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IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

REX

v.

ARTHUR COLIN ROBERTS

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

Counsel for the Crown:	J. Cameron
Counsel for the Defendant:	T. Morino
Place of Hearing:	Victoria, B.C.
Dates of Hearing:	June 15 and September 11, 2026
Date of Sentence:	September 28, 2026

INTRODUCTION

[1] Arthur Colin Roberts is before me for sentencing after having pleaded guilty to one count of mischief and one count of uttering threats contrary to ss 430(4.1) and 264.1(1)(a) of the *Criminal Code*, R.S.C., 1985, c. C-46, respectively.

[2] The sentencing in this matter commenced on June 15, 2026. However, the proceedings unfolded in a somewhat irregular manner. When the parties originally appeared before me in June, it was to propose a joint submission with respect to the single count of mischief. The sentencing proceedings were not completed at that first appearance. The matter was adjourned to further dates for the purpose of hearing submissions from Mr. Roberts' then counsel, and to obtain a psychological assessment.

[3] Subsequently, a charge of uttering threats arose out of a separate incident that occurred on June 25, 2026. One of the important consequences of that new offence was that the Crown was no longer prepared to join defence counsel in proposing a joint resolution. Meanwhile, prior to the resumption of the sentencing hearing, Mr. Roberts' relationship with his former counsel came to an end.

[4] The upshot of this series of procedural developments is that this is now a contested sentencing and the parties diverge widely from one another regarding the appropriate disposition. Previously, the parties had jointly proposed a 90-day intermittent sentence together with a two-year probation order. The Crown now argues in favour of a global 12-month custodial sentence for both offences, to be followed by 24 months of probation. The defence, on the other hand, argues in favour of a time-served disposition to be followed by probation.

[5] I will return to these positions below. But suffice it to say for now that it is common ground amongst the parties that some form of jail sentence is appropriate in this case.

CIRCUMSTANCES OF THE OFFENCES

[6] There are two discrete offences before the Court. I will begin with the circumstances of the mischief offence and then address the count for uttering threats.

Mischief to Religious Property

[7] On August 2, 2025, at approximately 11:00 a.m., an individual named Solomon Siegel contacted the Victoria Police Department and reported that he had discovered graffiti written on the Congregation Emanu-El synagogue located at 1461 Blanshard Street in Victoria.

[8] Mr. Siegel reported that, at approximately 10:00 a.m., when he attended the synagogue, he noticed graffiti on the building.

[9] The Crown tendered photographs of the graffiti, which had been written on one of the columns of the front entrance of the synagogue. The words written on the column were as follows:

JEWS ARE EVIL!
BECAUSE GENOCIDE IS EVIL!
STOP GENOCIDE
STOP THE JEWS!
JEWS ARE
MURDERING THOUSANDS
OF GENTILE CHILDREN
IN THE FUTURE PALESTINIANS WILL GET THEIR REVENGE
AGAINST YOU
CHILD KILLING JEW – MONSTERS!

[10] The Congregation Emanu-El synagogue is located in downtown Victoria on Blanshard Street, which is one of the busiest streets in Victoria. The synagogue was founded in 1859, is designated a National Historic Site, and is the oldest continually operating synagogue on the west coast of North America.

[11] The words written on the column are in small lettering, but would, it appears, have been visible to persons walking by on the sidewalk. However, they would clearly have been visible to congregants entering into the synagogue's vestibule.

[12] Initially, the suspect responsible for the graffiti was unknown to police. Ultimately, police obtained Closed Circuit Television System ("CCTV") recordings from the synagogue and from local businesses that recorded the perpetrator's actions.

[13] The CCTV recordings showed a figure travelling on a bicycle just after 5 p.m. That person leaned their bike against a tree. The individual peered around to see if anyone was looking. The individual took out what appeared to be a marker from their backpack and began writing on the column near the front doors. As they wrote, they continued to look around to see if anyone was observing them. At one point, a vehicle passed by and the individual ceased writing, and sat on the steps. The individual then returned to writing. Next the person stood in front of the writing, appearing to read it, and eventually left the area.

[14] A media release was issued by the Victoria Police Department in an effort to identify the individual in the CCTV footage. Ultimately, Mr. Roberts was identified by a member of the public. He was arrested on August 22, 2025.

[15] After his arrest, Mr. Roberts gave a warned statement to police. In his statement, Mr. Roberts admitted that he was the person who wrote on the synagogue. He said that he was willing to plead guilty to mischief. He said that his actions were not premeditated and that he regretted them. He said that he took a different route home from work that day. When he passed by the synagogue, he became angry while thinking about things he had read in the news. He told police that he was writing to raise awareness that a genocide was occurring. He said to police that 60,000 people had been murdered in Gaza and that the population was starving. He had read in the news that commanding officers had been ordered to shoot Palestinians seeking food. He told police that he was willing to apologize, but only to those who do not support genocide. However, he said that he believed that most Jewish people support genocide.

[16] Mr. Roberts entered an early guilty plea on November 12, 2025.

Uttering Threats

[17] The second charge for which Mr. Roberts has pleaded guilty is uttering threats.

[18] On June 26, 2026, Mr. Roberts' mother, Linda Roberts, contacted the Victoria Police Department. She told police that her son had sent her a text message in which he indicated his intention to kill police.

[19] The text message referenced the then-recent shooting in Montreal perpetrated by an individual named Seth Scott Hatfield on June 22, 2026. The Montreal shooter had fatally shot and seriously wounded police officers. Mr. Hatfield published a lengthy manifesto that is said to contain misogynistic and other statements associated with the group known as Incel.

[20] In the relevant text message, Mr. Roberts made comments to his mother about statements made to him by his lawyers, as well as interconnected comments about these sentencing proceedings. As such, certain portions of the message were not admitted at sentencing. However, the unredacted portion of the message containing the threat that is the *actus reus* of the offence reads as follows:

I have learned the next hearing is July 8, and a sentencing hearing on September 11.

[Redacted Portions]

If this prediction comes true, I will refuse to contribute to society by refusing to ever work again. I will start the process of applying for disability welfare as soon as I get out of jail. I hate the courts. I hate the police. I hate the financial system. I hate society. I hate the government. I hate my life. I have read the entire 104 page manifesto written by the angry Incel shooter who killed that pig in Montreal this week. There is much in that document I disagree with, but I'm pleased he killed the pig. I'm also angry enough to kill. I want to kill as many pigs as I possibly can. More than one!

[21] Mr. Roberts admitted that the text message contained threats which were intended to be taken seriously.

[22] After learning of the text message, police took the situation seriously. Significant resources were deployed by police to respond, which included tracking Mr. Roberts' cellphone. The police eventually gained entry into a building where Mr. Roberts was arrested without issue.

[23] During the course of his arrest, Mr. Roberts was transported to the hospital. He stated to police that he was sorry for his messages, that they were just his sentiments, and that he did not intend to follow through with the threats.

[24] Police eventually searched Mr. Roberts' residence, where they found two phones. One of the two cellphones contained numerous messages related to Mr. Hatfield, and searches of the devices revealed visits to websites associated with Mr. Hatfield. They also found a copy of the text message containing the threat on his phone.

