Translated from the original French

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| R. c. Killiktee | | 2021 QCCQ 13257 | | | |
| COURT OF QUEBEC | | | | | |
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| CANADA | | | | | |
| PROVINCE OF QUEBEC | | | | | |
| DISTRICT OF CHICOUTIMI | | | | |  | |
| LOCALITY OF CHICOUTIMI | | | | |
| “Criminal and Penal Division” | | | | | |
| Nos.: | 150-01-066204-216, 150-01-066203-218  150-01-064466-213, 150-01-064467-211  150-01-065313-216, 150-01-065311-201  150-01-065312-218, 150-01-065604-218  150-01-066036-212, 150-01-066047-219 | | | | |
|  |  | | | | |
| DATE: | December 10, 2021 | | | | |
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| PRESIDING: THE HONOURABLE PIERRE LORTIE, J.C.Q. | | |  |  | |
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| THE QUEEN | | | | | |
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| Prosecutrix | | | | | |
| v. | | | | | |
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| LOUISA KILLIKTEE | | | | | |
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| Accused | | | | | |
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| **SENTENCING** | | | | | |
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#### INTRODUCTION

1. Louisa Killiktee, 38 years old, pleaded guilty on November 10, 2021, to the following offences (in chronological order):

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| --- | --- | --- |
| File numbers | Dates | Offences and facts accepted by the Court |
| 150-01-066204-216 | April 29, 2020 | Threatening and assaulting Shomari Blades.  Ms. Killiktee was intoxicated in an apartment in Montreal. Frustrated, she took the victim’s face and dug her nails into the skin. She also threatened to kill her. |
| 150-01-066203-218 | April 29, 2020 | Assaulting the police officers called to intervene.  Ms. Killiktee refused to cooperate and, in the context of COVID, spit on the police officers’ faces. The situation was worrisome because she had a runny nose with traces of blood. |
| 150-01-064466-213 | March 19, 2021 | In Chicoutimi, assaulting Mélanie Hince.  Ms. Killiktee was at Maison des sans-abri. For unknown reasons, she shoved the victim and hit her on the head. Workers had to stop it. |
| 150-01-064467-211 | March 19, 2021 | Breach of release order [RO] by not being at the proper address. |
| 150-01-065313-216 | June 15, 2021 | Three breaches of RO (keep the peace, abstain from drugs or alcohol). The police were called to intervene because of an argument with another person. They observed that she was highly intoxicated and in breach of her conditions. |
| 150-01-065311-201 | July 13, 2021 | Threatening the police.  Ms. Killiktee was at Maison des sans-abris. The police were called to intervene because she was being disruptive. She was unhappy and threatened to kill the police officers and their families. |
| 150-01-065312-218 | July 13, 2021 | Seven breaches of two RO (keep the peace, curfew, address, consumption). |
| 150-01-065604-218 | August 2, 2021 | Two breaches of RO (live at Le Rivage, curfew). The police called to intervene because of the disturbances realized that she was supposed to be at Le Rivage, a residence for women in difficulty. |
| 150-01-066036-212 | October 3, 2021 | Three breaches of RO (curfew, abstain from drugs or alcohol). |
| 150-01-066047-219 | October 3, 2021 | Two breaches of RO (curfew and alcohol).  The police officers saw Ms. Killiktee sleeping outside. She was clearly disorganized and intoxicated. |

1. Ms. Killiktee was in custody at the time of sentencing submissions.
2. The prosecution notes many aggravating factors, including prior convictions for violent offences, and seeks consecutive sentences totalling four years, thus prioritizing the objectives of denunciation and deterrence.
3. Ms. Killiktee proposes a sentence of 6 to 9 months. A member of the Inuit Nation, originally from Nunavut, she described her unique life history and submits that prison is not the solution. She is asking for help and wants to enter therapy.

