

SUPREME COURT OF YUKON

Citation: *R v Boss*
2026 YKSC 85

Date: 20260921
S.C. No. 24-01504
Registry: Whitehorse
Heard: Whitehorse

BETWEEN

HIS MAJESTY THE KING

AND

SETH BOSS

Before Chief Justice S.M. Duncan

Counsel for the Crown

Howard Piafsky and
Neil Thomson

Counsel for the Defence

Jennifer Budgell

REASONS FOR SENTENCE

[1] DUNCAN C.J. (Oral): On April 21, 2026, I found Seth Boss guilty of manslaughter for killing Anthony Primozic. Today, it is my role to impose a fit sentence on Seth Boss for his commission of this offence.

[2] The death of Anthony Primozic was an unspeakably tragic event. A good man's life was taken far too soon. The justice system cannot fix that. I wish, as we all do, that we had the ability to go back in time and prevent this tragedy from occurring.

[3] The *Criminal Code*, RSC 1985, c C-46 (*Criminal Code*), sets out my responsibility in the sentencing process. I must look at the circumstances of the offence, the impact of the offence on the family, friends and community of Anthony Primozic,

the circumstances of Seth Boss, and the aggravating and mitigating factors. It is my responsibility to review and apply the principles and objectives of sentencing set out in the *Criminal Code*, including reviewing sentences imposed in other similar cases of manslaughter and then to provide my analysis and decision.

[4] Other judges have commented insightfully on what the sentencing process cannot do: Justice Gower wrote in *R v MacPherson*, 2017 YKSC 19 (*MacPherson*): “The value of a life of a human being is not measured in years behind bars” at para. 70, citing *R v Huth*, 2014 BCSC 570 (*Huth*) at para. 14. Justice Watt stated: “No sentence will ever breathe life into the deceased person, nor restore him or her to his or her family and/or friends” (*R v Costa*, [1996] OJ No 299 (Ont Ct J (Gen Div) at para. 42)). Justice Macaulay said in *Huth*:

[14] ... it would be wrong for anyone to expect that the application of the purpose and principles of sentencing to the circumstances here somehow reflects a translation of the value of a life lost into some equivalent years of imprisonment for the offender. That is not the goal of sentencing.

[5] This process and decision cannot put a value on Anthony Primozic’s life through the length of a sentence imposed on Seth Boss. You, his family and friends and community know Anthony’s value. You know how important he was to you and what his contributions were to the world. My decision today unfortunately cannot fix the very real and deep pain that you are experiencing.

[6] What this judgment can do is denounce the actions of Seth Boss as appropriate, deter him and others from committing similar offences, acknowledge and assist Seth Boss’s ongoing rehabilitation, and acknowledge the harm he has done to Anthony Primozic, his family and friends, and the community.

[7] I hope that you will all seek out care and support as needed to help with the additional suffering that may have been triggered by this week's proceedings.

Circumstances of the Offence

[8] Seth Boss was charged with committing second degree murder of Anthony Primozic on March 9, 2022. He plead guilty to manslaughter at the outset of trial, admitting he caused the death of Anthony Primozic. The Crown did not accept his guilty plea. The issue for the court to decide at trial was whether Seth Boss was guilty of second-degree murder or manslaughter. I found that the Crown did not prove beyond a reasonable doubt that Seth Boss had the intent to cause harm that he knew would be likely to cause death or that he was reckless as to whether death ensued or not. He was found guilty of manslaughter.

[9] There was an extensive agreement of facts in this case. The reduction in number of witnesses and time of trial was a benefit to all those affected by this case and for the administration of justice generally.

[10] There were no third party witnesses to Anthony Primozic's death. There was no evidence of motive or provocation. The two men knew each other, although it had been some time since they had seen one another. They met by chance while both of them were walking in Haines Junction, at approximately 11:40 p.m. on March 8, 2022. After briefly going to a local hotel to see one of Anthony's aunties, and walking around in Haines Junction again, they ended up at Anthony's home at approximately 12:40 a.m. Seth Boss killed Anthony in his home between 2:20 a.m. and 3:00 a.m. on March 9, 2022.

[11] Both men were drinking heavily that night. Seth Boss began drinking before 9 p.m. and continued drinking quickly and heavily at the local bar. When he met up with Anthony and they went to the local hotel, he was carrying with him a bottle of whiskey and 13 cans of beer. Additional empty liquor bottles and beer cans were found in Anthony's room where the killing occurred. Anthony's Blood Alcohol Concentration (BAC) was 269%. Seth's was at least as high and likely higher, given his drinking pattern that evening. The three expert witnesses who were a toxicology expert, an addictions and substance disorder specialist, and a forensic psychiatrist, all concluded that his BAC was between 224% and 350%. At these levels, according to the toxicology expert, a person would have problems making coherent, cohesive decisions and would be unable to figure out the consequences of their actions. Their ability to determine risk, their reaction capability and their judgment would be severely impaired.

[12] Seth showed signs of disorientation, mental confusion, exaggerated emotional states, perceptual disturbances, staggering gait, impaired balance, slurred speech and muscle incoordination, and impaired consciousness/sleep or stupor. He was in an advanced state of intoxication. The impact of his intoxication impaired his foresight of the consequences of his actions, sufficient to raise a reasonable doubt about his subjective intent.

[13] When Seth met Anthony in the street, he had become separated from his aunt, with whom he had been drinking at the bar, and who was returning to his other aunt's home. Over a period of approximately two hours, Anthony was texting or speaking periodically with Seth's two aunts. Anthony initiated the first call to advise Seth's aunt that Seth was with him and that he was taking him home and would put him to bed. The

aunts tried to arrange a pickup of Seth from Anthony's home by one of Seth's relatives but that did not happen. As a result, Anthony took care of Seth, and Seth's aunts were relieved that Seth was with Anthony.

[14] At 2:02 a.m. Anthony asked one of Seth's aunts by text if she could come get Seth, even though he had earlier agreed Seth could stay there. At 2:22 a.m. Anthony texted one of the aunts again saying that Seth was trying to choke him out. The aunt's phone was turned off. There were two more unanswered calls from Anthony's phone around that time to the aunt's phone.