Disputed Facts

[25] Before turning to the circumstances of the offender, I wish to comment briefly on some of the disagreements that arose concerning the factual record at this sentencing, particularly as they relate to the charge of uttering threats.

[26] There is no agreed statement of facts in this matter. The parties rely principally on the submissions of counsel, supplemented by the information contained in the written reports. Given the disagreement about certain facts, I inquired whether a *Gardiner* hearing was necessary, and I was advised that the parties were not proposing such a hearing.

[27] To be sure, proceeding solely on the basis of counsel's submissions is not uncommon, particularly in more routine sentencing proceedings. Sentencing proceedings need not adhere to the strict rules of evidence applicable at trial; instead, the sentencing judge has "wide latitude as to the sources and types of evidence upon which to base his sentence": *R v Gardiner*, [1982] 2 S.C.R. 368 at 414; *Criminal Code*, s 723. Nevertheless, the more relaxed rules governing the receipt of information at sentencing do not permit the unrestricted admission of any form of proof. Our Court of

Appeal has, for example, rejected the proposition that a sentencing judge may rely on counsel's submissions to resolve a factual dispute at sentencing: *R v Pahl*, 2016 BCCA 234 [*Pahl*] at paras 54–78.

[28] Furthermore, both the *Code* and the common law impose party-specific constraints on the Court's ability to make factual findings where facts are in dispute. Where the Crown seeks to rely on an aggravating fact that is not admitted, it must prove that fact beyond a reasonable doubt: s 724(3)(e). Conversely, where the defence relies on a mitigating fact that is disputed, it bears the burden of establishing that fact on a balance of probabilities: s 724(3)(d). Sentencing courts are not required to accept an accused's version of events based solely on counsel's submissions or on untested statements made to the authors of court-ordered reports: *Pahl*, at para 57; *R v Aden*, 2025 ONCJ 3 at para 101.

[29] In the present case, there are certain difficulties with the factual record. The Crown sought to rely on alleged antisemitic or misogynistic statements made by Mr. Roberts to his mother, which she then relayed to the police. The Crown submits that these statements call into question the reliability of statements made by Mr. Roberts to the author of the psychological assessment. Mr. Roberts' counsel did not expressly object to the admission of these statements, but questioned the weight that should be attached to them.

[30] For its part, the defence seeks to rely on certain statements attributed to Mr. Roberts in the pre-sentence report and psychological assessment. These include statements that come perilously close to denying the *mens rea* of the offence. The Crown accepts that I may consider statements of remorse made by Mr. Roberts in the psychological assessment but, again, questions the weight that should be attached to them.

[31] I recognize that it is the Court's role to resolve factual disputes and make findings of fact. The parties need not, of course, agree on the facts. However, where a party seeks to rely on a disputed fact that may materially affect the sentence, the factual issue

must be identified with sufficient clarity to permit the Court to determine the issue in accordance with the applicable standard of proof.

[32] In the end, I will rely only on facts that have been clearly admitted. Where an aggravating fact is disputed, or at least not clearly admitted, I will not rely upon it unless I am satisfied, on the basis of admissible evidence, that the aggravating circumstance has been proven beyond a reasonable doubt. The same approach applies to mitigating circumstances, with the caveat that a lower standard of proof applies.

CIRCUMSTANCES OF THE OFFENDER

[33] I turn now to Mr. Roberts' personal circumstances. He is 54 years old and was born in Philadelphia, in the United States, and eventually moved to Canada. He spent much of his early life in Ontario, but also lived in Thompson, Manitoba, and eventually Halifax.

[34] Mr. Roberts describes his childhood as generally conventional or normal. He reports having had a positive relationship with both his mother and father and does not describe experiencing any significant abuse as a child. He appears to have had a closer relationship with his father, who died several years ago.

[35] Mr. Roberts describes himself as having been somewhat of an introvert as a child and youth. He apparently did not do particularly well in school, although there is no indication that this resulted from any intellectual deficit or identified learning disability. He subsequently attended college for approximately two years but did not complete a degree.

[36] From the early 1990s onward, Mr. Roberts appears to have led a somewhat itinerant lifestyle. He moved at various times between Ottawa, Halifax and Alberta, and also spent a brief period living in the United States. In or around the mid-1990s, he moved to Victoria and has lived here more or less continuously since that time.

[37] Information about Mr. Roberts' employment history is somewhat scant. He has worked at various times in restaurants and as a cleaner. According to Mr. Roberts, he

lost more than \$100,000 in the stock market in approximately 2014, which ultimately resulted in him declaring bankruptcy.

[38] Mr. Roberts does not currently have good relationships with his family members. He describes having had a better relationship with his father before his death, but presently has a difficult relationship with his mother and apparently almost no relationship with his siblings. He also appears to have no friends or significant social life. On the information before me, he is extremely isolated.

[39] In terms of substance use, Mr. Roberts does not have a history of problems with alcohol misuse. His use of cannabis, however, has been substantial. Prior to the events that bring him before the Court, he was consuming approximately 200 mg of THC per day. On the information in the reports, he appears to have been using cannabis, at least in part, as a form of self-medication to address his mental health difficulties.

[40] Mr. Roberts has a history of mental health problems extending back to his teenage years. The psychiatric material indicates that he began experiencing serious anxiety and depression as a teenager and was admitted to a psychiatric hospital for a short period at age 17. As an adult, he was again admitted to hospital approximately nine years ago. He has tried a number of antidepressant medications, which he reports did not assist him.

[41] The psychological assessment diagnoses Mr. Roberts with cannabis use disorder, moderate to severe, and persistent depressive disorder with superimposed episodes of major depression. It also identifies narcissistic personality traits versus narcissistic personality disorder. Possible autism spectrum disorder was also considered, although no determination was made in that regard.

[42] The psychological report also contains several comments from Mr. Roberts concerning his conduct and his degree of remorse. He describes regretting that his actions cast a shadow over a bar mitzvah that was being held at the synagogue the morning after he wrote on the exterior column. He stated that he thought the graffiti would be easy to remove and that his intention had simply been to "piss off the

congregation.” He also described his actions as “wrong, for the sake of the minority of Jewish people who were not Zionist.”

[43] Mr. Roberts also gave some explanation for how the incident arose. He stated that he developed the intention to write a message only moments before doing so. According to Mr. Roberts, when he saw the synagogue, he had the idea to “send a message to the Jewish people condemning the genocide in Gaza.” He denied having any intention to turn to violence to advance his anti-genocidal political views.

[44] I approach some of these statements with a degree of caution for the reasons I have already discussed concerning the factual record. They are nevertheless relevant in considering Mr. Roberts’ present attitude toward his conduct, including the nature and extent of his remorse.

[45] The psychological report, as well as Mr. Roberts’ comments in Court, also refer to his desire to engage in some form of restorative justice. That desire appears to be directed toward addressing the consequences of his conduct and, at least to some extent, repairing the harm caused by it.