#### ISSUE

1. What is the just and appropriate sentence in light of the aggravating circumstances and factors that mitigate moral culpability?
2. The gap between the parties is immense, from 6 months to 4 years, which reflects a different assessment of the weight to be given to the sentencing factors.
3. The debate arises in circumstances where Ms. Killiktee is an Aboriginal person. Section 718.2(e) of the *Criminal Code* (*Cr. C.*) provides that the judge must take into consideration all available sanctions, other than imprisonment, “with particular attention to the circumstances of Aboriginal offenders”. The Supreme Court analyzed sentencing in Aboriginal matters in *Gladue* in 1999[[1]](#footnote-1) and *Ipeelee* in 2012.[[2]](#footnote-2)

#### EVIDENCE

1. Ms. Killiktee testified at the sentencing hearing on November 10 and 11, 2021. She speaks English even though her mother tongue is Inuktitut.
2. Her counsel filed a letter from the Kapatakan community residential centre, which specializes in therapy for Aboriginal people, stating that she is eligible for therapy following a conviction.
3. The prosecution filed a list of prior convictions. This list is reproduced in Schedule 1.

#### *GLADUE* REPORT

1. At the hearing, Ms. Killiktee formally waived a *Gladue* report, as is her right.[[3]](#footnote-3)
2. According to the judgment of Ratushny J. of Ontario’s Superior Court of Justice on October 20, 2011,[[4]](#footnote-4) a *Gladue* report (or pre-sentence report for Aboriginal offenders) was prepared concerning a sentence imposed on Ms. Killiktee. Despite a joint effort by the Court and counsel, this report could not be found.
3. Following a search of the case law by the Court, counsel consented to filing four earlier Ontario judgments concerning Ms. Killiktee.[[5]](#footnote-5) Two judgments describe the main elements of the report.
4. Ms. Killiktee recounted her life story when she testified.
5. Added to this are the observations of counsel and judicial notice by the Court of the broad systemic and background factors affecting Aboriginal people.[[6]](#footnote-6)
6. The *Gladue* factors are therefore considered, even though there is no report.

#### NUNAVUT

1. It is useful to paint an overall portrait of Nunavut, where Ms. Killiktee is from. The Court acknowledges that this summary does not describe every characteristic of this territory or its population. Only the essential elements are described for the purposes of sentencing.
2. Nunavut (Our Land in Inuktitut) is an immense territory that encompasses primarily the islands of the Canadian Arctic with approximately 36,000 inhabitants (85% Inuit) spread across several communities, including the capital Iqaluit (place of many fish). The territory has been occupied for several thousands of years and the population had a nomadic lifestyle adapted to the environmental conditions. The first European forays were in the 16th century. It was a culture shock, later exacerbated by federal assimilation policies. Nunavut was formally created as a territory in 1993 following a federal/territorial agreement.[[7]](#footnote-7)
3. The population still feels the impacts of colonialism. In the judgment rendered on October 20, 2011, Ratushny J. cites the following excerpt from the report:[[8]](#footnote-8)

Forced relocation of families/traditional settlements, widespread killings of Qimmit (sled dogs) and mandatory residential school involvement are just a few of the “colonizing processes” that have been recognized as having far reaching negative consequences for a traditionally nomadic hunting culture that, in the passing of only a few generations, was rapidly transformed into a relatively static populace lost of both self-reliance and cultural identity. Trans-generational issues of exceptionally high levels of poverty, unemployment, violent crime, and substance abuse, appalling suicide rates, insufficient/over-crowded housing, limited public infrastructure, drastically high prices for basic good and services, and elevated patterns of individual, familial, and educational marginalization; including those patterns resulting from residential school experiences that not only have affected past participants but have also had negative residual effects on subsequent generations of Inuit. Many of these concerns continue to be pervasive amongst not only northern Inuit but also those who have traveled south to seek other opportunities.

