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2026 BCPC 264

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IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

REX

v

MAREK GRUNDZA

**REASONS FOR SENTENCE
OF THE
HONOURABLE JUDGE M. LIBBY**

Counsel for the Crown:
Counsel for the Defendant:
Place of Hearing:
Date of Hearing:
Date of Judgment:

S. Currie-Roberts
S. Sekhon
Surrey, B.C.
July 27, 2026
October 2, 2026

I. INTRODUCTION AND ISSUES

[1] Marek Grundza is before the court for sentencing, having entered guilty pleas to the following offences:

1. Criminal negligence causing bodily harm to Cst. Allen Weeks, contrary to s 221 of the *Criminal Code* (Count 1); and
2. Failure to remain at the scene of the accident involving Cst. Weeks, knowing that the accident resulted in bodily harm, contrary to s 320.16(2) of the *Criminal Code* (Count 3).

[2] The Crown and Mr. Grundza both recognize the gravity of the offences here as well as the harm done to Cst. Weeks and his family, and agree that a substantial jail sentence is warranted in this case. The real issues to be determined on sentencing are, firstly, whether the term of imprisonment should be 2.5 years as the Crown argues, or two years less a day as Mr. Grundza contends; and if the latter, whether the jail sentence should be served by way of a conditional sentence of imprisonment.

[3] After anxious consideration, I have ultimately concluded that a fit and proper sentence in this case is a sentence of two years less a day to be served as a conditional sentence of imprisonment, followed by a two-year period of probation, along with several ancillary orders, including a five-year driving prohibition.

[4] Before setting out the details of the incident in question and the rationale for my decision, I wish to begin by acknowledging the genuine, prolonged and significant physical, mental and emotional harm suffered by Cst. Weeks, and by extension, his family and his colleagues in the policing community. I wish to be clear that my decision is not intended to signify in any way that their suffering is not very real and very substantial. I will speak of this in more detail later in my reasons.

[5] The court heard victim impact statements from Cst. Weeks, as well as his girlfriend and his daughter, all of which were truly poignant and gut-wrenching. They describe, and I fully accept, how the actions of Mr. Grundza have had profound and long-lasting effects upon Cst. Weeks and his family, and that they continue to live with related trauma and physical reminders of the incident. They all describe, in very real

terms, the many ways in which the incident has impacted their lives. I also acknowledge Cst. Weeks' heartfelt comments regarding how deeply his children have been affected by his physical and emotional limitations, particularly in the immediate aftermath of the incident. Seeing one's children and loved ones suffer is, perhaps, one of the most painful aspects of a loss and I fully accept how emotionally devastating the situation has been for all of them.

[6] It likely goes without saying that no sentence imposed by the court can undo or lessen the misery caused by a crime or make anything better for the victims.

[7] In cases such as this, it is also important to recall the comments set out in para 52 of *R v Gadbois*, 2024 ONCJ 172: offenders are not sentenced for the purpose of establishing an equivalence between the loss of the victims like Cst. Weeks and his family, and the sanction imposed by the Court. Rather, the Court is required to recognize the inherent worth and dignity of the offender and, having balanced the principles provided by the *Criminal Code*, determine a fit sentence in the circumstances of the case.

II. **FACTS**

[8] Much of the factual matrix of this case was put before the court by way of an Agreed Statement of Facts. I will set out the pertinent sections of that statement below.

A. Agreed Statement of Facts

[9] Mr. Grundza is a permanent resident of Canada. He was born in Czechia and came to Canada with his family in November of 2007 when he was five years old. Mr. Grundza has a high school education and is currently in his fourth year at the British Columbia Institute of Technology studying to become an electrician.

[10] In May 2022, Mr. Grundza was involved in a motor vehicle accident that is suspected to have caused him a traumatic brain injury. He experienced mood changes, including irritability, aggression and depression. In June 2023, Mr. Grundza was certified under the *Mental Health Act* after presenting to the Surrey Memorial Hospital

Emergency Department in distress and acting violently. After several months of treatment, Mr. Grundza was formally diagnosed with schizophrenia.

[11] Cst. Allen Weeks is a police officer with the Langley RCMP Traffic Enforcement Section. In August of 2024, Cst. Weeks was 44-years old.

[12] In August 2024, when Mr. Grundza was 22 years old, he hit a police officer, Cst. Allen Weeks, with his car. Mr. Grundza fled the scene, leaving Cst. Weeks on the road bleeding (the “Offence”). Further details of the Offence are set out below.

[13] In the morning of August 9, 2024, Cst. Weeks and Cst. Staely were monitoring the speed of drivers on 208th Street between 48th Avenue and 51st Avenue in Langley, B.C.

[14] Cst. Weeks was wearing his RCMP issued uniform and a reflective vest.

[15] 208th Street has two northbound and two southbound lanes that are divided by a center median. The area is marked with a speed sign of 50 km/h. Cst. Weeks and Cst. Staely were watching for drivers going more than this posted speed limit. Cst. Weeks was standing at the median at a marked pedestrian crosswalk.

[16] On August 9, 2024, Mr. Grundza was driving a pale blue Infinity G35, four door sedan, British Columbia Licence Plate [omitted for publication] (the “Vehicle”). For the entire day of August 9, 2024, the Vehicle was in good working order and had no issues, mechanical or otherwise.

[17] At approximately 11:20 am, Cst. Weeks used his radar gun to determine that Mr. Grundza was driving the Vehicle at a speed of 96-100 km/h on 208th Street. Cst. Weeks determined that Mr. Grundza was driving significantly over the speed limit, so he stepped on to the roadway to stop Mr. Grundza.

[18] Cst. Weeks indicated for the Vehicle to pull over onto 50A Avenue where Cst. Weeks’ police vehicle was parked. Mr. Grundza understood Cst. Weeks’ direction to pull over.

[19] Mr. Grundza initially slowed the Vehicle; however, he suddenly accelerated and drove the Vehicle right into Cst. Weeks. Cst. Weeks was unable to get out of the Vehicle's path.

[20] Cst. Weeks remembers hitting the front of the vehicle and then everything going dark. Cst. Weeks was thrown approximately 12 feet by the impact.

[21] Cst. Weeks' police vehicle was equipped with a recording device known as WatchGuard. Notably, the WatchGuard footage shows Cst. Weeks direct Mr. Grundza to pull over. It then shows Mr. Grundza hitting Cst. Weeks with the Vehicle. Cst. Weeks goes on to the windshield of the Vehicle before flipping over the top of the Vehicle. Cst. Weeks falls to the ground bleeding from his head. I pause to comment that the video is graphic and what happened to Cst. Weeks was a horrible thing to watch.

[22] Cst. Weeks was in the roadway to stop the Vehicle. Cst. Weeks did not have time to get out of the path of the Vehicle before he was hit by Mr. Grundza.