[15] The pathologist Dr. McKinnon concluded the cause of Anthony's death was multiple blunt and sharp force injuries. Dr. McKinnon's evidence of the injuries included:

- Four complex lacerations of Anthony's scalp ranging in size from 5.5 centimetres to 18.5 centimetres, severe enough to cause death because of the occurrence of significant blood loss;
- The presence of two long, thin, wooden fragments in his hair, 2.5 centimetres and 1 centimetre in size and blue-green in colour, from which a reasonable inference was drawn that the wooden electric guitar found in pieces on and around Anthony's body was used as a weapon to inflict the blunt force injuries on Anthony's head;
- Numerous sharp force injuries to Anthony's head, face, neck, chest, abdomen, right shoulder, and hands, ranging in size from 0.6 centimetres to 2.3 centimetres, perforating the skin and soft tissues, with enough force applied to penetrate through his hoody and shirt; these wounds were most prevalent on his neck, chest, and lower abdomen;

- Numerous wounds to his strap muscles, the trachea, esophagus, and thyroid gland, serious enough to cause death on their own;
- Two wounds to the right internal jugular vein, which connects to the brain and heart, serious enough to cause death on their own;
- Three other areas of injury in the neck area not serious enough to cause death on their own: numerous wounds to the thyroid gland, four wounds to the subglottic larynx, and one wound to the proximal esophagus.
- Approximately 12 wounds perforating the skin and soft tissues of the chest with penetrating trauma of the underlying structures: at least three wounds on the bilateral anterior ribcage; one wound to the right mid-sternum; two wounds to the pericardium of the heart; one 0.6-centimetre stab wound to the right ventricle of the heart — a fatal injury; and three wounds to the right middle lobe of the lung that would have been fatal if that had been the only wound: it is possible that Anthony had already passed away at the time of that injury.
- Other wounds were superficial injuries of the skin and soft tissues of the right shoulder, lower abdomen, and perforating wounds of the palm of the hand and to the top of the left hand. On the right hand between the thumb and the index finger, there was a round perforation, indicative of a defensive wound.

[16] There was a significant amount of Anthony's blood on, in and around Anthony and his clothing and on a towel beside him, and on the computer desk, computer,

fridge, closet organizer, and recliner, as well as on the walls and doors leading to the bedroom.

[17] The police officer who took photos at the autopsy testified there were approximately 100 puncture wounds on Anthony's body. The weapon that caused these wounds was never identified by any of the witnesses. No suggestion of any reasonable inference to be drawn about what caused the puncture wounds was made.

Dr. McKinnon described it as a "sharp implement with a pointed side that can penetrate."

[18] For clarity, none of the evidence at trial described Seth Boss stabbing Anthony Primozic 111 times, nor did it describe the injuries sustained by Anthony Primozic as 111 separate stab wounds. There was nothing in the evidence, nor in my judgment, that could support such a conclusion. There is no doubt that Anthony sustained severe and brutal injuries from Seth Boss, and my decision on sentence must be based on proven facts, nothing else.

Victim Impact Statements

[19] Fifty-two people filed Victim Impact Statements. They were from Anthony Primozic's immediate family, his extended family, many friends, community members, and teachers. Thirty-four of them were read in Court by their authors, by family of the author, or by the victim services support workers.

[20] The *Criminal Code* (s. 722) provides that a victim impact statement can describe the physical or emotional harm, property damage, or economic loss suffered by the victim. Parts of some of the victim impact statements in this case were redacted, in order to comply with the requirements of the *Criminal Code* and the case law

interpreting it. That process of redaction occurred in open court, largely by agreement between Crown and defence counsel, with a small number of rulings by me where there was disagreement. As I said at that time in Court, in order to comply with the *Criminal Code*, the judge is required to disregard any part of the victim impact statement that: expresses a desire for vengeance, because the criminal justice system is not designed to compensate grief through a harsh sentence; criticizes the offender, because that risks the appearance of revenge motivation; restates the facts, because that risks inconsistency with trial testimony; or recommends what the punishment should be, because that raises expectations improperly, given the many considerations involved in determining a fit sentence and the risk of placing too much weight on public opinion. The redactions in the statements in this case were made for one or more of these reasons.

[21] Victim impact statements contribute to fulfilling the sentencing objective of promoting a sense of responsibility in the offender and an acknowledgment of the harm done to the community. More specifically, their purposes are: to encourage the offender to take responsibility for their actions and provide them with insight into the harm caused by their actions; to provide the victims with an opportunity to be heard and to participate in the trial process by giving direct information to the court; and to remind the court of the devastating and long-term effects of the offence and to increase the court's understanding of the consequences of the crime in the context of the victim's personal circumstances (*R v Gabriel*, [1999] 26 CR (5th) 364 (ON SC), at paras. 19, 21; *R v Daley*, 2003 NBQB 20 at paras. 14-15; *R v Bremner*, 2000 BCCA 345). In this case, the

victim impact statements and community impact statements that were presented, with redactions, achieved all of these purposes.

[22] Anthony Primožic was a loving and well-loved son, brother, nephew, cousin, family member, friend, and community member. He was a citizen of the Champagne and Aishihik First Nations (CAFN). He had a positive influence on a wide range of people in his 25 years. He was described in similar ways by those who spoke. His mother said, he “left a legacy of loving-kindness.” “His greatest strength was his heart” said Darlene Smith and Ron Thompson. Lisa Pauls said he “noticed people who were struggling and stepped in to help” and Annika Brewster said he did “endless tasks from the kindness of his heart.” He loved having adventures out of the land and was accomplished at hunting, fishing and sledding. He was a protector of his family and friends. He was a loyal and caring friend. He demonstrated strong cultural leadership and was described as a “young Elder in the making” by Darlene Smith. He was an accomplished heavy duty mechanic, a hockey player, a junior ranger, a soccer player. He participated in Dene games and hand games. He was passionate about his community. He loved to laugh, dance the two-step, and play music. He was a “cherished member of the community” and “one of our treasured young people,” said Rose Kushiruk.