1. This description is completed by that of the Honourable Paul Bychok of the Nunavut Court of Justice in *Mikijuk*:[[9]](#footnote-9)

[17] Nunavut is a beautiful, wonderful land. It is a great place to live. Nunavummiut[[10]](#footnote-10) are deservedly proud of their ancient heritage and history. All of us who live here are enriched by Inuit Qaujimajatuqangit[[11]](#footnote-11).

[18] But, Nunavut is in crisis. I must take this fact into account.

[19] Alcohol abuse is tearing apart our society. Binge drinking for many is a normal part of life. Alcohol abuse is destroying the lives of Nunavummiut. Alcohol abuse is tearing apart families. Alcohol abuse fills our child protection dockets - right across the territory. Alcohol abuse is filling our jails. Offenders convicted of serious alcohol-related crime are thrown into the maw of southern prisons; isolated and far from home. Every court circuit, we learn bootlegging is rampant. Everywhere. The Liquor Act' and past sentences have not been, and are not, effective deterrents. Bootleggers don't just sell alcohol; bootleggers callously and calculatedly purvey human misery. Our sentencing regime should reflect that fact.

[20] Seventeen years after division from the NWT, there is still no residential treatment facility in Nunavut. Nunavummiut who belong in secure residential treatment wind up in jail. Those few Nunavummiut who are lucky enough to get residential treatment are sent south. Again, where they are isolated and far from home. Those few frontline responders we have are given few resources to deal with the epidemic of alcohol's victims. Few resources are available to help our many neighbours who suffer from real mental health concerns, like Fetal Alcohol Spectrum Disorder. The need to address these issues is urgent.

[21] In my lifetime, Inuit were forced off the land. Many were moved, sometimes forcibly, by alien authority into artificial and isolated communities. Children were taken from the bosoms of their families and sent to far away residential schools. One of the purposes of these schools was to supplant their culture and language. That painful legacy reverberates today. […]. The Inuit world and very way of life was turned upside down.

[22] Inuit society is still adjusting to that collective trauma. Jobs of any kind outside Iqaluit and Rankin Inlet are scarce. What little economy there is government and mineral exploration driven. There is an ongoing and serious housing crisis. Overcrowding plagues many Nunavummiut. Overcrowding affects their health. It adds stress to an already hard life. It contributes to our shocking domestic violence statistics. Safe houses for families in distress are few and far between. A shocking number of our children go to school hungry. Social and recreational infrastructure is woefully lacking. Time and time again we are told that utter boredom leads many youth into delinquency. For some, despair and misery lead to thoughts that suicide is an option. Our suicide rate is many times the national average. Thirty-two Nunavummiut killed themselves in 2016.

1. The Court will now examine how these factors contributed to Ms. Killiktee’s committing criminal acts and her appearances before the courts.