[23] Video footage from a front door camera at a nearby residence recorded a portion of what occurred between Mr. Grundza and Cst. Weeks. The video shows Cst. Weeks falling to the ground beside the Vehicle as it drives away. Mr. Grundza slowed the Vehicle, came to a stop and then sped away.

[24] As a result of the offence, Cst. Weeks sustained the following injuries:

- Closed head injury: left parietal subdural hemorrhage (commonly known as a brain bleed) measuring 4 mm;
- Soft tissue injuries to his face and scalp;
- A serious segmental fracture to his left tibia (the larger outer bone between the knee and ankle). A segmental fracture occurs when the bone is broken in at least two places;
- A serious comminuted fracture to his left fibula (the smaller outer bone between the knee and ankle). A comminuted fracture occurs when the bone is broken into three or more separate places.

[25] The fractures to Cst. Weeks' tibia and fibula left him vulnerable to compartment syndrome. Compartment syndrome occurs when excessive pressure builds up within an

area of the body; this pressure can restrict blood flow and cause tissue damage or tissue death.

[26] Cst. Weeks required surgery to repair the damage to his fibula and tibia.

[27] On August 9, 2024, at 12:45 pm, a psychiatric nurse working with the Fraser Health Authority, called 911 to report that her client, Mr. Grundza, had hit a pedestrian approximately one hour ago.

[28] 911 dispatchers contacted Mr. Grundza who admitted that he had hit a pedestrian on 208th Street. He subsequently lied to the 911 dispatcher and, while he admitted he had hit a police officer, he untruthfully told the dispatcher that Cst. Weeks had either jumped in front of the Vehicle or had thrown something at him.

[29] Mr. Grundza repeated the same lie to the police when he provided a warned statement on August 9. He said that he did not know why Cst. Weeks 'decided to stop him', and that it was as he pulled past the officer that the officer either threw something or jumped onto his car.

[30] CCTV footage from Mr. Grundza's home shows that at 11:24 am on August 9, 2025, Mr. Grundza arrived home in the Vehicle. He parks the Vehicle in the parking lot and then walks out of the parking garage.

[31] Mr. Grundza then searched on Reddit and Google for information on hit and runs and calling the police. He also looked on Google for news articles regarding the Offence.

B. Other Facts Relevant to Sentencing

[32] Within about an hour of returning home, Mr. Grundza called his psychiatric nurse – as I understand he was told to do - to report that he had struck a pedestrian. After communicating with police, he turned himself in and was arrested the same day.

[33] Mr. Grundza entered an early guilty plea in this matter, before any trial dates were scheduled.

[34] As will be seen, Mr. Grundza's psychiatric history plays a significant role in my decision. It will be canvassed further below.

III. **PRINCIPLES OF SENTENCING**

[35] The principles of sentencing are set out in ss 718 to 718.2 of the *Code*. Section 718 states:

718 The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

[36] Section 718.1 provides that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[37] Other important sentencing principles are described in s 718.2:

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,

...

- (iii.1) evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation,

...

shall be deemed to be aggravating circumstances;

(b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;

(c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;

(d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and

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

[38] As will be discussed below, denunciation and deterrence play an important role when considering sentences for offences such as these. These factors help inform how society – through its courts – can exact appropriate retribution against an offender. The concept of retribution was discussed by the Supreme Court of Canada in *R v M. (C.A.)*, [1996] 1 SCR 500 at para 80, where the court stated that it “...represents an objective, reasoned and measured determination of an appropriate punishment which properly reflects the moral culpability of the offender, having regard to the intentional risk-taking of the offender, the consequential harm caused by the offender, and the normative character of the offender's conduct.” The Court concluded that retribution incorporates a principle of restraint and requires the imposition of a just and appropriate punishment, and nothing more. [Emphasis in original].

IV. LEGAL PARAMETERS OF CONDITIONAL SENTENCES OF IMPRISONMENT

[39] As the nature of conditional sentences are often misunderstood, it may be helpful at this juncture to set out further information about them.

[40] In September 1996, Parliament brought into force a number of substantial reforms to the sentencing provisions of the *Criminal Code*. Those changes came about in large part as a response to the problem of overincarceration in Canada and to expand the use of restorative justice principles in sentencing. The new provisions include the above-noted principles of restraint in the use of jail as a sanction. They also

introduced conditional sentences – specifically defined by the *Code* as being a sentence of imprisonment.

[41] The conditional sentencing regime is set out in s 742.1 of the *Code* and related sections. Generally speaking, it is an available sanction for any offence for which there is no minimum term of imprisonment and where the court imposes a sentence of imprisonment of less than two years. More specifically, the relevant provisions state:

742.1 If a person is convicted of an offence and the court imposes a sentence of imprisonment of less than two years, the court may, for the purpose of supervising the offender's behaviour in the community, order that the offender serve the sentence in the community, subject to the conditions imposed under section 742.3, if

- (a) the court is satisfied that the service of the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purpose and principles of sentencing set out in sections 718 to 718.2;
- (b) the offence is not an offence punishable by a minimum term of imprisonment;

[42] The decision of the Supreme Court of Canada in *R v Proulx*, 2000 SCC 5 [Proulx], remains the seminal decision on conditional sentences of imprisonment. At paras 52-60, the court addresses the appropriate analytical and procedural approach. A judge who is asked to consider a conditional sentence of imprisonment is not to impose a fixed sentence in the abstract without considering where the sentence will be served. The analysis is a two-stage process. In order for a conditional sentence to be possible, a judge must initially conclude that a jail sentence is appropriate, and that the sentence should be less than two years. In making that preliminary determination, the judge is to consider the fundamental purpose and principles of sentencing previously discussed.

[43] Once that preliminary determination is made (and assuming the other statutory requirements are met), the judge should then proceed to the second stage of the analysis: determining (a) if a conditional sentence would not endanger the safety of the community and if so; (b) if a conditional sentence would be consistent with the fundamental purpose and principles of sentencing set out in ss 718 to 718.2.

V. **CIRCUMSTANCES OF THE OFFENDER**

[44] Mr. Grundza is 24 years old and was born in Prague, Czechia. He came to Canada with his family in 2007, when he was five years old, and has lived here ever since. He holds permanent resident status; he applied for citizenship and was declined. He lives with his parents in Langley and pays them rent. His mother runs a cleaning business, and his father works for the City of North Vancouver. There is no family psychiatric history and no familial offending history. His upbringing was stable and loving. He has no criminal history but has a driving record consisting of six *Motor Vehicle Act* offences between 2020 and 2022.

[45] He completed high school and earned a scholarship to BCIT for an electrical apprenticeship. He completed three years of that four-year program successfully. He intends to return to BCIT to finish his education and continue into electrical engineering. Mr. Grundza has worked as an apprentice electrician with several employers, most recently Ozz Electric until April 2025. He now works in his mother's cleaning business, where she describes him as an exemplary employee. He has never been able to work full time as an electrician because he does not hold a driver's licence. In addition to work, he volunteers at his church.

