. Despite this, it is acknowledged that sentences for dangerous driving causing death are generally trending up. Sentences are often measured in years, not months.

4. The primary sentencing goals for dangerous driving causing death are deterrence and denunciation, not rehabilitation. Retribution, which is a different objective from vengeance, is also an important sentencing objective. While driving is an everyday activity, it is also a privilege and driving dangerously exposes others to great risk. Sentences for dangerous driving must express society's condemnation of the conduct and warn others that it will not be tolerated.
5. The factual circumstances of dangerous driving can vary widely and the range of appropriate sentences is correspondingly broad. Factors such as the offender's age, the circumstances of the accident, the duration of the dangerous driving, the existence or absence of a criminal record and driving offences, the degree of deviation from driving norms, the particulars of the highway and its use and driving conditions, are all relevant factors for consideration.
6. Dangerous driving conduct can range from dangerous driving that is of momentary or of a short duration through to deliberate, persistent and aggressive driving that occurs over a prolonged period of time. The most blameworthy conduct often includes other conduct such as the consumption of alcohol or drugs.
7. There is a duty on drivers involved in an accident to remain at the scene. Leaving the scene of an accident is considered an extremely serious offence, particularly where there has been bodily harm or death. Failing to remain at the scene may remove any chance that an accident victim might have of survival. It is recognized that this type of conduct is morally reprehensible and contrary to any standard of human decency.

8. In most cases, sentencing for failing to remain at the scene of an accident should be made consecutive to the sentences imposed on the underlying driving offence.

[42] Mr. Theriault was 45 years old and Indigenous. He did have prior related offences on his record. He received a five-and-one-half-year sentence for dangerous driving causing death, a three-year concurrent sentence for dangerous driving causing bodily harm, and 12 months for failing to remain at the scene of the accident, consecutive, for a total of six and one-half years plus a lifetime driving prohibition.

[43] Mr. Lougheed asserted today that his moral blameworthiness is lowered because he actually fell asleep on this occasion. He states that he should not have been driving at the time while tired, but his blameworthiness is far lower than that of Mr. Edmiston. I have concerns with the plausibility of the explanation on the facts. The vehicle crossed the solid white line. It is noted to have then continued straight and continued for in excess of 100 feet. It was a significant collision damaging his vehicle that resulted, leaving parts on the highway, all of this without swerving or braking as he continued driving away.

[44] That said, if he was so tired as to fall asleep while driving, I find his moral blameworthiness to be high. This was not driving while tired, but so tired he could not stay awake. He was that tired, but he chose not to pull over and to sleep. He chose instead to drive on a highway during rush hour traffic when people were commuting to work, and children were commuting to school. Adults and children could be expected to be riding bicycles on the highway and streets he drove on to get home. The extreme

state of tiredness to actually fall asleep in these circumstances and continuing instead of stopping results in high moral blameworthiness in these conditions.

[45] Crown has argued for a sentence of five years on the s. 320.13(3) offence for dangerous driving causing death, six months concurrent for the first of the s. 320.24 offences of driving while prohibited, and 18 months consecutive on the s. 320.16(3) offence for failure to remain, failing to stop, and six months consecutive on the subsequent s. 320.24 driving while disqualified, for a total of seven years.

[46] Defence has argued that a five-year sentence with concurrent time on the July 13, 2024, offences would be appropriate and three months consecutive for the July 18, 2024, drive while disqualified.

[47] Counsel are in agreement on a 10-year driving prohibition, and I will impose that driving prohibition on Count #5, meaning that you are prohibited from operating a motor vehicle pursuant to s. 320.14 of the *Criminal Code* on any street, road, or highway or any other public place for a period of 10 years.

[48] Having considered the submissions and the case law and taking into account the aggravating and mitigating circumstances, I impose the following sentence.

Mr. Loughheed, please stand.

[49] For the offence of dangerous driving causing death, contrary to s. 320.13(3) of the *Criminal Code*, I sentence you to a period of custody of five years. You will receive credit at 1.5:1 for the time served, totalling 1.5 years. For the offence of driving while prohibited, contrary to s. 320.18(1) of the *Criminal Code* on June 13, 2024, I sentence

you to a period of custody of six months. That custody will be served concurrent. For the offence of failing to stop at the scene of the accident, contrary to s. 320.16(3) of the *Criminal Code*, I sentence you to a period of custody of 15 months consecutive. For the offence of driving while disqualified, contrary to s. 320.18(1) of the *Criminal Code*, being the subsequent one in time and taking into account the principle of totality, I sentence you to a period of custody of three months consecutive. Total period of custody today is six and one-half years. You will receive credit for time served of one and one-half years.

[50] There is a victim surcharge attached to each offence, but given the custodial status, those will be waived.

[51] Mr. Lougheed, it is a significant sentence. You have taken advantage of your opportunities while in custody, and you will have plenty of opportunities with this sentence. I do wish you the best of luck in taking advantage of that and turning your life around.

PHELPS C.J.T.C.