#### PROFILE OF MS. KILLIKTEE

1. Ms. Killiktee was born in 1983. She grew up in Cape Dorset, Nunavut, a community now known as Kinngait.
2. Her mother was sent to a residential school, a traumatic experience for both her and her community.[[12]](#footnote-12) She subsequently had 10 children (6 boys and 4 girls). Ms. Killiktee is the youngest girl.
3. As a youth, Ms. Killiktee witnessed her parents’ alcoholism and conjugal violence.
4. Her father died when she was 10 years old, which added another trauma.
5. She was then sexually abused and sunk into a depression.
6. She sniffed gas when she was 12 years old. Alcohol and drugs came next. All this allowed her to [translation] “numb” her emotions.
7. In 2000, when she was 17 years old, she moved to Iqaluit, 400 kilometres from Cape Dorset.
8. She then left Nunavut to move down South.
9. She began a relationship with a man who introduced her to cocaine and crack. She suffered violence.
10. In 2004, she moved to Ottawa.
11. Her behaviour led her to commit criminal offences, summarized as follows by Ratushny J.: “... the accused’s violence against others including against family members and strangers and as reflected in her criminal record, has involved kicking, punching, throwing large rocks at people, pursuing others so as to fight with them, pushing one person into the river, submerging another in the river until she was unconscious, scratching the face of a person who was holding her daughter and kicking at him, narrowly missing her daughter’s head, and striking at a person unknown to her, for no reason. She had been intoxicated on each occasion”.[[13]](#footnote-13)
12. She received various sentences: conditional sentence, sentence in the community, and imprisonment, the longest term being 155 days.
13. In 2004, she participated in Inuit-specific therapy at the Mamisarvik Healing Centre in Ottawa.
14. At the same time, she was in a relationship with a man and had two daughters, today 13 and 15 years old. The father has custody of the children.
15. The year 2009 was significant in Ms. Killiktee’s life. She was then 26 years old.
16. Her brother committed suicide in May.
17. She had a miscarriage in June. She was carrying triplets.
18. On July 10, she was in a homeless shelter. Arlene Lahey was visiting friends there and insulted Ms. Killiktee, who responded by pulling Ms. Lahey to the ground and hitting her violently in the head. The victim was taken to the emergency room at the hospital. She was intubated due to her brain injuries and loss of independence. After threeand a half months, Ms. Lahey died from pneumonia resulting from her injuries.
19. Ms. Killiktee was charged with second degree murder. She then pleaded guilty to manslaughter. On October 20, 2011, Ratushny J. sentenced her to 9 years less pre-sentence custody, leaving a balance of 4 years and 5 months. Here are the main reasons:

[66] This is meant to be a sentence that emphasizes the objectives of denunciation, public safety, specific deterrence and rehabilitation. It is a longer sentence that recognizes the seriousness of your crime, the difficult path ahead for you, and your need for sustained treatment in a controlled setting. And notwithstanding its length, it is also a sentence that recognizes the role of your very difficult past in your actions against Ms. Lahey. Your abusive childhood and background serve to reduce your moral culpability for your actions in taking her life and, as a consequence, they are able to serve to reduce the length of your sentence. However, because your background also serves to increase the risk you present to the safety of the community, that factor counterbalances its mitigating force. Your sentence is meant, therefore, to emphasize both objectives of public safety and rehabilitation. The two go hand in hand. The longer you are able to be treated while you are supervised and controlled and the longer you are able to work hard at treatment while you are supervised and controlled, the safer the public will be at the time of your release.

1. This sentence was confirmed by the Court of Appeal for Ontario on May 23, 2013.[[14]](#footnote-14)
2. On May 27, 2016, Ms. Killiktee assaulted a fellow inmate, Decla Petra, for a trivial matter. On March 31, 2017, Perkins-McVey J. of the Ontario Court of Justice sentenced her to 15 months, corresponding to time served.[[15]](#footnote-15) In her judgment, the judge summarized the therapy to date:

[13] While in custody in the past and again during this period of custody, the accused has been working with Counsellor, Michelle Motiuk. Ms. Motiuk is trying to assist the accused in reconciling her past history and feeling of betrayal regarding her mother. In a letter …, Ms. Motiuk confirms that she has continued to work with Ms. Killiktee and that the accused has attended all of the programs available to her such as Native Spirituality, Violence Against Women and Alcoholics Anonymous. Further, Ms. Killiktee has been involved with Álvaro González, a counsellor at Ivirtivik of the Inuit Centre in Montreal. …

1. On March 5, 2017, therefore, before she was sentenced on March 31, she committed another assault that resulted in a sentence of 28 months on May 23, 2017.
2. In 2017, while she was in a halfway house, she had her file transferred to Quebec to be closer to her children. She then started therapy with Portage.
3. After a period in Montreal, she moved to Chicoutimi in October 2020 to be closer to her daughters. At that time, the father was working in Chicoutimi. As she had no fixed address, contact with her children was difficult, especially since she continued to use substances. She had trouble adjusting to Chicoutimi, primarily because she does not speak French.
4. It was in this context that she committed the present offences between April 29, 2020, and October 3, 2021.
5. She was arrested and released with various conditions several times. In Chicoutimi, she was sent to Maison des sans-abris and Le Rivage, an organization for women in difficulty. She was unable to comply with her undertakings concerning consumption, curfew, and addresses.
6. At the time of sentencing submissions on November 11, 2021, she had spent 42 days in custody. Additional credit was added for the subsequent period of deliberations.