[46] Finally, and perhaps most significantly, Mr. Roberts has no criminal record and apparently had no prior involvement with the police before the events that bring him before the Court.

PURPOSES AND PRINCIPLES OF SENTENCING

[47] I turn next to the principles and purposes of sentencing that must guide the Court in imposing a fit and appropriate sanction to the offences to which Mr. Roberts has pleaded guilty.

[48] Sentencing has been described by the Supreme Court of Canada as a “highly individualized process” that requires a “delicate balancing of the various sentencing principles and objectives”: *R v Suter*, [2018] 2 SCR 496, at para 4.

[49] The imposition of a fit and appropriate sentence is guided by a set of fundamental principles and purposes set out in ss 718 to 718.2 of the *Criminal Code*.

These purposes and principles do not establish a prescriptive set of rigid rules, but rather, are a framework that guides the considerable discretion exercised by sentencing judges in determining the appropriate punishment for a criminal offence.

[50] The fundamental principle that governs this exercise is proportionality. The *Code* provides in s 718.1 that a “sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.”

[51] Section 718 of the *Code* sets out the fundamental purpose of sentencing, which 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”. In advancing that fundamental purpose, courts must have regard to six objectives set out in ss 718(a) through (e); namely: denunciation, deterrence (both specific and general), separation of offenders from society where necessary, rehabilitation, reparation, and promoting a sense of responsibility/acknowledgment for the harm done to victims and the community.

[52] Section 718.2 sets out additional principles that courts must consider in imposing sentence. Importantly, s 718.2(a) provides that a sentence “should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to either the offence or the offender.” The *Code* also contains a growing list of statutory aggravating factors, a few of which are potentially engaged in the present case.

[53] Section 718.2(b) establishes the principle of parity, which holds that “a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.” This principle serves “to preserve fairness by avoiding disparate sentences where similar facts relating to the offence and the offender would suggest like sentences”: *R v Rawn*, 2012 ONCA 487, at para 18.

[54] Sections 718.2(d) and (e) reflect the restraint principle. The principle of restraint requires sentencing judges to exercise caution in the use of imprisonment. Custodial sentences should be imposed only where necessary, and any term of incarceration should be no longer than is reasonably required to achieve the objectives of sentencing.

The emphasis on restraint in the *Code* is meant to reduce reliance on imprisonment and to avoid punishments that are unduly harsh: *R v Proulx*, [2000] 1 SCR 61, at para 17.

[55] These principles, together with others that I have not referenced, are intended to assist sentencing judges in arriving at a proportionate sentence having regard to both the gravity of the offence and the offender's degree of responsibility.

[56] The statutory framework in the *Code* recognizes that proportionality is assessed both by reference to the individual circumstances of the offender and by comparison with sentences imposed in similar cases. Ultimately, however, sentencing remains an individualized exercise in which the circumstances of the particular offender before the court are of central importance.

AGGRAVATING AND MITIGATING CIRCUMSTANCES

[57] As Mr. Roberts is being sentenced for two different offences, I will address their respective aggravating and mitigating circumstances separately before considering the range of sentence and, finally, setting out the sentence that I have concluded is appropriate in this case.

Aggravating Circumstances – Mischief

[58] Beginning with the mischief offence, the first aggravating factor I would cite is the impact on the victims and, more broadly, on the Congregation Emanu-El synagogue community. The *Criminal Code* recognizes the significance of such harm and identifies the impact of an offence on victims as a statutory aggravating factor: s 718.2(a)(iii.1). In this case, the evidence establishes that the offence had substantial effects on both the immediate victims and on the broader Jewish community in Victoria, especially the members of the Emanu-El Congregation.

[59] The mischief offence occurred on August 1, 2025, which was the evening before a bar mitzvah that was to take place at the synagogue. I heard from Gypsy Fisher, whose 13-year-old son was to have his bar mitzvah on the morning of August 2, 2025, when the graffiti was discovered. Ms. Fisher described the painful impact the crime had

on her family. She spoke about the extensive preparations her son had undertaken for the day, including years of weekly Hebrew classes. The day was meant to be the culmination of those efforts, but it will now be remembered as a day of sadness. She described in her victim impact statement how the “hateful language that marred our beautiful sanctuary” was juxtaposed with the *drash*, the sermon that her son wrote and delivered to the 150 members of the community, as well as friends and family who had travelled to be there that day. I acknowledge that Mr. Roberts was not aware of this event and he did not deliberately target it, but his actions nevertheless had a profoundly negative impact on the Fisher family.

[60] I received and heard a victim impact statements from Solomon Siegel. He is the person who discovered and reported the words on the synagogue on the morning of August 2, 2025. He writes in his Victim Impact Statement about his personal connection to the synagogue. He noted that the synagogue is Canada's oldest synagogue in continuous use and is a 162-year-old National Historic Site. Mr. Siegel also referred to the emotional impact of the incident and the heightened concerns for security that he and his family have experienced as a result.

[61] I also received and considered community impact statements from Rabbi Eli Herbst and from Ilana Stanger-Ross, President of Congregation Emanu-El. These statements speak to the harmful effect that the incident has had on members of the Emanu-El. The statements describe how members of the Congregation no longer feel safe in Victoria.

[62] What emerges from these statements is that the impact of this offence has been profoundly negative, particularly when viewed in the broader context of increasing antisemitic incidents across Canada. The community impact statements describe the significant consequences of this act and the fear, anxiety, and sense of vulnerability it generated within the congregation. Members of the community expressed concerns not only for their personal safety, but also for their ability to participate freely in religious and communal life.

[63] The second and inter-related aggravating factor that I would identify relates to the nature of the offence. In this case, Mr. Roberts pleaded guilty to mischief against religious property based on bias against a targeted group. He has not admitted that the offence was hate-motivated. The Crown argued that it was open to the Court to find that Mr. Roberts was motivated by hate. Mr. Roberts' counsel agreed that it was open to the Court to consider making such a finding, but noted that Mr. Roberts had not admitted that he was motivated by hate, but entered a guilty plea to the offence particularized as "bias".

[64] The question of whether Mr. Roberts' crime can be considered a "hate crime" is complicated by the fact that the offence under s 430(4.1) is predicated on the presence of some form of discriminatory animus, defined as bias, prejudice or hate. As a general rule, a court cannot treat an essential element of an offence as an aggravating factor at sentencing: *R v Lacasse*, [2015] 3 S.C.R. 1089 [*Lacasse*], at para 146. However, there are exceptions, or least qualifications to that principle. In some instances, an offence is broad enough that it can be committed in more or less serious ways.

[65] Section 718.2(a)(i) of the *Code* also provides that a sentence may be increased if the Court finds that the offence was motivated "by bias, prejudice or hate" based among other things, "on race, national or ethnic origin". The jurisprudence confirms that it is not an error for a sentencing court to consider the statutory aggravating factor in s 718.2(a)(i) even where hate or bias is an element of the underlying offence: *R v Sears*, 2021 ONCA 522, at para 41. Indeed, some of the limited jurisprudence addressing mischief under s 430(4.1) appears to acknowledge that a finding of hate may be independently considered as an aggravating factor in sentencing for this offence: *R v Aspenlieder*, 2026 ONSC 281, at para 41 [*Aspenlieder*]. However, because a finding that Mr. Roberts' crime was motivated by hate is an aggravating finding, it can only be made if it has been proven beyond a reasonable doubt.