[23] People described the impact of his loss on them in similar ways: unbearable pain, agony, devastation, overwhelming grief, sadness and distress. Some people described needing medication to sleep, or for depression and anxiety. Many said they had a broken heart. Some spoke of their lives now being split into “before Anthony” and “after Anthony.” They cannot participate in or enjoy family or community events in the

same way without the presence of Anthony. Several people said this caused them to question their spiritual beliefs. They could not understand why such a good man was taken in such a violent way.

[24] The way in which Anthony died had a profound impact on many who spoke or wrote. The senseless attack he suffered in his own home caused shock, anger, and fear. People spoke of being more guarded, less trusting of others, and more concerned about their safety and security.

Community Impact Statements

[25] There were several community impact statements filed: from CAFN, St. Elias School (three different submissions), the Canadian Ranger Patrol, Dän Nàkwàkhèi Language Program.

[26] The statement from CAFN described how the First Nation government workplace was grieving and many employees took extended leave or were not performing at their best. Many people commented on Anthony's passion for fixing skidoos, quads, dirtbikes and vehicles and how his loss has increased the financial costs of finding alternatives. People expressed fears for their safety in the community and noted the community cohesion has ruptured. Certain cultural practices have been disrupted, and the loss of the Primozić family to the community as they continued to manage their grief was mourned. The Dakwākāda Dancers were particularly affected because they lost dancers and organizers, some of whom were from Anthony's family. Most people communicated their mistrust in the justice system as a result of this incident and favoured bringing back the old ways of accountability through a clan system response.

[27] Anthony's death has shocked the community and has left many people grieving deeply.

Circumstances of Seth Boss

[28] Seth Boss is 24 years old. He was 20 years old at the time of the offence. He was born in Whitehorse and grew up in Lower Post, British Columbia. He is Kaska Dena and a member of the Daylu Dena Council. Some of his childhood was spent in Haines Junction, Yukon, where his grandfather and other extended family members were living.

[29] Seth Boss has no criminal record. He was given a suspended sentence and six months' probation in June 2024 after pleading guilty to mischief from an incident that occurred after this one.

[30] A *Gladue* report was obtained and filed in this case. Much of the following information comes from that report. His mother also filed a support letter at the sentencing hearing – some of the information comes from it as well.

[31] Seth Boss was raised primarily by his mother who was 19 when he was born. Seth has had no relationship with his father since the age of three, when his parents' volatile relationship ended. When his mother was absent due to her admitted drug addicted and alcoholic way of life, his grandfather, great grandmother and his aunts helped to raise him.

[32] Three of Seth's grandparents were residential school survivors and suffered from traumas and substance abuse. Many survivors of residential schools have recounted sexual and other physical and emotional abuses, medical experimentation, harsh conditions including inadequate food and living quarters, child labour, and premature deaths of fellow students. Forced removal of Indigenous children from their families and

communities resulted in their loss of language, values, culture, traditional knowledge and family supports. It affected not only their ability to become healthy parents in later life, but also led to maladaptive coping mechanisms such as chronic substance use. The legacy has carried on to subsequent generations, affecting their health and overall functioning. Seth is an intergenerational survivor of the negative impacts of the colonial legacy of residential schools, the *Indian Act*, RSC, 1985, c I-5 and related government policies. The legacy of residential schools and colonial laws and policies also affected Seth's mother – she was the first in her family on both parents' sides not to have attended residential school, but felt its impacts first hand.

[33] The *Gladue* report writer summarized Seth's early years as described to him as "largely defined by familial fragmentation, parental substance misuse, instability and loss." He moved frequently with his mother – Dawson Creek, Old Crow, Haines Junction, and Whitehorse.

[34] Seth also described two experiences of childhood trauma- in Whitehorse when he was four; and in Haines Junction when he was six or seven. He wants to obtain further counselling to address trauma arising from these incidents as well as to address substance abuse. During his teen years he experienced emotional dysregulation, social anxiety and suicidal ideation.

[35] As a youth, he travelled with his maternal grandfather to participate in Sun Dance ceremonies and other community gatherings, participating in hunting, fishing, trapping and other land-based activities throughout his life.

[36] As a teenager, Seth Boss had some achievements: a leadership award in Grade 10, participation at the 2017 North American Indigenous Games on Team Yukon's soccer team, and membership in the Army Cadets from age 12 to age 17.

[37] When Seth was 16 years old, he and his mother moved to Lower Post. The difficult loss of his grandmother followed, affecting both him and his mother. Seth graduated from high school in Watson Lake in 2019. However, he described significant learning and emotional challenges throughout his schooling, beginning in kindergarten. He said he was 'pushed ahead' despite struggles with focus and comprehension. He was never referred for any assessments to diagnose or address these issues.

[38] He began part-time work at a young age – first delivering newspapers, and later as a labourer in construction and landscaping. At age 17, he began working at the Silvertip Mine as a heavy equipment operator and rock truck driver, becoming a full-time employee after high school. He was working there at the time of the offence.

[39] Around age 18 he began drinking alcohol, saying he felt overwhelmed and alcohol served as a way to self-medicate to cope with the emotional impacts of the childhood grief, loss and trauma. His drinking prevented him from attending a Canadian Armed Forces' Bold Eagle summer employment program in Victoria, British Columbia, that combined Indigenous culture with military training. His excessive binge consumption of alcohol was a key factor in his later involvement with law enforcement.

[40] He says he has no memory of the offence but expressed remorse to the *Gladue* report writer.

[41] He has been in custody at Whitehorse Correctional Centre (WCC) in Whitehorse since February 22, 2023. He has completed every program offered to him, presenting

33 certificates of completion of programs including substance use, life skills, violence prevention, living without violence, and healthy thinking.