#### ANALYSIS AND DECISION

1. Ms. Killiktee pleaded guilty to the following offences,[[16]](#footnote-16) even though she has little memory of most of them because she was intoxicated:

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| --- | --- |
| April 29, 2020 | Threating and assaulting Shomari Blades  Assaulting police officers |
| March 19, 2021 | Assaulting Mélanie Hince  Breach of RO |
| June 15, 2021 | Three breaches of RO |
| July 13, 2021 | Threatening police officers  Seven breaches of RO |
| August 2, 2021 | Two breaches of RO |
| October 3, 2021 | Three breaches of RO (summary proceeding)  Two breaches of RO |

1. The *Criminal Code* provides maximum sentences of 5 years for assaulting a peace officer,[[17]](#footnote-17) assault,[[18]](#footnote-18) and uttering threats.[[19]](#footnote-19) The offender is liable to 2 years for breach of recognizance.[[20]](#footnote-20)
2. Moreover, s. 718 *Cr. C.* describes the general sentencing objectives: to denounce, to deter, to separate offenders where necessary, to assist in rehabilitating offenders, to provide reparations for harm done, and to promote a sense of responsibility in offenders and acknowledgment of the harm done.
3. Section 718.1 *Cr. C.* adds this fundamental principle: a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.
4. According to s. 718.2, a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender.
5. In this case, the Court accepts the following aggravating factors:
6. Regarding the subjective gravity, that is, the circumstances of the offences (how they were committed),[[21]](#footnote-21) there is a disproportionate reaction to civil victims and police officers, who might have feared for their health in light of COVID. Furthermore, Ms. Killiktee’s behaviour was unacceptable because the police officers were acting to provide assistance and prevent violence.[[22]](#footnote-22) The Court acknowledges, however, that these offences are not as serious as some of the previous violent offences.
7. Several offences were committed while she was subject to release conditions.
8. She has many violent prior convictions with significant sentences. Clearly, her court appearances have not had any deterrent effect, despite the probation periods and therapies, including some adapted to her Aboriginal circumstances.
9. Past behaviour establishes a risk of reoffending for the future, especially since the violence is often gratuitous. As long as she has not addressed her substance abuse issue, she will reoffend.
10. The mitigating circumstances are as follows:
11. Ms. Killiktee pleaded guilty, thereby sparing the victims from testifying.
12. During her testimony, she was transparent, acknowledged her issues, and asked for help. She said she is tired of this life.
13. Despite her criminal past and considerable substance abuse, there are anchors. First, her two daughters motivate her to change her lifestyle and second, she is proud of her Aboriginal roots.
14. Certain collateral consequences must be taken into account.[[23]](#footnote-23) Ms. Killiktee is currently isolated due to the language barrier, which limits services. She is also far from her community in a prison environment that is foreign to her.[[24]](#footnote-24) Her counsel noted the difficulties encountered by an English-speaking Aboriginal woman in Quebec receiving services adapted to her circumstances.
15. What is the impact of her intoxication while committing the offences? The Court of Appeal in *Régimballe* noted that, in violent crimes, this state is generally considered as an aggravating or, at best, a neutral, factor.[[25]](#footnote-25) To paraphrase authors Parent and Desrosiers, it is easier to forgive an inexperienced young person who commits an offence while intoxicated than someone who has been consuming for many years and whose behaviour results in the commission of repeated violent acts.[[26]](#footnote-26) In this case, Ms. Killiktee cannot ignore her potential for violence when intoxicated.
16. Moreover, the principle of proportionality ensures that a sentence does not exceed what is appropriate, given the moral culpability.[[27]](#footnote-27)
17. In Aboriginal matters, systemic and background factors may bear on this degree of culpability.[[28]](#footnote-28)
18. In 1996, Parliament amended the *Criminal Code* to provide in s. 718.2(e) that a sentence shall take into consideration “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.” That provision was part of the general reform of the *Code* focussing on restorative goals.
19. In 1999, the Supreme Court in *Gladue*[[29]](#footnote-29) noted that s. 718.2(e) is designed to ameliorate the serious problem of overrepresentation of Aboriginal people in prisons, and to encourage sentencing judges to have recourse to a restorative approach to sentencing. The Court developed a method that considers the unique systemic factors and the appropriate types of procedures by considering innovative practices. Judges are asked to take judicial notice of the systemic factors and of the priority given in Aboriginal cultures to a restorative approach. They must consider the “perspectives of aboriginal people or aboriginal communities”[[30]](#footnote-30) as well as alternatives to incarceration.[[31]](#footnote-31) If there is no alternative to incarceration, the length of the term must be carefully considered.[[32]](#footnote-32)
20. It should be noted that the principles developed in *Gladue* apply to Aboriginal offenders living off-reserve, for example in a large city.[[33]](#footnote-33)
21. In 2012, the Supreme Court in *Ipeelee*[[34]](#footnote-34) confirmed the *Gladue* principles. It added that judges had significantly curtailed the scope and potential remedial impact of s. 718.2(e) *Cr. C.,* thwarting what was originally envisioned by *Gladue*. The Court recalled that courts must take judicial notice of such matters as the history of colonialism, displacement, and residential schools and how that history continues to translate for Aboriginal peoples. The Court notes that Aboriginal offenders are not required to establish a causal link between background factors and the commission of the offence. Moreover, it is not unfair to sanction Aboriginal offenders differently. This disparity is justified based on their unique circumstances, all of which diminishes moral culpability.[[35]](#footnote-35)
22. In 2015, s. 718.2(e) was amended and now reads:

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.[[36]](#footnote-36)

1. In 2018, the Court of Appeal in *Denis-Damée*[[37]](#footnote-37) applied the *Gladue* and *Ipeelee* principles. In that case, the accused, then 21 years old, stabbed her father during a family argument while she was intoxicated. She was charged with first degree murder[[38]](#footnote-38) and pleaded guilty to a reduced charge of manslaughter.[[39]](#footnote-39) The trial judge sentenced her to 6 years,[[40]](#footnote-40) later reduced to 2 years by the Court of Appeal, which considered in particular the *Gladue* report describing the systemic and background factors that diminished the accused’s degree of moral culpability.
2. Ultimately, as the Supreme Court stated in *Wells*, the unique systemic or background factors may be considered as mitigating in nature in that they may have played a part in the Aboriginal offender’s conduct.[[41]](#footnote-41)
3. Such factors apply in this case. To paraphrase the Supreme Court regarding Manasie Ipeelee, also from Nunavut, Ms. Killiktee’s life story is far removed from the experience of most Canadians.[[42]](#footnote-42) This tragic personal history may “diminish”[[43]](#footnote-43) moral culpability.
4. That being so, what is the appropriate sentence?
5. The prosecution admits that this is a difficult case. Relying on the case law, the prosecution seeks a total sentence of 4 years. The Court considers this position much too harsh. One, as the Court of Appeal stated in *Boisvert*,[[44]](#footnote-44) repeat offenders must not be [translation] “punished again”. Gradation is not an immutable principle[[45]](#footnote-45) and a sentence is not automatically increased for a repeat offence.[[46]](#footnote-46) Two, a prison sentence does not consider moral culpability, which is diminished here.
6. The sentence of 6 to 9 months proposed by the defence is too lenient and does not consider the objective gravity, the subjective gravity, the serious violent prior convictions, or the risk of reoffending that compromises, to a certain extent, the safety of the public.
7. That being so, the Court sees no alternative to imprisonment, given that Ms. Killiktee has unsuccessfully participated in various therapies, including some specific to her Aboriginal culture.
8. Moreover, it is a genuine obstacle course: Ms. Killiktee is from a community located approximately 2,000 km from Chicoutimi; the earlier report cannot be found; as the Court of Appeal stated in *Denis-Damée*, [translation] “[r]esources for Indigenous offenders are cruelly lacking”,[[47]](#footnote-47) a problem exacerbated here by the language barrier; Ms. Killiktee insists on being sentenced as soon as possible.