[46] In my view, a very important part of Mr. Grundza's circumstances is his psychiatric history, which is described in the court-ordered psychiatric report dated July 19, 2026, prepared by forensic psychiatrist Dr. Anhoury for the specific purpose of sentencing. Among other things, the report documents Mr. Grundza's struggles with mental health commencing in 2022. The following information is contained within that report:

- Mr. Grundza appears to have been in a motor vehicle accident in the spring of 2022, which possibly caused a head injury. He reported worsening mental health following that accident.
- In April 2023, he reported a 6-month history of issues including anxiety, anger outbursts and disrupted sleep. He began psychotropic medication and counselling.

- Later that year, his condition worsened and he was involuntarily hospitalized and diagnosed with schizophrenia. Since August of 2023, he has regularly followed up with clinicians as part of the Early Psychosis Intervention Program. He describes being hospitalized as one of the worst things that has happened to him.
- At the time of admission, he was experiencing “persecutory delusions involving his family members, police officers, and his community psychiatrist.”
- He has been on a number of different medications, which have been adjusted from time to time by clinicians.
- Mr. Grundza was granted an extended leave from hospital, during which time he was generally compliant and cooperative in terms of taking prescribed medications and engaging in counselling.
- Dr. Anhoury noted the following information received from Mr. Grundza in relation to the offences:

He reported that he was driving home from school when he became aware that a police officer wanted him to pull over. As he was pulling over, he experienced flashbacks to the time he had spent in hospital, describing the flashback as “a feeling,” and stating, “I did not feel good, I just had a flashback and images of all the bad things that happened to me at the hospital.” He reported that he did not stop for the officer, panicked, and struck the officer with his vehicle. He described having a panic attack at the time, with difficulty breathing and feeling generally unwell, and was unsure how long this lasted. He then drove home, was advised by his father to contact his case manager, and subsequently attended the police station...

- A clinical follow up on August 28, 2024, indicated that Mr. Grundza was not experiencing any psychotic symptoms at that time.
- Mr. Grundza expressed remorse in his interview with Dr. Anhoury, saying he “recalled attempting to maneuver his vehicle around the victim but ultimately struck him.” He expressed willingness to face the consequences of his actions and understands his actions have significantly impacted the victim’s health, work, and family. He says he will continue to engage with mental health supports.
- Dr. Anhoury notes that Mr. Grundza demonstrates reasonable insight into his mental illness and the index offences. There are no current symptoms of a major mental disorder, no evidence of instability, and no issues with treatment or supervision.
- No problems are anticipated with Mr. Grundza’s future plans. His living situation is stable, with no issues identified. He has strong personal support in place and is likely to do well in treatment and under supervision. He may nonetheless be vulnerable to stress, particularly in situations that evoke his prior traumatic hospital experience or involve interactions with authority figures.

- Overall, Mr. Grundza presents as a low-risk individual in terms of general offending recidivism and violent offending on structured risk assessment. His historical, clinical, and risk management indicators are overwhelmingly favorable, reflecting stable premorbid functioning, strong family and community supports, sustained engagement with psychiatric treatment, abstinence from substances, and reasonable insight. His principal area of vulnerability relates to his susceptibility to acute stress responses in situations reminiscent of his prior hospitalization or involving interactions with police or other authority figures, which may benefit from targeted psychological intervention alongside his continued psychiatric care.
- Dr. Anhoury concludes that the offences appear to have arisen in the context of an acute, stress related psychological response. Mr. Grundza describes experiencing a flashback to distressing memories of his prior hospitalization at the moment he became aware a police officer wished him to stop, precipitating a panic response with associated impairment in his capacity to respond appropriately. She says that this account is consistent with his overall clinical presentation, his absence of any history of violence or antisocial attitudes, and his regret and remorse regarding the offenses.

VI. CASE LAW AND PARTIES' POSITIONS ON SENTENCE

A. Crown Position

[47] The Crown seeks a sentence of 2.5 years jail for the offence of criminal negligence causing bodily harm, and 6 months jail, to be served consecutively, for the failure to stop offence. The Crown submits that after an appropriate reduction in recognition of the totality principle, a net global sentence of 2.5 years in jail is a fit and proper sentence.

[48] The decision of our Court of Appeal in *R v Gill*, 2010 BCCA 388, establishes that a sentence for failing to remain at the scene of an accident appropriately runs consecutively to a sentence for a related completed driving offence. The rationale is that the two offences are separate both in nature and time from each other and were created by Parliament to address different social ills. Mr. Grundza did not contest this point and I agree that the sentences in this case should run consecutively.

(i) **Primary Sentencing Principles – Criminal Negligence**

[49] The Crown states that the primary sentencing principles engaged when imposing sentence for criminal negligence causing bodily harm in the driving context were set out in *R v Brodie*, 2017 BCSC 2269:

[39] There is no need to parse away the different numbers or ranges referred to in these cases, as ranges serve merely as a guideline for any sentencing. As can be seen from my review of the cases, there is a broad range in the sentences imposed in both dangerous driving and criminal negligence causing bodily harm. The range is due to a number of factors including the gravity of the offence, the degree of moral blameworthiness, the seriousness of the injuries, the criminal history of the accused and other relevant circumstances pertaining to the personal circumstances of the accused. The cases consistently state, though, that in these types of offences, the paramount consideration in sentencing is deterrence and denunciation, given that these type of crimes threaten the safety of the public.

[50] The primacy of denunciation and deterrence has also been emphasized in the context of cases which involve police officers being injured by vehicles driven by the accused. In *R v Beaudry*, 1995 Canlii 18078 (*affirmed* 1996 BCCA 51) [*Beaudry*], the Court noted at paras 47-48 and 63 that:

In situations of danger a police officer tells the members of the public to go away from the trouble, but the police officer must remain there. It is his or her duty to enforce the law and to maintain law and order, often, as here, at great risk to his or her own life or personal safety. Police officers accept that risk when they put on their uniform.

(...)

In a democracy it is the police force that stands between a civilized society and anarchy. The public must know that when a police officer on duty requires someone to stop that they must do so or they will face heavy penalties. Society cannot exist in an orderly fashion if a person being required to stop by a police officer, can weigh the odds and make a conscious decision that he will be dealt with more leniently if he runs away than if he remains to face the situation. That is particularly so when the running away puts at risk the life or well-being of a police officer as a foreseeable consequence.

(...)

Clearly that sentence must reflect society's denunciation of this type of conduct and it must also address the question of general deterrence followed by specific deterrence

[51] I think it important here to echo some of the comments from *Beaudry*. Police officers selflessly place themselves in harm's way on a regular basis for the protection of the public. Often the sacrifices they make in doing so are not adequately recognized. They accept the risk of harm as a part of their job. This is precisely what Cst. Weeks did when he showed up for work that day. But accepting this risk cannot and should not ever be seen as diminishing or excusing any injurious acts against police officers. Such actions must not be tolerated in our society.