[66] It is helpful to begin by commenting on the meaning of the term "hate". The word hate is invoked almost indiscriminately in the present day such that it is now sometimes used as a synonym for any disagreeable criticism. However, that is not the case in

criminal law. A finding of hate requires more than negative comments about an identifiable group or even discriminatory speech: *Saskatchewan (Human Rights Commission) v. Whatcott*, [2013] 1 SCR 467, at paras 55–60.

[67] Indeed, the constitutional status of the concept of hate is dependent on it referencing a narrow category of conduct synonymous with detestation and vilification. In *R v Keegstra*, [1990] 3 SCR 697 [*Keegstra*], the Supreme Court of Canada clarified that hatred “connotes emotion of an intense and extreme nature that is clearly associated with vilification and detestation”: at p 777. The Court in *Keegstra* stated (at pp 777–778):

Hatred is predicated on destruction, and hatred against identifiable groups therefore thrives on insensitivity, bigotry and destruction of both the target group and of the values of our society. Hatred in this sense is a most extreme emotion that belies reason; an emotion that, if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect and made subject to ill-treatment on the basis of group affiliation.

[68] I have considered the high bar identified by the Supreme Court of Canada in *Keegstra* and related cases. In my view, based on the admissible evidence before the Court, I am satisfied beyond a reasonable doubt that the admitted facts support a finding that Mr. Roberts’ offence is a hate crime within the meaning of s 718.2(a)(i) of the *Code*. I reach this conclusion for several reasons.

[69] First, in my view, the language on the synagogue itself is unquestionably hateful. The words effectively pronounce a sort of sinister antisemitic syllogism: all Jews are evil, because Jews support Genocide, and Genocide is evil. The words describe Jewish people as a whole as “evil”, as “monsters”, and as murderers of children.

[70] In addition, the statement that “Jews are murdering thousands of gentile children” reflects a particularly longstanding and pernicious antisemitic trope: the historical accusation that Jews murder non-Jewish children: see e.g., *Keegstra* at 714. The reference to future revenge against “child killing Jew-monsters” carries the same

collective attribution one step further, as well as an implied call to violence, or at least an endorsement of an eventual violent reckoning.

[71] Mr. Roberts may have subjectively been motivated by the events in Gaza; however, the words “Stop the Jews” identify Jews themselves, rather than the State of Israel, its government, or its military, as the object of condemnation. To be clear, criticism of the State of Israel, even extremely harsh criticism, is not itself necessarily antisemitic. It is the collective attribution of responsibility to all Jews for the actions of Israel that renders the words antisemitic.

[72] Second, the location of the message is itself telling. While the words used by Mr. Roberts arguably speak for themselves, the location of the words supports the conclusion that this was a hate-motivated offence, and that it was intended to expose Jewish people to a hateful message. In this case, the words were scrawled in relatively small writing on a pillar at the entrance of the synagogue. The intended audience for this message does not appear to have been passing pedestrians, but people entering the synagogue. This was not a message to the public; it was a message to the Jewish congregation entering their house of worship. Mr. Roberts in fact told the author of the psychological assessment that “his intention was to ‘piss off’ the congregation” and that he “had an idea to send a message to the Jewish people condemning the genocide in Gaza.” This is not unlike the circumstances in *R v Le/as*, [1990] O.J. No. 1587 (Ont C.A.) [*Le/as*] where the Ontario Court of Appeal observed that in “spray painting the synagogue and Hebrew school,” the offender was “not merely intending to cause damage to property; rather, to use his words, he wanted ‘to enrage the Jewish community’”: *Le/as* at para 30.

[73] Third, based on the agreed facts, I do not accept that Mr. Roberts’ actions were quite so spontaneous as he has urged the Court to conclude. To be sure, I am prepared to accept that Mr. Roberts may not have set out on the morning of August 1, 2025, with a plan to leave a hateful message on a synagogue. However, his actions on the day in question point to a sufficiently deliberate act. The CCTV footage revealed that he spent

time writing the message, stopped when he thought he was being observed, returned to writing the message, and then paused to gaze with approval on his work.

[74] Finally, I turn to the relevance that Mr. Roberts may not himself subjectively hate Jewish people. Mr. Roberts' counsel advised that he does not personally hold any animosity toward Jewish people. Instead, it was the circumstances in Gaza that prompted him to take the actions he did. He was, in other words, trying to prompt debate about Gaza and send a message condemning genocide.

[75] Based on the evidence, I am left uncertain about Mr. Roberts true intentions. He has continued to express remorse but only for the minority of Jews who are not Zionists. However, even if Mr. Roberts does not subjectively hate Jewish people or wish them harm, I am satisfied beyond a reasonable doubt that he intended to engage in conduct that he knew would expose Jewish people to hatred and vilification. While the issue arises here as an aggravating factor at sentencing, I find the jurisprudence concerning the *mens rea* for hate speech to be instructive in disentangling the relevance of Mr. Roberts' subjective desires from the intended consequences of his actions.

[76] A similar argument concerning an accused's subjective motivation was considered by the Ontario Court of Appeal in *R v Buzzanga and Durocher* (1979), 49 C.C.C. (2d) 369 (Ont. C.A.) [*Buzzanga*]. In that case, two Francophone accused were convicted at trial of promoting hatred after distributing material containing statements about ridding the community of French Ontarians in the manner that the British had expelled the Acadians. The accused, however, identified with the targeted group and were motivated by a desire to provoke controversy and public debate, rather than by a desire to promote hatred against the Francophone community. The Court of Appeal allowed their appeal and ordered a new trial. Martin J.A. held that the absence of a subjective desire to promote hatred was not determinative. He explained that a person intends a particular consequence not only when it is his or her conscious purpose to bring it about, but also when he or she foresees that the consequence is certain or substantially certain to result: *Buzzanga*, at 722–723. I note parenthetically that in

Keegstra, Dickson C.J. endorsed Martin J.A.'s reasons in *Buzzanga*: *Keegstra* at pp. 774-775.

[77] In my view, the same reasoning is instructive here. The effect of the reasoning in *Buzzanga* is that an individual's actions can be hateful toward a group even if they do not subjectively wish or desire physical harm toward the targeted group. Here, Mr. Roberts may not personally wish harm or hate upon Jewish people though, as I have said, I have limited information about his true motivations. But even if his ultimate purpose was merely to draw attention to events in Gaza, rather than to cause actual harm to Jewish people, he nevertheless intentionally wrote words that were hateful toward Jewish people and deliberately placed those words on a synagogue where they would be encountered by members of the Jewish community. In my view, the inescapable inference is that he intended actions that he knew or foresaw would expose and stimulate hatred against Jewish people.