[42] Since January 9, 2024, he has consistently attended 61 therapy sessions with Angela Neufeld, a registered psychologist with a Master's in Education. She diagnosed him with complex Post-Traumatic Stress Disorder (PTSD) with dissociative symptoms, including depersonalization and derealization. She also assessed a likely substance use disorder, in remission since incarceration. The focus of his therapy sessions has been building his capacity for a greater understanding of the impacts of severe trauma on his nervous system and functioning, greater emotional regulation, and healthy relationships with others. Angela Neufeld describes him as a “very intelligent and capable young adult who with appropriate supports and guidance has the potential to have a socially minded and productive life.”

[43] As of September 10, 2026, he has attended 101 individual counselling sessions with a clinical counsellor with the Forensic Complex Care Team (FCCT) at Mental Wellness and Substance Use Services since March 25, 2025, as well as 22 group sessions facilitated by FCCT counsellors while at WCC. The focus of counselling has been the development of self-awareness, exploration of interpersonal relationships, understanding complex childhood trauma, and developing strategies for emotional regulation. The counsellor describes Seth Boss as having a high level of engagement during sessions and has reviewed with his counsellors his self-directed reflection and application of skills learned between sessions. The counsellor stated “he exhibits insight into his behaviours and their impact on others, engages openly and cooperatively in therapy, and demonstrates capacity for accountability while expressing remorse. He

shows emotional awareness, a willingness to self-reflect, and reports actively applying new coping and communication skills which has improved emotional regulation and distress tolerance.” The counsellor states his participation in therapy shows a meaningful and sustained effort toward rehabilitation and stability.

[44] He wants to relocate to Vancouver, British Columbia, with his mother and attend business school or become certified as a Red Seal heavy equipment operator or carpenter.

Analysis

Purposes and principles of sentencing

[45] The purpose, objectives and principles of sentencing are set out in the *Criminal Code*, and they must guide me when imposing any sentence.

[46] The fundamental purpose of sentencing is twofold: first, to protect society; and second, to contribute to respect for the law and maintenance of a just, peaceful, and safe society through the imposition of sanctions.

[47] These purposes are governed by objectives, set out in the *Criminal Code* (s. 718): first, denouncing unlawful conduct and the harm to victims or community caused by that unlawful conduct; second, deterring the offender and other persons from committing offences; third, separating the offender from society where necessary; fourth, assisting in rehabilitating offenders; fifth, providing reparations for harm done to victims and the community; and six, promoting a sense of responsibility in offenders and acknowledging the harm done to victims or the community.

[48] A sentencing judge must determine which objective deserves the greatest weight in the circumstances of the case. There is no mathematical formula to follow.

Sentencing is an individualized process. The nature of the crime and the characteristics of the offender in each individual case will inform the judge of the relative importance of each objective. The court in *R v Laberge*, 1995 ABCA 196 (*Laberge*) at para. 31, citing *R v Creighton*, [1993] 3 SCR 3 at 57 wrote:

The criminal law must reflect not only the concerns of the accused, but the concerns of the victim and, where the victim is killed, the concerns of society for the victim's fate.

[49] The Supreme Court of Canada said in *R v Parranto*, 2021 SCC 46 at para. 10:

The goal in every [sentencing] case is a fair, fit and principled sanction. Proportionality is the organizing principle in reaching this goal.

[50] This ultimate goal of proportionality means the judge must ensure that the sentence imposed is proportionate to the seriousness of the offence and the degree of responsibility or moral blameworthiness of the offender. Proportionality promotes justice for victims, and it seeks to ensure public confidence in the justice system.

Proportionality also ensures that the enormity of the loss and the tragic consequences do not overwhelm or distort the appropriate penalty (*R v Stewart*, 2005 YKTC 74 (*Stewart*) at para. 17). In sentencing an offender, “regard must be had to all the circumstances of the offence and of the offender, and to the needs of the community in which the offence occurred” (*R v Thorn*, 2021 YKSC 30 (*Thorn*) at para. 70, quoting *R v Nasogaluak*, 2010 SCC 6 at para. 44).

[51] Denunciation is a key objective when the nature of the offence is so violent or brutal that it demands an expression of public revulsion and refusal to tolerate the behaviour that led to the offence. The objective of denunciation relates to society’s demands for punishment that fits the crime committed.

[52] Vengeance is not a consideration in any sentencing hearing (*R v MCK*, 2015 MBQB 82 at para. 11). This is because revenge, vengeance or retribution are related to emotional demands of the family and friends of a deceased victim, motivated by anger and grief, all of which may be disproportionate to the offence (*R v M (CA)*, [1996] 1 SCR 500 at para. 80).

[53] Deterrence is both general and specific. General deterrence is based on a belief that a sentence will discourage people in society generally from offending, in part because it will educate them about the consequences of choosing crime. Specific deterrence is directed toward the offender and it presupposes the offender can see the connection between the punishment and the unlawful act and it will discourage or prevent them from committing other unlawful acts.

[54] Rehabilitation is an essential objective in all cases. It is especially pertinent for youthful first offenders, for any offence (*R v Kwakye*, 2015 ONCA 108). It has weight especially where the offender sincerely wants counselling or treatment to address the factors that led to the offending, such as substance use. (Gregory Koturbash, *A Guide to Conducting Sentencing Hearings in Canada*, (Toronto, Ontario: LexisNexis Canada, 2023) (Koturbash) at 134).

[55] The sentencing judge must also consider other principles in the *Criminal Code*: parity, restraint, and totality.

[56] Parity means that an imposed sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances (s. 718.2(b); *R v Friesen*, 2020 SCC 9). Parity is a tool that helps a judge to arrive at

proportionate sentences. It has no special status over other sentencing objectives and principles (Koturbash at 142).

[57] Restraint means the length of the sentence imposed should not be more than is necessary to achieve the relevant objectives of sentencing. Restraint must be considered in sentences of youthful, first-time offenders and requires that any custodial sentence be as short as possible, tailored to the individual circumstances of the accused, and rarely determined only by the objectives of denunciation and general deterrence (*R v KL*, 2026 ONCA 300 at paras. 51-52 and cases cited therein).

[58] Totality is to ensure that the total sentence does not eliminate the rehabilitation potential of the offender. A fit sentence is always defined by the totality of the circumstances.