[52] The Supreme Court of Canada has commented on the particular role of deterrence and denunciation in imposing sentences for driving cases. In *R v Lacasse*, 2015 SCC 64, the Court noted that denunciation and deterrence are particularly important in dangerous or impaired driving cases:

73 While it is true that the objectives of deterrence and denunciation apply in most cases, they are particularly relevant to offences that might be committed by ordinarily law-abiding people. It is such people, more than chronic offenders, who will be sensitive to harsh sentences. Impaired driving offences are an obvious example of this type of offence...

[53] The Supreme Court of Canada in *Proulx*, extended this logic to cases of dangerous driving. I have no difficulty in further extending this reasoning to include driving-related criminal negligence.

(ii) Primary Sentencing Principles – Failure to Remain

[54] Along similar lines, Justice Verhoeven in *R v Basra*, 2015 BCSC 2051 [*Basra*] at paras 26-28, held that the paramount sentencing objectives in relation to failure to remain offences are general deterrence and denunciation. In doing so, he endorsed comments from *R v Wieczorek*, 2010 ONCJ 582 at para 64, as follows:

The most important sentencing objectives in this matter are general deterrence and denunciation. The duty imposed under s. 252 is not an onerous one -- a person involved in an accident must remain at the scene,

identify him or herself and give assistance to any injured party. This allows for any criminal investigation to occur without delay, [and] resolves issues of civil or criminal liability. Just as importantly, there is a simple duty as a human being to show care and respect for those who may have been injured or killed -- to remain until authorities determine what has happened.

[55] To this I feel I can reasonably add the duty to remain until any person injured – as Cst. Weeks was – is receiving medical care and attention.

(iii) Sentencing Case Law

[56] The Crown provided me with a number of cases which exemplify sentences that have been imposed for similar offences. While reviewing such cases is always helpful, it must be remembered that sentencing is a highly individualized process and that each offender must be sentenced based upon the particular factors applicable to his or her case.

[57] The cases cited by the Crown were:

- **R v Basra, 2015 BCSC 2051:** The victim may have attempted to commit suicide by throwing himself in front of Mr. Basra's vehicle. After hearing a thump, Mr. Basra stopped and looked back but saw nothing and drove away. The accused was a pro-social and productive member of the community, albeit one with a significant criminal record involving motor vehicle offences and a driving record with further offences. He was also suspended from driving at the time of the offence. The Court identified the range of sentences for failing to remain as a jail term between three and 18 months. Mr. Basra was convicted of failing to remain and sentenced to 9 months jail and a five-year driving prohibition. In this case, the Court rejected a conditional sentence in light of the serious nature of the offence and the paramount objectives of denunciation and deterrence, along with the aggravating circumstances particular to the case.
- **R v Beaudry, 1996 ABCA 5:** After being stopped by police while driving a stolen truck, Mr. Beaudry tried to escape. He accelerated heavily and struck one of the officers. Beaudry had a lengthy youth criminal record. He was sentenced to one year in jail on the charge of failure to remain and eight years on the charge of aggravated assault.
- **R v Gill, 2010 BCCA 388:** Mr. Gill was convicted after trial of dangerous driving causing bodily harm and failure to remain. He was not focussing on the road and his truck crossed four lanes of traffic and struck another vehicle virtually head on. The occupant of that other vehicle suffered serious permanent injuries. Mr. Gill

left the scene and his wife called police to report that Mr. Gill's vehicle had been stolen. He received consecutive jail sentences of 12 months for dangerous driving and 18 months for leaving the scene of the accident.

- ***R v Brewer, 2014 BCSC 1075***: Mr. Brewer swerved his large pickup truck into oncoming traffic with the intent of committing suicide. He collided with several vehicles, causing life-threatening and life-altering injuries to their occupants. He had consumed cocaine before driving and had several unrelated criminal convictions. He pleaded guilty to two counts of criminal negligence causing bodily harm. The Court noted that the range of sentencing for such offences was broad; between 6 months and 4.5 years jail. The Court also noted that the moral blameworthiness associated with criminal negligence is greater than that of dangerous driving, as it requires a "wanton or reckless disregard for the life or safety of others", and that Brewer's moral culpability was found to be extremely high as it involved excessive speed and intentional, wilful and deliberate assumption of risk. Brewer was sentenced to 4.5 years concurrent on each count and a 10-year driving prohibition.
- ***R v Desjarlais, 2004 ABPC 26***: Mr. Desjarlais pleaded guilty to dangerous driving causing bodily harm. He had been pulled over by a police officer, but attempted to escape the scene and rammed the officer's police vehicle two times resulting in serious injury. Desjarlais had a substantial criminal record and the Court questioned his explanation of a panic reaction, given that he rammed the other vehicle a second time. He was sentenced to four years' jail and a five year driving prohibition.

[58] To the extent that these cases address failure to remain offences, it should be noted that Bill C-46, which came into force in 2018, provided comprehensive revisions to the *Criminal Code*'s driving-related offences. One notable change, relevant to this case, concerned punishment for such fail to remain offences. I raise this only to demonstrate that the range of sentence of 3-18 months identified in *Basra*, and elsewhere, appears to have been based upon offences which carried a maximum sentence of life imprisonment at the time. The failure to remain charge to which the accused pleaded guilty carries a lesser maximum sentence of 14 years. The offence clearly remains a serious one, but with this change, Parliament indicated that the range of sentence for the offence is likely a lesser one than identified under the older legislation.

B. Mr. Grundza's Position and Case Law

[59] Mr. Grundza submits that an appropriate sentence would be two years less a day, served by way of conditional sentence of imprisonment, with terms including six months house arrest followed by a curfew, and a two-year driving prohibition.

[60] Sentencing cases referred by the defence were:

- ***R v Mann, 2023 BCPC 101***: Mr. Mann pleaded guilty to dangerous driving causing bodily harm. He engaged in a spontaneous street race and reached 158 km/h before colliding with a vehicle in an intersection. Three people were seriously injured. Mr. Mann lied to police at the scene about his speed. The Court imposed a conditional sentence of two years less a day, with 14 months of house arrest, followed by two years of probation and a three-year driving prohibition. In doing so, the Court found that a conditional sentence fashioned with punitive conditions could meet the twin goals of denunciation and deterrence.
- ***R v Khosa and R v Bhalru, 2003 BCCA 645***: The two offenders were street racing at approximately double the speed limit. One lost control and killed a pedestrian. They were convicted at trial of dangerous driving causing death. The Court of Appeal held that conditional sentences with house arrest, community work service, lengthy probation, and five-year driving prohibitions, fell within the acceptable range and had a suitable deterrent and denunciatory effect.