[78] The question before me is not, of course, whether the *mens rea* for wilfully spreading hate speech contrary to s 319 of the *Code* is made out. The issue instead is whether I am satisfied beyond a reasonable doubt that the offence before me was motivated by hate within the meaning of s 718.2(a)(i), as opposed to "merely" bias. Considering the words themselves, the location where the words were written, the deliberateness of the act, and Mr. Roberts' apparent understanding of the nature of the words, I am satisfied beyond a reasonable doubt that the offence was motivated by hate. I therefore treat this as an aggravating circumstance for the purposes of sentencing.

Mitigating Circumstances – Mischief to Religious Property

[79] Having outlined the aggravating factors applicable to the mischief offence, I now turn to the mitigating considerations. There are, in my view, a number of important mitigating considerations that must necessarily be considered in arriving at a fit and appropriate sentence.

[80] The first of these is the fact that Mr. Roberts entered early guilty pleas to both offences. Although these proceedings have been somewhat prolonged, Mr. Roberts pleaded guilty at the very earliest stages of these proceedings. This demonstrates an early acceptance of responsibility and also reflects well on his prospects for rehabilitation.

[81] A second mitigating consideration is that Mr. Roberts comes before the Court without a criminal record. The absence of a criminal record is generally treated as a mitigating factor in that it is some indication of an otherwise good character, and the offender has not had the benefit of a “wake up call” that can arise from a conviction: *R v R.M.*, 2019 BCCA 409, at para 20.

[82] Another important and related mitigating consideration is Mr. Roberts’ expression of remorse. I attach some significance to the comments attributed to Mr. Roberts in the psychological assessment, in which he expressed regret for his actions. In particular, he expressed sincere regret at having affected a bar mitzvah being held at the synagogue. He also expressed his regret to the Court. In my view, the fact that the expressions of remorse came after hearing the victim impact information does not detract from its significance. Indeed, it is perhaps the case that Mr. Roberts had previously viewed his actions exclusively within the context of conflict in Gaza, as opposed to appreciating the impact of his actions upon the human beings affected by his conduct.

[83] Another mitigating factor is that the psychological report suggests that there is a low likelihood of further violence or similar acts on the part of Mr. Roberts. This suggests better prospects for rehabilitation and, in any event, provides some assurance that this was an isolated incident.

[84] Mr. Roberts’ counsel urges that a further mitigating consideration concerns the role of mental illness. He places some emphasis on the psychological assessment, which provides a diagnosis. I acknowledge that the evidence of mental illness provides some context for the offences and the offending behaviour. However, I am not persuaded that the evidence demonstrates that mental illness was a causal or contributing factor in the commission of the offences. Our Court of Appeal has explained

that where mental disorder is invoked as a true mitigating consideration that significantly reduces moral culpability, there must be evidence that demonstrates, on a balance of probabilities, that “mental illness caused or contributed to the commission of the offence”: *R v Glossop*, 2026 BCCA 225, at para 50.

[85] In this case, Mr. Roberts has not been diagnosed with a major mental illness, such as schizophrenia or bipolar disorder. He was not experiencing delusions at the time that prompted his behaviour. While I do not suggest that only delusional disorders would be sufficient, the evidence does not satisfy me that any mental disorder played a role in contributing to the offence. On the other hand, I readily accept that Mr. Roberts is a person with mental health challenges and that these circumstances help explain aspects of his decision-making and are relevant to a fit and appropriate disposition.

Aggravating and mitigating circumstances – Uttering Threats

[86] Before turning to the range or ranges of sentence for the offences, I will briefly address the aggravating and mitigating circumstances relating to the offence of uttering threats. With respect to aggravating circumstances, I consider it aggravating that the threats were directed at police officers, particularly in the aftermath of, and in direct connection with, the events that occurred in Montreal.

[87] Uttering threats is not one of the enumerated offences against justice system participants referred to in s 718.02 of the *Code*. However, the case law, including the sentencing authorities to which I refer later in these reasons, suggests that courts commonly regard threats to kill police officers or to cause harm to other participants in the justice system as an aggravating feature. In any event, the fact that the threats involved threats to kill multiple police officers in the wake of a recent police shooting is itself aggravating.

[88] I also consider it aggravating that Mr. Roberts was on release and subject to another charge when he committed this further offence. Courts have long recognized this as an aggravating factor.

[89] As for mitigating circumstances, they are essentially the same as those I have already outlined with respect to the mischief offence. Mr. Roberts entered an early guilty plea and has expressed remorse for his actions.

[90] After he was arrested by police for uttering threats, he was taken to the Royal Jubilee hospital. He was assessed and found not to meet the criteria for certification, which again, does not suggest that mental illness was a contributing factor with respect to this offence.

[91] The psychological assessment addressed both offences and, therefore, I will not repeat my comments concerning that report other than to note that Mr. Roberts is not considered an individual who is at a high risk to reoffend.

RANGE OF SENTENCE

[92] Before considering how these aggravating and mitigating circumstances should influence the ultimate disposition in this case, I will address the sentencing range for the two offences before me.

[93] Sentencing ranges are, as the Supreme Court of Canada has explained, "tools and not straitjackets": *R v Parranto*, 2021 SCC 46, at para 37. Ranges are, in other words, "primarily guidelines, and not hard and fast rules," which are meant to provide a reference point for comparison and assist in giving effect to the principle of parity: *Lacasse*, at para 60.

[94] Sentencing ranges deserve attention, particularly with respect to the objective gravity of an offence, because they represent the distilled judicial wisdom of prior sentencing judges which assists later judges in imposing proportionate sentences. As stated in *R v Friesen*, [2020] 1 SCR 424, "[a] proportionate sentence for a given offender and offence cannot be deduced from first principles; instead, judges calibrate the demands of proportionality by reference to the sentences imposed in other cases": at para 33.

Mischief to Religious Property

[95] Beginning with the range of sentence applicable to mischief contrary to s 430(4.1) of the *Code*, the Crown provided the Court with several authorities involving the imposition of sentence for that offence.

[96] By way of context, the offence in s 430(4.1) is essentially an aggravated form of mischief in that it incorporates the elements of s 430(1), except that it requires damage to religious property together with proof that the offence was motivated by “bias, prejudice or hate based on religion, race, colour or national or ethnic origin”. The offence carries a maximum sentence of 18 months' imprisonment when prosecuted summarily and up to 10 years' imprisonment when prosecuted by indictment.

[97] Committing mischief to religious property with a discriminatory animus has long been treated as a particularly aggravated form of the offence: *R v Lelas* (C.A.), 1990 CanLII 6836 (ON CA) [*Lelas*]; *R v Creaghan*, 1991 ABCA 184, at para 9. However, it did not become a distinct offence in the *Code* offence until Parliament enacted s 430(4.1), which was an offence included as part of the anti-terrorist legislation enacted in the wake of the September 11, 2001, terrorist attacks: *Anti-Terrorism Act*, S.C. 2001, c. 41, s. 12.