[59] A sentencing judge must consider increasing or reducing a sentence if there are aggravating or mitigating circumstances relating to the offence, the offender, or the victim.

[60] When sentencing an Indigenous offender, s. 718.2(e) of the *Criminal Code* requires the judge to consider all available sanctions other than imprisonment that are reasonable in the circumstances and consistent with the harm done to victims and the community, with particular attention to the circumstances of Aboriginal offenders. The Supreme Court of Canada in interpreting this section in *R v Ipeelee*, 2012 SCC 13 (*Ipeelee*) at para. 72 has elaborated that the judge must consider the unique systemic and background factors that may have influenced the reasons for the offender coming before the court, as they may have a mitigating effect on their moral blameworthiness.

As well the judge must consider the effectiveness of any appropriate sentence for the offender because of his or her Aboriginal heritage or connection.

Positions of Crown and Defence on sentencing

[61] The Crown's position is a sentence of 11 years in custody should be imposed. They say an objective assessment of the facts shows the killing was "near murder" on the manslaughter spectrum. The resulting penalty should be closer to the higher end of the range, which in the Yukon is 12 years. Seth Boss' voluntary intoxication increases his moral blameworthiness, because it is intentional risk-taking, supporting a higher sentence. There are other aggravating factors of the location of the killing in Anthony's bedroom, the pain and damage experienced by the Primoic family, and the lack of any attempt of Seth Boss to alert anyone about the attack and the failure to acknowledge it until before trial. The primary objectives in manslaughter cases are denunciation and deterrence. The Crown acknowledges the necessary consideration of the intergenerational trauma experienced by Seth Boss reduces his moral blameworthiness, resulting in their position of 11 years.

[62] The defence position is the imposition of a sentence of time served plus one day, resulting in a sentence with 1.5:1 pre-trial custody credit, of five years, four months and 12 days, plus three years' probation. Defence emphasizes the sentencing principle of restraint and the objective of rehabilitation. Defence says the absence of motive for the killing negates the finding of near murder at the extreme end of the spectrum. His state of intoxication should be a neutral factor because he grew up in an environment surrounded by substance abuse, and it became normalized. This was not a case where he understood there was any link between substance use and the commission of violent

offences. His youth, his guilty plea to manslaughter, the absence of a criminal record, his diminished moral blameworthiness as a result of the negative impacts of colonialism on Indigenous people, his prospects for rehabilitation, evidenced by the programming and counselling he has undergone while in custody, and the adverse consequences of his banishment from the community of Lower Post, are mitigating factors that support the position of time served.

Sentencing principles for manslaughter

[63] Manslaughter means that a person has caused the death of another, but the killing is less blameworthy than murder. The offence of manslaughter encompasses a broad range of conduct, from near accident to near murder. Where the conduct lies on this spectrum helps determine the moral culpability of the offender. Penalties for the offence may range from a suspended sentence to life imprisonment. In each case the sentence imposed must fit the degree of moral fault of the offender for the harm done (*R v Plowman*, 2015 BCCA 423 (*Plowman*) at para. 39).

[64] The objectives of denunciation and deterrence usually predominate in manslaughter cases. Rehabilitation as a sentencing objective has a less significant role in sentencing for offences like manslaughter; however, it is essential to consider it in all cases, and especially where the offender is youthful.

[65] In *Laberge*, the Court of Appeal identified three broad groups of unlawful acts to be assessed objectively and subjectively in the determination of moral culpability. The third one is relevant here: those which are likely to put the victim at risk of, or cause, life-threatening injuries.

[66] Many factors are to be considered in determining the degree of moral culpability through an assessment of the unlawful acts. For example, the court can consider the physical characteristics of the act that led to the death, the choice of weapon, the degree of force, the extent of the injuries, the degree of violence including any gratuitous violence, the degree of deliberation, the extent to which there appears to have been forethought or planning, the complexity of the act, provocation, the time to perpetrate the act and the element of chance involved in the resulting death (*Laberge* at para. 23, affirmed by *R v Stone*, [1999] 2 SCR 290 at para. 247; *Plowman* at para. 40).

[67] The court in *Laberge* also emphasized in determining moral blameworthiness the need for the judge to consider the offender's personal characteristics and circumstances that could mitigate or aggravate culpability (*Laberge* at para. 10). The Court of Appeal noted that "numerous permutations and combinations of these relevant factors will be possible ... all must be blended and balanced as part of the court's assessment of the offender's degree of moral culpability for the crime committed" (*Laberge* at para. 11).

[68] Thus, the assessment of moral culpability for the purpose of sentencing in manslaughter cases requires a consideration of a broad range of circumstances involving the unlawful act and the offender's circumstances. This is a different inquiry than the determination of whether there was subjective intent to commit the act of killing. The lack of intent which is part of a manslaughter conviction is accounted for in the penalties for manslaughter, which are typically less than for murder.

[69] Although sentencing is an individualized and subjective process which reflects the unique circumstances of the specific offence and offender, especially in a manslaughter case, reviewing other cases may still be helpful. Counsel provided a large

number of cases for my review – some were to support general principles in particular areas, and others were sentencing decisions in manslaughter cases, in the Yukon and in other jurisdictions. In general, the sentences for manslaughter range from a suspended sentence to 15 years. In the Yukon, sentencing for manslaughter convictions has been between four and 12 years, with most of the cases between five and nine years.

[70] Ranges of sentences are suggestions and are not conclusive in determining an appropriate sentence. Each case has to be decided on the circumstances of the offence and the offender, the principles and objectives of sentencing, and any relevant aggravating and mitigating factors: *R v Boucher*, 2012 YKSC 6 at para. 40, citing *R v Aburto*, 2009 BCCA 446 at para. 19. The Supreme Court of Yukon in *MacPherson* observed at para. 6:

Because of the broad range of sentencing options available to a court for punishing the offence of manslaughter, the sentencing precedents in the case law vary widely and it is extremely difficult to attempt to compare facts, circumstances and background of offenders ...