[61] The *Khosa and Bhalru* decision (at para 59) also serves as a reminder that it is important to focus on the circumstances of a particular case and the principles of sentencing to determine the appropriate sentence in a given case, rather than simply rely on any general range.

[62] In respect of the cases referred to by the Crown, Mr. Grundza notes that each such case features at least one of the following distinguishing features: a significant prior record (*Beaudry, Desjarlais, Basra, Brodie, Brewer*), intoxication (*Brewer*), deliberate or repeated aggression with the vehicle (*Beaudry, Desjarlais, Brewer*), flight from an active police pursuit (*Brodie*), or months of concealment with little remorse (*Gill*). He observes that none of them involve a first-time offender with a forensically documented mental health disorder connected to the offence, an early guilty plea, and a same-day self-report. These sorts of differences in cases presented to a sentencing court are not uncommon because sentencing is a highly individualized process. That

said, reviewing other sentencing cases is always of assistance to a court in identifying key considerations and ranges. Considering them also helps give effect to s 718.2(b), which provides that a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances. In every case, care must be taken to craft an individualized sentence that is tailored to the specific offender before the court.

VII. ANALYSIS AND REASONS

A. Length of Sentence

[63] Here I will consider the appropriate length of the sentence to be imposed. As noted above, this requires an assessment of all the facts of the case, alongside the principles of sentencing and the exemplar case law previously set out. While I find it convenient to proceed this way, I remind myself that according to *Proulx*, I should be mindful not to address the overall sentencing analysis in the abstract, without also considering where the sentence will be served.

[64] Section 718.2(2) requires a sentencing court to take into account mitigating and aggravating factors.

[65] Aggravating factors include:

- a. Mr. Grundza was driving at approximately twice the speed limit immediately prior to the incident;
- b. He disobeyed direction by Cst. Weeks to stop;
- c. The incident occurred in the early afternoon, with traffic and other vehicles present on the roadway, at a marked pedestrian crosswalk;
- d. Mr. Grundza has several prior driving citations;
- e. Cst. Weeks suffered grave injuries. They were life-altering for him and his family. This is a statutory aggravating factor under *Code* s 718.2(a)(iii.1);
- f. Mr. Grundza lied twice in relation to his description of this offence by saying that Cst. Weeks jumped in front of his vehicle – first to the 911 operator and then later to police taking his statement;
- g. The incident was not reported until more than an hour later, after Mr. Grundza had arrived home; and

- h. Cst. Weeks is a police officer and was executing his duties to keep the community safe by conducting speed enforcement at the time of the incident.

[66] Mitigating factors include:

- a. An early guilty plea and expression of remorse;
- b. Lack of any prior criminal record;
- c. Compliance with bail conditions (which is not a true mitigating factor, but is an indication that a person is more likely to be compliant with court orders);
- d. Being a youthful offender;
- e. Support in the community, as evidenced by the 11 letters written in support of him and attesting to his otherwise good character; and
- f. Mr. Grundza is pro-social within the community and is at a low risk to re-offend.

[67] I also note that there may be collateral immigration consequences which flow from the disposition of this matter. In *R v Pham*, 2013 SCC 15, the Supreme Court held that sentencing judges may take such consequences into account provided that the sentence imposed remains proportionate to the gravity of the offence.

[68] Mr. Grundza is a permanent resident of Canada, having moved here from Czechia at the age of five with his parents. Other than by birth, he has no connection to that country. The convictions entered on these offences render him inadmissible to Canada for serious criminality. Any sentence I impose will not change that fact and a conditional sentence will not shield him from removal. The sentence I impose will only play a potential role in the event the government seeks to deport Mr. Grundza. If a conditional sentence of imprisonment is imposed, then Mr. Grundza retains a right to appeal any deportation order. If a regular jail sentence is imposed, then he will not have a right of appeal. I accept that losing the right to appeal an order deporting Mr. Grundza to a country with which he has virtually no connection or history amounts to a collateral consequence and should be a factor on sentence to be considered with all the others.

[69] An important factor in considering the appropriate length of sentence is the offender's moral blameworthiness, as it relates to the principle of proportionality set out in s 718.1 (*R v Nasogaluak*, 2010 SCC 6, at paras 40-42). In this case, a key question is

whether Mr. Grundza's psychiatric condition played a significant role in the specific offending behaviour, and therefore, whether it impacts upon his moral blameworthiness. In this regard, the Crown quite rightly notes that for mental illness or cognitive defects to have this effect, there must be an established link between that mental illness or cognitive defect and the offending conduct (*R v Scofield*, 2019 BCCA 3 at para 56). Once it is found to have contributed to the commission of the offence, the weight it should be given is fact-driven and context-dependent (*R v Penttila*, 2020 BCCA 63 at para 70).

[70] The Crown argues that Mr. Grundza's mental illness was distilled to a single hospitalization in 2023, when he was diagnosed with a psychotic illness in the context of heavy cannabis use. He has been in remission since that time. The psychological assessment's author draws no causal link between any diagnosed mental health issue and Mr. Grundza's offending behaviour: the only reference to panic attacks in the collateral information reviewed by the author is noted to have occurred after the charges in the present case were laid. He has not been diagnosed with panic disorder. The Crown says that while continued treatment of his mental illness is a valid consideration on sentence, there should be no weight attached to his diagnosed mental illness as a mitigating factor.

[71] With respect, I think that the Crown defines the issue a bit too narrowly. In my view, the critical question is whether there is compelling evidence to establish a link between some mental illness or cognitive defect – but not necessarily to the specific initial diagnosis of schizophrenia – and the index offences.

[72] In this respect, the unchallenged and uncontradicted report of forensic psychiatrist Dr. Anhoury includes the following:

- Mr. Grundza was involuntarily admitted to hospital with persecutory delusions involving, among other things, police officers.
- A principal and ongoing area of psychiatric vulnerability relates to his susceptibility to acute stress responses in situations reminiscent of his prior hospitalization or involving interactions with police.

- The offences appear to have arisen in the context of an acute, stress related psychological response. Mr. Grundza describes experiencing a flashback to distressing memories of his prior hospitalization at the moment he became aware a police officer wished him to stop, precipitating a panic response with associated impairment in his capacity to respond appropriately.
- This account is consistent with his overall clinical presentation, his absence of any history of violence, or antisocial attitudes, and his expressed regret and remorse.

[73] In sum, Dr. Anhoury states that Mr. Grundza had a history of persecutory delusions about police officers, a susceptibility to acute stress-related psychological responses in interactions involving police, and – consistent with his clinical history - experienced such a response at the moment he became aware that Cst. Weeks wanted him to stop. She concludes that this response likely impaired his capacity to properly respond.