[98] Compared to the more conventional mischief offence under s 430(1), there are relatively few reported sentencing decisions under s 430(4.1). That is, of course, encouraging insofar as it may reflect the relative rarity of such offences. At the same time, the limited case law complicates the task of identifying a sentencing range. The authorities provided by Crown counsel disclose dispositions ranging from conditional discharges to custodial sentences exceeding one year. Mr. Roberts' counsel did not provide any additional authorities or suggest that the Crown's authorities were not representative of the body of relevant law.

[99] The first offence that I will comment on is the Ontario Court of Appeal's decision in *Lelas*. This case pre-dates the addition of the offence in s 430(4.1), but it is nevertheless a relevant authority, since it involves a sentencing for mischief in broadly

similar circumstances. In *Le/as*, the offender together with a female companion, spray-painted two swastikas on the door of a synagogue and also painted slogans referring to a "Zionist Occupation Government". After leaving the synagogue, the accused encountered a Hebrew school where he spray-painted Nazi and swastika symbols on a school sign. He also spray-painted a swastika on the hood of an automobile. The evidence established that the accused had been involved with a white supremacist group since his late teens and was a self-described racist, as well as being an acolyte of Ernst Zündel, a well-known Holocaust denier. He had also become involved with the Ku Klux Klan and other similar groups. The Ontario Court of Appeal set aside the six-month sentence and imposed a one-year sentence, concluding that the original sentence was not "sufficient to meet the needs of general deterrence and to show society's abhorrence of the acts of the respondent": at para 31. The Court observed that "desecration of a place of worship is a serious matter": at para 29.

[100] One of the earliest reported decisions addressing s 430(4.1) is *R. v. Ghaffari*, 2017 ONCJ 524 [*Ghaffari*]. The offender Ghaffari walked into a mosque during Ramadan, where he insulted the occupants and their religion in strong terms. He was removed from the mosque and then urinated on the mosque steps as people were entering the building. The offender was remorseful, apologized to the members of the mosque for his conduct, and attended anger management counselling. The sentencing judge noted that Mr. Ghaffari's actions "were motivated by a temporary anger with his religion while he was grieving for the loss of his mother": *Ghaffari*, at para 14. The sentencing judge imposed a conditional discharge, but commented that his decision should not be seen as a "general tariff for these offences": *Ghaffari*, at para 16.

[101] The Crown in this case referred the Court to *R v Bryans*, [2025] O.J. No. 4260 (C.J.). In that case the Court imposed a four-month term of imprisonment on an offender who had pleaded guilty to one count of mischief under s 430(4.1). The offender had drawn a number of swastikas on a mosque and left a sign outside the mosque that read, "Burn Palestine Burn". The offender admitted that his actions were motivated by hate. The offender was a 43-year-old first-time offender who was not the subject of any psychiatric diagnosis. He claimed to have been under the influence of ketamine at the

time of the offence. The sentencing judge noted the "incoherence of his drawing a swastika, the paradigmatic symbol of antisemitism, on a mosque in the context of his professed support for Israel": *Bryans*, para 62. The sentencing judge found that "only a sentence of real jail is capable of sending the necessary denunciatory message to the entire community": *Bryans*, at para 87.

[102] The decision of *R v Castonguay*, 2021 BCPC 315 [*Castonguay*] is a relatively recent decision of this Court which I find to be very instructive. In that case, the offender pleaded guilty to defacing the windows of a Vancouver-based Chinese cultural centre by writing a racist diatribe about persons of Chinese origin or descent. Among other things, he stated that Chinese persons should be killed "just like Hitler did to the Jews". The offender was 47 years old and lived in Vancouver's Downtown Eastside. He had experienced an abusive and traumatic childhood connected to his substance use disorder. The offender had an extensive criminal record totalling more than 155 convictions. The Court heard community impact evidence about the effect the incident had on staff, volunteers, and other members of the community. In terms of aggravating factors, the Court emphasized that the offender had targeted a revered cultural institution. At the same time, the Court noted that the offender had pleaded guilty, accepted responsibility, and expressed remorse. The Court concluded that an eight-month sentence was appropriate, less credit for time served. In addition, the Court imposed a three-year probation order prohibiting the offender from attending near the Chinese Cultural Centre.

[103] The next decision is *R v Kamienik*, 2024 BCPC 33 [*Kamienik*], which is also a decision of this Court. There, the accused cut down a flagpole that had been flying at a Pride Flag near Lonsdale Quay in North Vancouver. He took a video of the result, which he posted on Facebook. The cost to repair the damage to the flagpole and replace the flag was approximately \$3,000. The Court observed that the accused entered a very early guilty plea, thereby accepting responsibility for his conduct. The offender was 51 years old and had no prior involvement with the criminal justice system. He expressed remorse. The accused himself was gay but was opposed to the Progressive Pride flag because he believed it constituted virtue signalling and grouped him with persons of

different gender identities with whom he did not identify. The Court concluded that the accused was motivated by bias, prejudice, or hate against non-cisgender persons. The Court imposed a suspended sentence and two years' probation with respect to the offence involving the vandalism of the flagpole.

[104] The last authority I will mention is *Aspenlieder*, which I regard as the most comparable decision. The offender in *Aspenlieder* was an Ottawa-based lawyer who threw red paint on the front of the National Holocaust Monument in Ottawa and painted the words "Feed Me" on it. In committing the offence, Mr. Aspenlieder said that he was motivated by the plight of the Palestinian people and, in particular, by the circumstances they had experienced in the context of the recent conflict involving Israel and Gaza. Mr. Aspenlieder continued to express pride in what he had done, although the sentencing judge concluded that he was unlikely to reoffend. The sentencing judge heard extensive victim impact evidence that raised many of the same fears and concerns that I have heard in these proceedings.

[105] The sentencing judge provided a thorough and helpful review of several cases, some of which have been referenced in these reasons: *Aspenlieder*, at paras 47–69. Mr. Aspenlieder was 46 years old and employed as a lawyer for the City of Ottawa. He filed numerous letters of support describing him as kind, truthful, and honest, and attesting to his commitment to assisting those who lacked the power to help themselves. The evidence established that he had never espoused antisemitic beliefs. He had a strong and supportive family background that spoke to his good character. The judge identified several aggravating factors, including the desecration of a national monument and the significant impact on victims, particularly at a time when antisemitism was on the rise. The sentencing judge was not, however, persuaded that Mr. Aspenlieder was motivated by hate. In the result, the Court imposed a sentence of five months' imprisonment, concluding that a longer sentence would offend the principle of restraint.

[106] In my view, what can be deduced from these cases, and others referenced in *Aspenlieder*, is that a significant jail sentence will typically be imposed for this kind of

offence. There are some outliers such as *Ghaffari* and *Kamienik* that support non-custodial sentences. Factors that have increased sentences include whether the offender has a criminal record or has been a member of a hateful group: *Lelas*, *Bryans*. All of these cases suggest that the primary sentencing considerations for this offence are denunciation and deterrence. Mitigating factors include guilty pleas, expressions of remorse, and evidence of rehabilitation.