[71] I will not review here all of the cases provided by counsel, but I assure everyone that I read them all and they have informed my decision. Instead, I will highlight several cases that I found most helpful to my analysis.

[72] In *R v Morgan*, 2024 YKSC 50 (*Morgan*), a jury found the accused guilty of manslaughter, not second degree murder. He received a sentence of six years. While intoxicated as a result of consuming hallucinogenic mushrooms and alcohol for most of the day and evening, he caused the death of the victim by blunt trauma. The attack was unprovoked and there was no apparent motive. The two men knew and liked each

other. There was evidence of the accused's substance-induced psychosis at the time of the offence. The men were alternating between saying "I love you man" and "I don't want to fight you." The beating was brutal, the injuries were severe and extensive, the force applied was powerful. The offender had a troubled upbringing and was aware his voluntary intoxication increased his risk of violent behaviour, found to be an aggravating factor. He was not Indigenous. He was remorseful, submitted lengthy apology letters and apologized in court, and had demonstrated a fundamental and extraordinary transformation of his life following the offence. But for this transformative rehabilitation the sentence would have been eight and a half or nine years. The Crown had suggested seven years, the defence four years. Six years was imposed to account for the extent of the rehabilitation.

[73] In *R v Atkinson*, 2024 YKSC 21 (*Atkinson*), the offender pled guilty to manslaughter despite no memory of the events that caused the victim's death – a blunt force injury to the head, anorectal injuries and acute toxic effects of alcohol. The Court accepted the joint submission of counsel and imposed a nine and a half year sentence, although noted his view that an appropriate sentence was 10-12 years. I agree with defence counsel's observation that cases of joint submissions are less helpful because of other considerations that factor in to a joint submission, but in this case the judge's statement of what he would consider the appropriate range is instructive. The offender had significant *Gladue* factors, had expressed remorse, and had health challenges. He was 62 years old and also had an extensive criminal record including prior convictions for violence against women, distinguishing factors from this case.

[74] In *R v Boucher*, 2012 YKSC 6, also a joint submission, the court imposed a sentence of 12 years. The offender along with a co-accused arrived intoxicated at a local hotel and beat the owner of a hotel to an unconscious state. The victim died in the back of the victim's truck as the two offenders drove to Whitehorse. When the truck became stuck in a snowbank they left the victim's body in the ditch. Aggravating factors were the occurrence of the beating at the victim's residence, the significant degree of force applied, the theft of art and his truck, his placement in the truck while unconscious and the disposal of the body in a ditch. The Court called it a senseless slaughter, deserving of a sentence with a significant emphasis on denunciation and deterrence. It is useful to discuss here despite the joint submission because of the sentence at the highest end of the range and the reference by other judges to it as an "outlier" in the context of Yukon sentencing decisions for manslaughter (*R v Silverfox*, 2021 YKSC 49 (*Silverfox*)). Among other things, the offender in *Boucher* was described as leading an anti-social and criminal lifestyle involving violence at the time of the offence.

[75] In *R v Martineau*, 2012 ABCA 401, the offender received a sentence of 10 years for stabbing the victim to death in a liquor store, using a stolen knife. He was high on methamphetamine and resident at a homeless shelter at the time. The sentencing judge found the offence fell at the highest range of moral culpability, deserving of a 12-year sentence. He had an extensive criminal record, knew his propensity for violence when high on methamphetamine, and had refused treatment despite pressure from family members. However, there were some *Gladue* factors, symptoms (but no diagnosis) of FASD as well as Attention-Deficit/Hyperactivity Disorder, substance use disorder, schizophrenia, stimulant induced psychosis, mental capacity of a 10- or 11-year-old

child and anti-social personality disorder. This was sufficient to reduce the sentence to 10 years, and the Court of Appeal upheld the sentence as fit. Distinguishing factors from the current case include the criminal record, and the refusal of treatment for substance use known to lead to violence, and the element of planning.

[76] In *MacPherson*, the offender, who was not Indigenous, received a seven-year sentence. He stabbed the victim five times after a consensual fight. Both had been drinking. The Court considered the mitigating factors of a guilty plea and remorse, the offender's relatively young age at 35, that the use of the knife was impulsive and opportunistic, that there was some provocation by the victim, that he turned himself in, had a dated criminal record, and demonstrated an intention to stay sober. Aggravating factors included the use of a knife in a senseless argument, stabbing the victim who was unarmed and vulnerable five to six times 16 centimetres deep, a past criminal record with offences of violence, fleeing the scene and staying on the run for 10 days, and, finally, the fact that the death had a devastating impact on the victim's family. The judge noted it was two-thirds of the way along the spectrum between "near accident" and "near murder." Distinguishing factors from the case here is the five to six stab wounds, compared to multiple wounds inflicted by Seth Boss, and the non-Indigeneity of the offender.

[77] In *Silverfox*, the offender, who was a young Indigenous woman, received a four-year sentence. She stabbed her friend twice in the chest in an argument over beer. Both women were highly intoxicated. The Court considered the mitigating circumstances of her young age of 20, her Indigeneity, her previous victimization of physical and sexual abuse and her own history of alcohol and drug use, her years in foster care, her status

as a child of the residential school survivors, her expressions of remorse, and her regular attendance at counselling while in custody. Aggravating circumstances were her prior convictions for violence and being on probation at the time of the offence, and the characterization of the offence as “near murder” rather than “near accident.” The Court found that the offender’s intoxication was not an aggravating circumstance because the abuse of drugs and alcohol was part of this offender’s world. The *Gladue* factors in her case were numerous and significant. Acknowledging that the victim might still be alive if the offender had not been intoxicated, the facts were that everyone was drinking and fighting that evening. Intoxication was therefore neither an aggravating nor a mitigating factor. Distinguishing factors include the victim wielding a knife, a large group of very intoxicated people, the less serious injuries and a motive for the attack and the significant *Gladue* factors.

