

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: R. v. Minassian

BEFORE: MOLLOY J.

COUNSEL: *J. Rinaldi*, for the Crown

B. Smith, for the Defendant

HEARD: April 5, 2022, by Zoom

ENDORSEMENT

[1] For reasons dated March 3, 2021,¹ I found this offender guilty of 10 counts of first-degree murder and 16 counts of attempted murder. These offences were committed on April 23, 2018 and the offender was arrested on that day. He has been in custody ever since.

[2] Prior to 2011, the mandatory sentence for first degree murder was a life sentence with no eligibility to apply for parole for 25 years. No matter how many murders a person committed, a life sentence was simply that, a sentence for his or her natural life. No matter how many life sentences were imposed, the offender could apply for parole after 25 years. That would not mean that the offender would necessarily be released on parole, but merely that he or she would be eligible to apply. In 2011, the *Criminal Code* was amended to permit a sentencing judge in certain circumstances to impose consecutive periods of parole ineligibility for multiple murder convictions.² There have been conflicting decisions from various Canadian courts as to the constitutionality of this provision. Most notably, in 2020 the Quebec Court of Appeal in *R. v. Bissonnette*³ found the provision to be unconstitutional. An appeal from that decision was argued in the Supreme Court of Canada on March 24, 2022, and the Court has reserved its decision.

[3] In the case now before me, the Crown seeks to have consecutive periods of parole ineligibility, relying on s. 745.51 of the *Criminal Code*. Because the constitutionality of that provision is the subject matter of the case now under reserve by the Supreme Court of Canada, all counsel before me agree that I should not rule on the issue until after the Supreme Court of Canada has released its decision.

¹ *R. v. Minassian*, 2021 ONSC 1258.

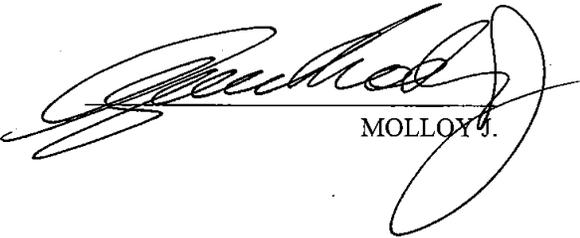
² *Criminal Code*, s. 745.51.

³ *R. v. Bissonnette*, 2020 QCCA 1585.

[4] It has now been more than a year since my decision convicting this offender and we are approaching the four-year anniversary of the offences themselves. During this time, the offender has been in custody in a facility intended for short sentences and offenders awaiting trial or sentencing. All counsel agree, as do I, that this is not an appropriate institution in which to be serving a lengthy sentence. At a minimum, this offender will be sentenced to life imprisonment with no eligibility for parole for 25 years. That sentence takes effect from the date of the offence, regardless of when it is imposed. It is therefore appropriate for this offender to be transferred to a suitable federal penitentiary to serve his sentence. The only thing hindering that transfer is the delay in the sentencing hearing to await the Supreme Court of Canada's ruling.

[5] All counsel agree that it is appropriate at this point to proceed with the evidentiary portion of the sentencing hearing, at the conclusion of which I will impose the mandatory sentence for one count of first-degree murder. The hearing will then be adjourned with respect to the remaining 25 counts on the indictment, pending the Supreme Court of Canada's decision in *R. v. Bissonnette*. In my view, this is a sensible and appropriate way to proceed.

[6] The sentencing hearing will commence before me on Monday, June 13, 2022 at 10:00 a.m. in Courtroom 6-1 at 361 University Avenue in Toronto. Victims and their families who wish to attend in person will be given priority in seating. Because of the anticipated public interest in this case, arrangements are being made to provide additional space in the courthouse with a live video feed from the main courtroom. Controlled access webinar zoom space for the media is also under consideration.



MOLLOY J.

Date: April 6, 2022