Uttering Threats

[107] As for the range for uttering threats, this is an offence for which there is a far larger body of precedent. In *R v Hiscock*, 2002 BCCA 647 [*Hiscock*], our Court of Appeal observed that “uttering of threats has generally attracted light sentences in this province”: *Hiscock* at para 14. In making that statement, however, the Court was apparently referring to sentences in the range of six to nine months’ imprisonment. There are also recent examples from this Court of sentencing judges imposing non-custodial sentences, including discharges, on individuals with no criminal record who pleaded guilty to uttering threats: *R v Sood*, 2019 BCPC 82; *R v Blake*, 2020 BCPC 177.

[108] The Crown cites several authorities that, it submits, support the proposed disposition of six months’ imprisonment, which I will briefly canvass. In *R. v Vaillant*, 2020 BCSC 1137 [*Vaillant*], the offender was sentenced following trial on a multi-count indictment involving firearms-related offences and one count of uttering threats. Fort St. James RCMP attended at the offender’s residence after receiving reports that he was armed, suicidal, and had fired shots. Police evacuated the area and deployed the Emergency Response Team. What followed was an eight-hour standoff during which the offender waved a semi-automatic pistol and, on several occasions, threatened to kill RCMP officers at the scene. The offender was 59 years old, had a history of alcohol and drug abuse, and had a criminal record that included a prior conviction for uttering threats. The sentencing judge concluded that a sentence of six months’ imprisonment was appropriate.

[109] The Crown also relies on *R v Ciolli*, 2018 BCPC 3 [*Ciolli*], where the accused pleaded guilty to uttering threats against a judge, Crown counsel, and a police officer during the course of a sentencing hearing. The offender was an individual with serious mental illness, a lengthy criminal record, and addictions issues. During the sentencing hearing, he repeatedly threatened to kill both the Crown prosecutor and the judge. He continued to utter threats toward a police officer while in the cells. The Court imposed a sentence of 165 days' imprisonment, followed by three years' probation and ancillary orders.

[110] In *R v Manuge*, 2016 BCPC 68 [*Manuge*], the offender pleaded guilty to counts of careless storage of firearms, possession of an over-capacity magazine, and uttering threats. The offender was a 52-year-old former member of the Canadian Forces who suffered from a variety of mental, and psychological difficulties. He was upset and angry at the mistreatment of veterans. This resulted in him sending an email to the Minister of Veterans Affairs and to the Chair of the Veterans Review and Appeal Board in which he described himself as an "instrument of death" and threatened to take hostages. He expressed remorse, entered guilty pleas, and had no prior criminal record. The Crown and defence jointly submitted that a suspended sentence with probation was an appropriate disposition for the uttering-threats count.

[111] In *R v NJB*, 2014 BCPC 49 [*NJB*], the accused pleaded guilty to a number of offences, including possession of a prohibited weapon, robbery, and uttering threats. He and a companion had been involved in two robberies and were eventually pursued, stopped, and arrested by police. The events included a dangerous police pursuit that ended with the accused being shot twice by a police officer. Three days later, while in custody, the offender told a cell guard that on release he intended to return and kill both the guard and "the cop who shot me." The offender was 27 years old and had what the sentencing judge called an "unenviable" criminal record, including prior convictions for uttering threats. The sentencing judge imposed a sentence of six months' imprisonment for uttering threats, which was concurrent to a six-year sentence for robbery.

[112] The final decision referenced by Crown is *R v Zarubin*, 2004 SKCA 14 [Zarubin]. The accused had telephoned his local Member of Parliament for the Yorkton-Melville constituency in Saskatchewan. During the call, the accused criticized the MP's representation of his constituents. As the conversation progressed, he used increasingly hostile language and eventually made statements to the effect that he would kill the MP, permanently get rid of him, and take matters into his own hands. The Saskatchewan Court of Appeal upheld a sentence of approximately eight months' imprisonment, noting that the offender had accumulated approximately 40 criminal convictions, including 28 for offences involving threats, harassment, or assault.

[113] Based on these authorities, I accept that uttering threats against participants in the justice system is an aggravating factor that will often justify a significant custodial sentence. I do, however, note that there are important distinguishing features in the cases relied upon by the Crown which help explain the six-month custodial sentences imposed. In *Vaillant*, *Ciolfi*, *NJB*, *Zarubin*, the offenders had criminal records with prior convictions for uttering threats. By contrast, *Manuge* involved an offender with no criminal record who pleaded guilty, expressed remorse, and received a non-custodial sentence.

Disposition

[114] I turn now to the appropriate disposition in this case against the backdrop of the earlier discussion in these reasons. As noted at the outset, the Crown's position is that six-month sentences are appropriate for each of the two offences, to be served consecutively. Defence counsel argues in favour of a time-served disposition, without specifying any breakdown in terms of the specific offences.

Mischief Against Religious Property

[115] Beginning with the count for mischief contrary to s 430(4.1), I have already set out the aggravating and mitigating circumstances present in this case. The fact that this offence involved damage to a religious edifice, coupled with antisemitic hate speech, is

highly aggravating. This clearly calls for a sentence that gives paramount consideration to the principles of denunciation and deterrence.

[116] I consider the other significant aggravating factor in this case to be the profound impact on the community. As noted, I heard from a number of community members about the way this offence affected them in the context of their broader experience of antisemitism in Canada. In addition, there is a more specific human dimension to the impact in this case. A bar mitzvah was being held at the synagogue on the morning after the antisemitic screed was written on the building. Mr. Roberts' conduct had the effect of tainting what should have been an important and celebratory occasion and making it memorable for exactly the wrong reasons. Mr. Roberts acknowledges this, but the impact remains a factor that I must take into account.

[117] I have also found that Mr. Roberts' actions constituted a hate crime within the meaning of s 718.2(a)(i). This finding takes on even greater significance in the context of recent events in Canada. It is open to sentencing courts to take judicial notice of increasing levels of criminal activity when crafting an appropriate sentence: *Lacasse*, at para 95. In this regard, I take judicial notice of the reality that Canada is currently experiencing a significant increase in antisemitic incidents and crimes. There is a rising tide of antisemitism across the country that cannot be ignored. Jewish people, Jewish communities, and Jewish religious institutions have been subjected to numerous threats and attacks. It has become an almost daily occurrence that synagogues and other Jewish institutions are vandalized and, in some cases, subjected to shootings.

[118] At the same time, Mr. Roberts' counsel reminded the Court that hard cases make bad law, by which I took him to mean that Mr. Roberts cannot be made a proverbial scapegoat for all criminal acts committed against Jewish people and communities across Canada in recent times. I agree. Mr. Roberts cannot answer for the conduct of others. A proportionate sentence must tie the broader considerations of denunciation and deterrence to the culpability of the individual offender and the particular offences before the Court.

[119] Counsel for Mr. Roberts observed that the events in Gaza prompted his conduct, while properly acknowledging that those events did not provide a justification for it. I agree that they do not. I would go further and emphasize that I attach little significance to Mr. Roberts' political motivation, other than insofar as it provides some context for what might otherwise appear to be an inexplicable hateful act.