[78] In *Stewart*, the offender received a six-year sentence. He and the victim were drinking buddies. The offender beat the victim to death while both were intoxicated. The Court considered the guilty plea, the fact he was Indigenous and attended residential school, grew up in a dysfunctional home, was remorseful and tried to save the victim by performing CPR, expressed a desire to become sober, and may have been acting in self-defence as mitigating circumstances. Aggravating circumstances were his lengthy record of violent offences, intoxication, brutal beating over a period of time as contrasted with one impulsive blow, and infliction of multiple injuries to the victim’s head and body and the inability of the victim to defend himself because of his intoxicated state. The significant criminal record and the attempt to save the victim are distinguishing factors from this case.

[79] In *Thorn*, the offender received a five-year sentence less time served. She committed an unprovoked assault on her intimate partner who died from blunt force trauma. Both the offender and the deceased were heavily intoxicated. The offender tried to clean up the scene after the offence and provided a false alibi to police. She had a criminal record that included crimes of violence, significant *Gladue* factors, and a long-standing addiction to alcohol. The Court found that her intoxication during the commission of the offence was not an aggravating factor, but “part of the factual matrix that led to the tragic death” of the victim (at para. 122). The Court also recommended that she be placed at one of the Correction Service of Canada’s healing lodges. Distinguishing factors from this case include a long well-documented history of alcohol addiction and personal trauma of the offender, as well as failed attempts at treatment.

Aggravating and mitigating factors in this case

[80] The aggravating and mitigating factors of the crime and the offender might reduce the sentence (mitigating) or increase the sentence (aggravating).

[81] The following are aggravating factors in this case:

- The attack was a severe, brutal beating, where considerable force was used, to cause multiple life-threatening injuries.
- There were multiple blows over a period of time.
- The killing occurred at the Anthony Primozić’s home in his bedroom where he had invited Seth Boss in an attempt to help him with the effects of his advanced state of intoxication.
- The pain and damage felt by the Primozić family.

[82] The following are mitigating factors in this case.

- Seth Boss showed remorse by pleading guilty to manslaughter at the outset of trial and by expressing his remorse to the *Gladue* report writer.
- He had no prior criminal convictions.
- He is 24 years old, a young man, and was 20 at the time of the offence.
- He has taken steps toward rehabilitation while in custody and has the prospect of and intention to pursue further rehabilitation.
- He is an Indigenous offender and has experienced intergenerational trauma as a result of historical and contemporary injustices of colonialism, including the legacy of residential schools.

[83] I want to address voluntary intoxication and banishment in more detail.

Intoxication

[84] The characterization of this factor is difficult. On the one hand, the Court of Appeal of British Columbia in *R v Badhesa*, 2019 BCCA 70 (*Badhesa*) considered the effect on moral blameworthiness of voluntary intoxication in a manslaughter case. They wrote as follows in para. 39:

Intoxication by alcohol or drugs often figures prominently in manslaughter cases. While relevant to moral culpability, self-induced intoxication that leads to violence is typically the product of intentional risk-taking, which conduct is itself dangerous, irresponsible and blameworthy. In such circumstances, the offender is held fully accountable for his or her condition and principles of deterrence and denunciation are paramount in the determination of a fit sentence. This is because the offending conduct encroaches on our society's basic code of values and warrants condemnation and punishment: *Green* [2001 BCCA 672] at paras. 16, 19, 23.

[85] Seth Boss did not start drinking alcohol until he was 18 years old, unlike many other offenders who began drinking in their early teenage years. He had grown up in a household marred by alcohol and violence so had some awareness of their connection from his family relationships. Seth Boss knew that his self-medication with alcohol was problematic as he told the *Gladue* report writer that it “messed up” his application to the summer employment program with the Armed Forces. The *Gladue* report stated: “excessive binge consumption of alcohol remained a problematic issue which followed him into young adulthood and was a noted key factor in his later involvement with law enforcement and the index offence.” Seth Boss was aware before the offence that his drinking was problematic but had not attempted to address it in any way before entering WCC on remand.

[86] On the other hand, like the offenders in *Silverfox* and *Thorn*, Seth Boss was surrounded by substance abuse as he grew up. It was part of his world – in fact the night of the offence he had been drinking with his aunts and buying beer for one of them. In the cases such as *Stewart* and *Morgan*, where intoxication was found to be an aggravating factor on sentencing, the offender knew of the connection between their violent behaviours and alcohol or other substance use. The absence of a prior criminal record in Seth Boss’s case differentiates his situation from these cases. There is no information to show that Seth Boss was aware of the effect of alcohol on his behaviour – specifically that excessive consumption led to violence.

[87] In *Badhesa*, the Court found that an offender’s decision-making capacity in connection with self-induced intoxication and related violence may stem from mental illness or other cognitive disability, that may reduce the offender’s moral culpability.

[88] In this case, there is no information related to any diagnosed disability in this case, so there is no reduction of moral culpability as a result. However, because there is no information that Seth Boss knew his voluntary intoxication could lead to violence, and because excessive alcohol consumption was normalized throughout his life, I accept that it is part of the factual matrix and a neutral factor.

Banishment

[89] Defence has asked that banishment by the Daylu Dena Council of Seth Boss from entering Lower Post be considered a mitigating factor. The Crown says it is part of the factual matrix to be considered along with all the other circumstances and agrees it is a collateral consequence.

[90] Collateral consequences are not necessarily aggravating or mitigating (*R v Allen*, 2026 ABKB 41 at para. 76) because they do not relate to the gravity of the offence or the level of responsibility of the offender (*R v Suter*, 2018 SCC 34 (*Suter*) at para. 48). Instead, they include any consequence to the offender arising from the commission of an offence, the conviction of an offence, or the sentence imposed for an offence, including physical, emotional, social or financial consequences – for example – deportation, family separation, loss of work (*Suter* at para. 47). They can hinder future re-integration into society and can reduce the need for denunciation and deterrence (*R v DB*, 2025 ONCA 577 (*DB*) at para. 14). Collateral consequences are integral to proportionality and failure to consider them may render a sentence unfit (*DB* at para. 13, citing *Suter* at para. 48).