[74] I have been given no reason to question Dr. Anhoury's opinions, which she concludes are consistent with Mr. Grundza's clinical presentation and other factors. As such, I accept that psychiatric or psychological issues played a role in the index offence, which might not have occurred in the absence of those mental health issues. The psychiatric evidence establishes a sufficient link between those issues and the offence. As such, I find that the mental health issues experienced by Mr. Grundza at the time serve to meaningfully attenuate or reduce his moral blameworthiness.

[75] It is, perhaps, helpful at this juncture to recall the matters considered by our Court of Appeal in *Beaudry*, and discussed above. While not determinative of any issue, the evidence here - particularly the psychiatric evidence - demonstrates that Mr. Grundza did not decide to "...weigh the odds and make a conscious decision that he will be dealt with more leniently if he runs away than if he remains to face the situation." Rather, it indicates that the reasons for Mr. Grundza's actions were somewhat different.

[76] I also observe that Mr. Grundza will be subject to a lengthy driving prohibition. As noted in *R v DaRosa*, 2025 ONCA 232 at paras 43-44, such prohibitions are considered to be part of the punishment imposed on an offender. They constitute one of the means

by which to arrive at a fit sentence - one that helps achieve proportionality when considered within the context of all the punishments imposed. Undoubtedly, the principles of sentencing apply to the imposition of driving prohibitions and, indeed, driving prohibitions can be increased or decreased in length to achieve an overall fit sentence. It follows logically that a driving prohibition has deterrent and denunciatory effect and must be considered as part of the overall punishment imposed on an offender.

[77] I must carefully weigh all of the criteria set out above, including the nature of the offence, the serious injuries sustained by Cst. Weeks in the course of his duty as a police officer, the significant impact of those injuries on his family and colleagues, the circumstances of the offender, the general ranges of appropriate sentences for offences of these kinds, the applicable principles of sentencing, the aggravating and mitigating factors and importantly in this case, the offender's moral culpability and the impact of mental health issues on that.

[78] Taking all of this into account, I am satisfied that a jail sentence of less than two years would be fit in all the circumstances of this case. As a result, I will move on to consider whether that sentence should be served by way of a conditional sentence of imprisonment.

B. Appropriateness of a Conditional Sentence of Imprisonment

[79] As the offences to which Mr. Grundza has pleaded guilty are not punishable by a minimum term of imprisonment, and as I have concluded that a jail sentence of less than two years is appropriate, the remaining issues for consideration under s 742.1 are whether I am satisfied that serving the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purpose and principles of sentencing.

(i) Safety of the Community

[80] When considering the safety of the community, the focus of the analysis should be on the risk posed by the individual offender before the court (*Proulx* at para 68).

Mr. Grundza has no history of violence, antisocial behaviour or relationship instability. Dr. Anhoury found him to be at low risk of re-offending, and that “his historical, clinical and risk management indicators are overwhelmingly favourable, reflecting stable premorbid functioning, strong family and community supports, sustained engagement with psychiatric treatment, abstinence from substances, and reasonable insight.”

[81] I am told that he has also been compliant with his bail conditions, which suggests that he will also be compliant with any conditions attaching to a conditional sentence order.

[82] All of this leads me to conclude that allowing Mr. Grundza to serve his sentence in the community would not endanger the safety of the community.

[83] I now turn to the question of whether a conditional sentence of imprisonment would be consistent with the fundamental purpose and principles of sentencing set out above.

(ii) Consistency with Fundamental Purpose and Principles of Sentencing

[84] Turning back to *Proulx* at para 90, the Supreme Court said:

First, a consideration of ss. 718.2(d) and 718.2(e) leads me to the conclusion that serious consideration should be given to the imposition of a conditional sentence in all cases where the first three statutory prerequisites are satisfied. Sections 718.2(d) and 718.2(e) codify the important principle of restraint in sentencing and were specifically enacted, along with s. 742.1, to help reduce the rate of incarceration in Canada. Accordingly, it would be an error in principle not to consider the possibility of a conditional sentence seriously when the statutory prerequisites are met. Failure to advert to the possibility of a conditional sentence in reasons for sentence where there are reasonable grounds for finding that the first three statutory prerequisites have been met may well constitute reversible error.

[Emphasis in Original]

[85] Elsewhere in that decision, the Supreme Court of Canada provided other guidance regarding conditional sentences of imprisonment, which I am bound to take into account. That guidance includes:

- A properly crafted conditional sentence can achieve the objectives of general deterrence and denunciation (para 67);
- Conditional sentences should generally include punitive conditions that are restrictive of the offender's liberty. Conditions such as house arrest and curfews should be the norm (para 36);
- While a conditional sentence – even with stringent conditions – will usually be a more lenient sentence than a jail term of equivalent duration, a conditional sentence can also be as onerous, or perhaps even more onerous, than a jail term (paras 41 and 44);
- A conditional sentence is not subject to reduction through parole as is a jail term (para 42);
- Incarceration will usually provide more denunciation than a conditional sentence. However, a conditional sentence can still provide a significant amount of denunciation (para 102);
- The stigma of a conditional sentence with house arrest should not be underestimated. Living in the community under strict conditions where fellow residents are well aware of the offender's criminal misconduct can provide ample denunciation in many cases. In certain circumstances, the shame of encountering members of the community may make it even more difficult for the offender to serve his or her sentence in the community than in prison (para 105);
- The amount of denunciation provided by a conditional sentence will be heavily dependent on the circumstances of the offender, the nature of the conditions imposed, and the community in which the sentence is to be served. There may be certain circumstances in which the need for denunciation is so pressing that incarceration will be the only suitable way in which to express society's condemnation of the offender's conduct (para 106);
- Incarceration, which is ordinarily a harsher sanction, may provide more deterrence than a conditional sentence. Judges should be wary, however, of placing too much weight on deterrence when choosing between a conditional sentence and incarceration. Moreover, a conditional sentence can provide significant deterrence if sufficiently punitive conditions are imposed and the public is made aware of the severity of these sentences. There is also the possibility of deterrence through the use of community service orders. Nevertheless, there may be circumstances in which the need for deterrence will warrant incarceration (para 107);
- The objectives of reparations to the victim and the community, as well as the promotion of a sense of responsibility in offenders and acknowledgment of the harm done to victims and to the community may also be well served by a conditional sentence. Furthermore, the imposition of a condition of community service can assist the offender in making reparations to the community and in promoting a sense of responsibility. The use of community service orders should

be encouraged, provided that there are suitable programs available for the offender in the community (para 112).