[120] Courts have repeatedly recognized that political motives do not excuse the commission of criminal offences. A person's sincere conviction that a political cause is just does not provide a licence to damage property, threaten others, or otherwise engage in criminal conduct in pursuit of that cause. As recently explained in *R v Soranno*, 2024 BCCA 230 [*Soranno*], "judges in Canada are required to apply the law in an independent, unbiased way, and they cannot decrease or increase a sentence depending on whether the political cause of an offender is one they agree with": *Soranno* at para 56.

[121] I would add that Mr. Roberts was never prohibited from expressing his views about the conflict in Gaza. He was and remains free to express his disagreement with the Israeli government and its actions. Nothing about the offences before me arises from the expression of political views on that topic. The problem is that he chose to express those views by defacing property with a message specifically targeting Jewish people and a Jewish place of worship.

[122] There are also important mitigating considerations in this case. Foremost among them is the very early guilty plea. Mr. Roberts recognizes that he has done something wrong, although his comments leave me uncertain whether he fully appreciates the distinction I have just described. In addition, he is a first-time offender with no criminal record, a circumstance that calls for restraint. I also acknowledge that he has experienced some mental health challenges, although I am not persuaded that they are significantly mitigating. They do, however, provide some context for his actions. The psychological assessment persuades me that he presents a low risk of reoffending and has been personally deterred from engaging in this type of conduct in the future.

[123] In the end, I am imposing the six-month jail sentence proposed by Crown counsel. In my view, it represents a restrained sentence that reflects the important mitigating circumstances. I regard the circumstances of this case as more serious than those in *Aspenlieder* but less serious than those in *Castonguay*. *Aspenlieder* involved a more obviously political act directed at a public monument, whereas the present case involved the deliberate targeting of a Jewish place of worship with an antisemitic message. *Castonguay* involved a more prolonged course of conduct by an offender with a lengthy criminal record. In addition, there is no suggestion that Mr. Roberts is associated with an antisemitic hate group, as was the case in *Lelas*.

[124] In my view, a materially lesser sentence would fail to adequately reflect the gravity of the offence and the requirements of denunciation and deterrence. Mr. Roberts' expressions of remorse, together with the psychological assessment, lead me to conclude that he has been specifically deterred by the intervention of the criminal justice system. However, the sentence must send a clear and unequivocal message that criminal conduct and hateful speech directed at Jewish people and institutions will not be tolerated. As reflected in the case law I have reviewed, the same is true of other protected groups. But for the mitigating circumstances, a longer sentence might well have been justified. To repeat the words of Judge Kenkel in *Ghaffari*, this decision is not intended to set a "general tariff for these offences": *Ghaffari*, at para 16.

Uttering Threats

[125] I turn next to the sentence for uttering threats. The Crown has urged a six-month sentence to be served consecutive to the sentence imposed for mischief to religious property. Based on the authorities previously discussed, sentences for uttering threats range from a conditional discharge to jail sentences of up to six months or more. In my view, the cases relied on by the Crown involved individuals with criminal records who made threats in more egregious circumstances. This case, by contrast, involves a text message to Mr. Roberts' mother. While he admitted that he intended it to be taken seriously, this is a significantly different situation than in cases where courts have imposed six months imprisonment.

[126] I agree, however, that uttering threats about killing law enforcement closely in the wake of a serious crime such as occurred in Montreal is conduct that must be denounced and deterred. I do not find that the evidence supports the conclusion that Mr. Roberts endorsed the entire value system as the shooter in Montreal. However, his expression of a willingness to use violence against police, or to threaten them with it, is alarming. Regardless of whether the statutory aggravating factor in s 718.02 is applicable, I readily accept that threats to kill police officers closely in the wake of a tragic shooting require a sentence that denounces the conduct and deters the offender and others from similar conduct.

[127] Yet, Mr. Roberts is still a first-time offender without a criminal record. This is his first interaction with the criminal justice system. He has expressed remorse for his actions. Ultimately, I agree with defence counsel that a six-month sentence would be excessive in the circumstances of this case. In my view, a sentence of two months in jail is appropriate. The sentence for mischief is to be served consecutively to the six month sentence for mischief, as the offence occurred long after the mischief offence and was not “part of a linked series of acts within a single endeavour”: *R v Li*, 2009 BCCA 85 at para 43. I have considered whether this sentence should be reduced to reflect the principle of totality. In my view, it should not. A global sentence of eight months for the offences before the Court is a fit and appropriate sentence.

[128] In reaching this conclusion, I would emphasize that this sentence is a function of Mr. Roberts being a first-time offender without a criminal record. The evidence before me suggests that he has been personally deterred from any further conduct. I add that he is also a low risk to reoffend.

Conclusion

[129] To conclude, I am imposing an eight-month global sentence on Mr. Roberts comprised of a six month term of imprisonment for the offence of mischief contrary to s 430(4.1) to be followed by a two month consecutive sentence of imprisonment for uttering threats.

[130] Mr. Roberts will also receive credit for the time served in custody. Mr. Roberts was arrested on June 25, 2026. By my calculation, he has served 96 days, which is 144 days based on enhanced credit of 1.5 to 1.

[131] I am also imposing a two-year probation order on the following terms:

- a. You must keep the peace and be of good behaviour.
- b. You must appear before the court when required to do so by the court.
- c. 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.
- d. You must report in person to a probation officer at 3965 Quadra Street, Victoria, British Columbia, within two business days after your release from custody, unless you have obtained before your release from custody 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.
- e. You must not go to or be within 100 metres of 1461 Blanshard Street, Victoria, British Columbia. The exception is while you are in a moving vehicle on your way to some other place.
- f. You must have no contact or communication directly or indirectly with any person whom you know to be a member of the Emanu-El Congregation.
- g. You must not go to any synagogue, Jewish Community Centre, or similar public space that you know to be affiliated with the Jewish religion or Jewish people. For greater certainty, this term does not prohibit otherwise lawful protest outside a building or public space owned or occupied by the Government of Israel, including an embassy or consulate.
- h. You must attend, participate in and complete any intake, assessment, counselling, or education program as directed by your probation officer.
- i. Having consented in court, you must attend, participate in and complete any intake, assessment, program, treatment, or a full-time live-in treatment program as directed by your probation officer. This may include programming or treatment for psychiatric and psychological health.
- j. You must not possess any paints, dyes, acids, paintbrushes, spray paint cans, or permanent marking pens outside your residence, except with the prior written permission of your probation officer.

- k. You must not possess directly or indirectly any weapon as defined by the *Criminal Code*, including firearms, ammunition, crossbows, prohibited or restricted weapons or devices, explosive substances, anything used, designed to be used, or intended for use in causing death or injury to any person or to threaten or intimidate any person, and any imitation firearm or weapon, including any compressed-air gun, BB gun, or pellet gun.
- l. You must complete 50 hours of community work under the direction of your probation officer. Your community work service must be completed within 12 months of your release from custody.
- m. Your reporting ends when you have satisfied your probation officer that you have completed all your community service work, completed all your counselling and treatment or that it is not required, and your probation officer has told you that you are no longer required to report.

The Honourable Judge M. Rankin
Provincial Court of British Columbia