[91] In this case, there is no challenge to the Indigenous community's ability to issue a banishment order. Banishment orders are a way for Indigenous communities to

exercise agency to protect the safety of their members, and can also be used to facilitate and encourage rehabilitative efforts by the offender. No copy of the order in this case was provided to the court and the details are unclear – for example the basis on which the banishment order may be lifted and when, is not known. This is unlike the case of *R v Chubb*, 2026 MBPC 53 (*Chubb*) where a conditional banishment order was made as part of a release order. It required the offender to engage in programming and to address the issues underlying her offending and was a way of promoting accountability, healing, reintegration and social control.

[92] In this case, I have considered that the current inability of Seth Boss to return to his home community of Lower Post, British Columbia, if the order remains in place after the completion of his sentence, will affect his living situation and employment opportunities. He will be isolated from family who live in Lower Post, and will lose traditional supports and cultural connections, as long as it remains in place. However, without knowing more details about the terms and conditions of this order, it is difficult to place significant weight upon it.

Sentence

[93] As was said in *Chubb* at para. 70 “... this sentence must hold together two realities”. The first is that the offender committed a serious act of violence that has caused significant harm and tremendous impact to the victim, his family and the community. The second is that the offender is Indigenous, who has struggled and continues to struggle with intergenerational trauma, who is a young man with no prior criminal record, and who has some prospects for rehabilitation.

[94] In the circumstance of a serious, violent offence such as this, the objectives of denunciation of unlawful conduct and the need to deter others and the offender from committing similar offences are primary considerations.

[95] In assessing moral blameworthiness by looking at the conduct, the unlawful act in this case is much closer to near murder on the scale of conduct constituting manslaughter than near accident. Defence concedes as much but says it is not at the most extreme end of the due to the absence of any evidence of motive for the killing. The existence of a motive such as revenge can increase the offender's moral blameworthiness, so it follows that the apparent absence of motive may reduce it. However, I agree with the Crown in this case that although the absence of motive was a relevant and significant consideration in the determination of subjective intent resulting in the verdict of manslaughter, the inquiry into moral blameworthiness is different when it comes to sentencing. And even if it were relevant, in this case, in the face of such a violent attack causing such severe multiple injuries, the unlawful act remains on the spectrum very close to near murder. It is distinguishable from *Morgan* where the offender had ingested hallucinogenic mushrooms as well as alcohol and there were multiple examples in the evidence of his substance-induced psychosis before the killing, more than the one example in this case; where the killing happened in the street, not at the victim's home; and where there were not multiple potential causes of death from the killing.

[96] The high moral blameworthiness that exists here is attenuated by Seth Boss' personal circumstances, which include his Indigeneity and the factors described in the *Gladue* report. The Supreme Court of Canada in *Ipeelee* has definitively stated that

Gladue principles must be applied to offenders who have committed any crime, including violent and serious ones. Failure to do so is a legal error. A causal link between the offender's background factors and the commission of the offence is not necessary to trigger the application of *Gladue* factors.

[97] As was said by the Supreme Court of Canada in *R v Gladue*, [1999] 1 SCR 688 at para. 80:

...the sentencing of aboriginal offenders must proceed on an individual (or case-by-case) basis: for *this* offence, committed by *this* offender, harming *this* victim, in *this* community, what is the appropriate sanction under the Criminal Code?

[98] Here, I have considered Seth Boss's significant *Gladue* factors, described earlier, including childhood trauma and dysfunctional home life, resulting in the use of alcohol to self-medicate, and problems with emotional regulation and social anxiety. I also observe he was able to achieve some successes in his teenage years, including graduating from high school, participating in army cadets for five years, and obtaining and maintaining well-paying skilled employment at a young age. It is not useful to compare levels or degrees of inter-generational trauma among individuals, but Seth Boss' level of achievement and functioning in the world is higher than that of the offenders in *Atkinson*, *Silverfox* and *Thorn*. There may be many reasons for this, including his level of resilience. I accept and have considered that Seth Boss' chaotic and difficult upbringing has played a role in him coming before the court, and thus impacts his moral culpability.

[99] The principle of restraint and the objective of rehabilitation are connected in this case through Seth Boss' young age and absence of a criminal record. Restraint as a principle of sentencing must apply as in this case, where the offender has not been to a

penitentiary or served an adult sentence: restraint includes a consideration of the shortest possible sentence to achieve the relevant objectives. The essential consideration of rehabilitative potential arises from Seth Boss' youth and no record. These factors, combined with his demonstrated steady commitment to participation in multiple programs, therapy and counselling while in remand, and his stated intention to pursue more counselling to address his childhood trauma and his alcohol misuse support good prospects of rehabilitation.

[100] The gravity of the offence, its characterization as a near murder, how and where it occurred, and the profound impact of the loss on the family and community, support a sentence at the higher end of the range – 10-11 years. This reality though must be balanced with the other reality – Seth Boss's moral blameworthiness is reduced by his life circumstances as an Indigenous offender; by his age of 24; by the absence of a criminal record; by his rehabilitation potential; and by his plea of guilty to manslaughter. A penitentiary sentence of nine years less time served reconciles the two realities. For a young, first-time offender, this is a lengthy penitentiary sentence, but one that is necessary to give more opportunity for rehabilitation to occur, and to fulfill the objectives of denunciation and deterrence. This sentence also recognizes the applicable mitigating factors and the principle of restraint when balanced against the gravity of the offence.

Conclusion and sentence

[101] Seth Boss, would you please stand.

[102] On the offence, s. 236, manslaughter, I sentence you to a nine year custodial sentence less credit for pre-sentencing custody at one and a half days to one. You have been in custody for 1,304 days. I will give you credit of one and a half to one, which is

1,956 days, or five years, four months and 11 days. This means you have three years, seven months and 19 days left to serve.

[103] I will also order that DNA be provided pursuant to s. 487.051 of the *Criminal Code*.

[104] I order that a lifetime firearms prohibition order be imposed under s. 109 of the *Criminal Code*.

[105] I order that the victim fine surcharge be waived.

DUNCAN C.J.