[86] I make one further observation which does not form a critical aspect of my decision and which I raise for illustrative purposes: As noted earlier, the Supreme Court of Canada recognized that a conditional sentence is not subject to reduction through parole. Under the *Corrections and Conditional Release Act* (S.C. 1992, c 20), an offender sentenced to a penitentiary term is eligible for parole after completing one-third of the sentence and is generally entitled to statutory release after serving two-thirds. Were I to accede to the Crown's position and impose a term of 30 months, Mr. Grundza would be eligible for parole after 10 months and for statutory release after 20. Further, he could not be subject to any probationary order. Under a conditional sentence of imprisonment, Mr. Grundza would be subject to that order for the full term imposed. Furthermore, additional longer-term restrictions on the offender's liberty can be imposed by way of a probation order – something not available with a sentence of two years or more. A conditional sentence of imprisonment combined with probation would place him under the control of correctional authorities for a considerably longer time than would a penitentiary sentence.

[87] In addressing the consistency of a conditional sentence of imprisonment with the purpose and principles of sentencing, I take note of Mr. Grundza's age, background, early guilty plea, lack of prior criminal record, expressions of remorse, and his psychiatric condition which – as I have already found – serves to materially attenuate his moral blameworthiness. Each of these factors weigh in favour of a conditional sentence.

[88] I also attach some (albeit less) weight to the possible additional immigration consequences associated with a conventional jail sentence.

[89] I also must consider the impact on the victims. While the serious and life-altering injuries suffered by Cst. Weeks, the impact on his family and colleagues, and the nature of the offences which place primacy on deterrence and denunciation all militate in favour of a conventional jail sentence, I find that a conditional sentence can be

fashioned with punitive conditions sufficient to meet the applicable sentencing objectives. Accordingly, I find that a conditional sentence of imprisonment – in the specific circumstances of this case – is consistent with the fundamental purpose and principles of sentencing.

VIII. DISPOSITION

[90] Mr. Grundza is sentenced to 20 months less one day on Count 1, and 4 months on Count 3, to be served consecutively, and all by way of a conditional sentence of imprisonment. The sentence will be followed by a two-year period of probation, which means that Mr. Grundza will be under the supervision of the correctional system for just under four years.

[91] The conditions attached to the conditional sentence of imprisonment are as follows:

- i. You must keep the peace and be of good behaviour.
You must appear before the court when required to do so by the court.
You must notify the court or your conditional sentence supervisor in advance of any change of name or address and promptly notify the court or supervisor of any change in employment or occupation.
You must remain in British Columbia unless you have prior written permission from the court or your conditional sentence supervisor to leave the province.
- ii. You must have no contact or communication directly or indirectly with Cst. Allen Weeks or his family except through legal counsel or as otherwise required by law.
- iii. You must not go to any place where Cst. Allen Weeks lives, works, attends school, worships, or happens to be. If you see him, you must leave his presence immediately without any words or gestures. The exception to this condition is for attendance at the Langley RCMP detachment for the purposes of providing a DNA sample, or as otherwise required by law.
- iv. You must report in person to a conditional sentence supervisor at 102 – 14245 56th Avenue Surrey, B.C. by 3:00 pm on October 5, 2026 and after that, you must report as directed by your conditional sentence supervisor.
- v. You must live at an address approved in advance by your conditional sentence supervisor and you must provide your supervisor with your phone number if you have one. You must not change them without the prior written permission of your conditional sentence supervisor.

- vi. For the first 14 months of the conditional sentence order you must obey house arrest by being inside the residence approved by your conditional sentence supervisor 24 hours a day every day with the following exceptions:
 - a. I will make a limited employment exception and in doing so, will make reference to the recent decision of my colleague Judge Afsar in *R v E.A.B.*, 2026 BCPC 182 at para 35, where she concluded that to properly reflect the principles of denunciation and deterrence, house arrest provisions should be onerous and must not amount to “probation with a different name” or effectively turn into a curfew provision. With that in mind, Judge Afsar granted an exception for employment one day per week. I will adopt the same approach here. Therefore, the first exception to the house arrest condition is when you have the prior written permission of your conditional sentence supervisor. Such permission is to be given only for employment one day per week, and without limitation for the completion of community work service hours. Permission may also be given for attendance at counselling, treatment, and scheduled medical and psychiatric appointments.
 - b. You are going directly to, or returning directly from, a healthcare facility because of a medical emergency. (You have consented in court to providing proof of your attendance at the healthcare facility if requested by your conditional sentence supervisor.)
 - c. You are permitted to be outside your residence between noon and 2:30 p.m. every Saturday for the purpose of attending to personal needs. Should this exception need to be exercised on a different day of the week, then you may do so with the written consent of your conditional sentence supervisor.
 - d. One time for the sole purpose of attending at the Langley RCMP detachment to provide a DNA sample.
- vii. For the next 6 months of your conditional sentence order, you must obey a curfew by being inside the residence approved by your conditional sentence supervisor between the hours of 6:00 pm and 6:00 am every day with the following exceptions:
 - a. You have the prior written permission of your conditional sentence supervisor. Such permission is to be given only for employment or other reasonable purposes.
 - b. You are going directly to, or returning directly from, a healthcare facility because of a medical emergency. (You have consented in court to providing proof of your attendance at the healthcare facility if requested by your conditional sentence supervisor.)
 - c. You remain in the common areas of the building in which you are living.
- viii. For the final 4 months less one day of your conditional sentence order, you must obey a curfew by being inside the residence approved by your

conditional sentence supervisor between the hours of 10:00 pm and 6:00 am every day with the following exceptions:

- a. You have the prior written permission of your conditional sentence supervisor. Such permission is to be given only for employment or other reasonable purposes.
 - b. You are going directly to, or returning directly from, a healthcare facility because of a medical emergency. (You have consented in court to providing proof of your attendance at the healthcare facility if requested by your conditional sentence supervisor.)
 - c. You remain in the common areas of the building in which you are living.
- ix. You must present yourself immediately at the door to the place where you are living or answer the phone when any peace officer or conditional sentence supervisor attends or calls to check on you during any period of house arrest or curfew.
 - x. If you are given permission by your conditional sentence supervisor, you must carry it with you in paper or electronic format at all times when you are away from your residence.
 - xi. If a peace officer finds you outside the place where you are living during the curfew or house arrest hours and requests to see the permission, you must show it to the officer.
 - xii. You must provide your conditional sentence supervisor with the details of your employment status. You must inform your supervisor within two business days of any change in that status.
 - xiii. You must not possess or consume alcohol, drugs or any other intoxicating substances, except with a medical prescription.
 - xiv. You must not possess or consume cannabis.
 - xv. You must attend, participate in and complete any intake, assessment, counselling, or education program as directed by your conditional sentence supervisor. This may include counselling or programming for substance use, mental health, and trauma recovery.
 - xvi. Having consented in court, you must attend for a psychiatric intake, assessment, or treatment program through Forensic Psychiatric Services as directed by your conditional sentence supervisor.
 - xvii. Having consented in court, you must:
 - a. Report to Forensic Psychiatric Services or elsewhere for any intake, assessment, counselling, or treatment as directed by your conditional sentence supervisor.
 - b. Attend all scheduled appointments with your doctor, psychiatrist, psychologist, counsellor and mental health worker.
 - c. Take all medications and medical treatment prescribed for you.

- d. Provide your conditional sentence supervisor with the names, addresses and phone numbers of your doctor, psychiatrist, psychologist, counsellor and mental health worker.
 - e. Authorize your conditional sentence supervisor to give all professionals identified in this condition a copy of this order.
 - f. Authorize your conditional sentence supervisor to tell all professionals identified in this condition that if you do not follow this order, they have your permission to inform your conditional sentence supervisor.
 - g. Sign any document that is necessary for your conditional sentence supervisor and all professionals identified in this condition to check your attendance and completion of any intake, assessment, counselling, or treatment program.
 - h. If you decide not to follow the terms of this order, you must immediately report this in-person to your conditional sentence supervisor and tell them why. If their office is closed, you must return immediately on the next business day during regular business hours and speak to them.
- xviii. You must complete 100 hours of community work under the direction of your conditional sentence supervisor. Your community work service must be completed by October 1, 2027.
- xix. You must not occupy the driver's seat of any motor vehicle.

[92] The following conditions attach to the two year probation order which will follow completion of the conditional sentence of imprisonment.

- i. You must keep the peace and be of good behaviour.
- ii. You must appear before the court when required to do so by the court.
- iii. You must notify the court or your probation officer in advance of any change of name or address and promptly notify the court or the officer of any change in employment or occupation.
- iv. You must report in person to a probation officer at 102 – 14245 56th Avenue Surrey, B.C within two business days after completion of your conditional sentence, unless you have obtained before completion of your conditional sentence, written permission from a probation officer to report elsewhere or within a different time frame. After that, you must report as directed by your probation officer.
- v. You must have no contact or communication directly or indirectly with Cst. Allen Weeks or his family except through legal counsel or as otherwise required by law.
- vi. You must not go to any place where Cst. Allen Weeks lives, works, attends school, worships, or happens to be. If you see him, you must leave his presence immediately without any words or gestures. The

exception to this condition is for attendance at the Langley RCMP detachment as may be required by law.

- vii. You must attend, participate in and complete any intake, assessment, counselling, or education program as directed by your probation officer. This may include counselling or programming for substance use, mental health, and trauma recovery.
- viii. You must not possess or consume alcohol, drugs or any other intoxicating substances, except with a medical prescription.
- ix. You must not possess or consume cannabis.
- x. Having consented in court, you must attend for a psychiatric intake, assessment, or treatment program through Forensic Psychiatric Services as directed by your probation officer.
- xi. Having consented in court, you must:
 - a. Report to Forensic Psychiatric Services or elsewhere for any intake, assessment, counselling, or treatment as directed by your probation officer.
 - b. Attend all scheduled appointments with your doctor, psychiatrist, psychologist, counsellor and mental health worker.
 - c. Take all medications and medical treatment prescribed for you.
 - d. Provide your probation officer with the names, addresses and phone numbers of your doctor, psychiatrist, psychologist, counsellor and mental health worker.
 - e. Authorize your probation officer to give all professionals identified in this condition a copy of this order.
 - f. Authorize your probation officer to tell all professionals identified in this condition that if you do not follow this order, they have your permission to inform your probation officer.
 - g. Sign any document that is necessary for your probation officer and all professionals identified in this condition to check your attendance and completion of any intake, assessment, counselling, or treatment program.
 - h. If you decide not to follow the terms of this order, you must immediately report this in-person to your probation officer and tell them why. If their office is closed, you must return immediately on the next business day during regular business hours and speak to them.

[93] The Victim Fine Surcharge applies here. You will have until December 31, 2027 to pay the surcharge.

[94] I make the following ancillary orders:

[95] Pursuant to section 320.24(1) of the *Criminal Code*, you are prohibited from operating any motor vehicle on any street, road, highway or other public place in Canada for a period of five years, plus the period of imprisonment imposed on Counts 1 and 3.

[96] Counts 1 and 3 are secondary designated offences. After considering the factors set out in s 487.051(3) of the *Criminal Code*, I am satisfied that it is in the best interest of the administration of justice to authorize the taking of samples of bodily substances from you.

[97] You must attend at the Langley RCMP detachment located at 22180 48A Avenue, Langley, B.C. by no later than November 2, 2026, and submit to the taking of the samples. This order is valid until executed.

[98] Finally, the Crown seeks an ancillary order under s 109 of the *Criminal Code* prohibiting Mr. Grundza from possessing firearms and certain weapons. Such an order is mandatory for any person who has been convicted of an "indictable offence in the commission of which violence against a person was used, threatened or attempted..." I sought and received additional submissions from counsel to address whether Mr. Grundza committed used, threatened or attempted violence.

[99] The Crown pointed out, and I accept, that the offence does not have to include a violent act as an inherent or essential element. This was confirmed by our Court of Appeal in *R v Howard* (1981), 60 C.C.C. (2d) 344 (B.C. C.A.).

[100] I was also referred to the helpful decision in *R v L.H.*, [2002] NJ No. 59 (NLPC), which held that in addressing whether "violence" was used in a particular offence, consideration must be given to the meaning of that word in the context of s 109 and the offence in question. In his analysis, Judge Gorman referred to Webster's Third New International Dictionary of the English Language which defines violence as "...exertion of any physical force so as to injure or abuse." He also referred to *R v Lenton*, (1947) 88 C.C.C. 1 (Ont. C.A.), which held that violence does not require actual physical contact

and defined it as "forcibly interfering with personal freedom.", as well as *R. v. Keegstra* (1990), 61 C.C.C. (3d) 1 (S.C.C.), in which violence was defined as the "exercise of physical force so as to inflict injury on or damage to persons or property."

[101] Mr. Grundza has been convicted of criminal negligence causing bodily harm and failing to remain. It is the former with which we are concerned here. Criminal negligence may be established where an offender demonstrates wanton or reckless disregard for the lives or safety of other persons.

[102] As was stated in *R v Javanmardi*, 2019 SCC 54 at paras 21-22, the fault element of the offence is assessed by measuring the degree to which the accused's conduct departed from that of a reasonable person in the circumstances. This standard asks whether the accused's actions created a risk to others and whether a reasonable person would have foreseen the risk and taken steps to avoid it if possible.

[103] While I do not for one moment intend to diminish the horrific impact of this incident on Cst. Weeks and his family, I cannot find that Mr. Grundza's creation of risk, which others would have foreseen and sought to avoid, can amount to "violence" as that term is used in s 109. The cases provided to me circumscribe violence in this context to be an exertion of force so as to inflict injury. While there is no question that there was an exertion of force in this case through the collision, I cannot equate the commission of criminal negligence – in this case the creation of risk through reckless driving which a reasonable person would have sought to avoid - with an act that was designed to cause injury or harm.

[104] I must conclude that s109 of the *Criminal Code* is not engaged, and that I cannot make an order thereunder.