◊

1. After balancing all the factors, the Court considers a total sentence of **15 months** appropriate. Some sentences will be consecutive to send Ms. Killiktee the message that when she reoffends, there are consequences.
2. Pre-sentence custody will be deducted. To the 42 days as of November 11, 2021, will be added 44 days (29 x 1.5) for the deliberation period, for a total rounded to 3 months. The sentence will therefore be **12 months** as of today.
3. A provincial sentence opens the way for a probation order, which allows her to be supervised for a certain period. In addition, failure to comply with an order is a new offence.
4. Supervision also provides an opportunity to attack the root of the problem, particularly with therapy.
5. It is now up to Ms. Killiktee to make the right choices.

#### CONCLUSION

**FOR THESE REASONS, THE COURT:**

1. **IMPOSES** the following sentences:

|  |  |  |
| --- | --- | --- |
| File | Count | Sentence |
| 150-01-066204-216 | 2) Threats (Blades)  3) Assault (Blades) | 4 months  4 months |
| 150-01-066203-218 | 1) Assault (police officers) | 4 months |
|  |  | To be served concurrently |
|  |  | (3 months provisional) |
|  |  | **1 month** |
|  |  |  |
|  |  |  |
| 150-01-064466-213 | Assault (Hince) | **4 months** |
| 150-01-064467-211 | Breach | 1 month |
|  |  | To be served concurrently  Consecutive to the other files |
|  |  |  |
|  |  |  |
| 150-01-065313-216 | Three breaches (counts 1, 2, 3) | **1 month** |
|  |  | To be served concurrently  Consecutive to the other files |
|  |  |  |
|  |  |  |
| 150-01-065311-201 | Threats (police officers) | **4 months** |
| 150-01-065312-218 | Seven breaches (counts 1 to 7) | 1 month |
|  |  | To be served concurrently  Consecutive to the other files |
|  |  |  |
|  |  |  |
| 150-01-065604-218 | Two breaches (counts 1 and 2) | **1 month** |
|  |  | Consecutive |
|  |  |  |
|  |  |  |
| 150-01-066036-212 | Three breaches (counts 1, 2, 3) | **1 month** |
| 150-01-066047-219 | Two breaches (counts 1 and 2) | 1 month |
|  |  | To be served concurrently  Consecutive to the other files |
| **Total** | | **12 months** |

1. **ORDERS** 24 months’ probation with supervision, according to the conditions determined at the time of sentencing.
2. **ORDERS** the translation of this judgment into English.
3. **EXEMPTS** the accused from costs and the victim surcharge.

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|  | | **\_\_(signed)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **PIERRE LORTIE**  **Judge of the Court of Quebec** |
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|  | | |
|  | | |
| Mtre Marianne Girard  Camille Genois | | |
| Director of Criminal and Penal Prosecutions | | |
|  | | |
| Mtre Nicolas Gagnon | | |
| Counsel for Ms. Killiktee | | |
|  | | |
| Dates of hearing: | November 10 and 11, 2021 | |

**SCHEDULE 1**

**CRIMINAL RECORD**

|  |  |  |
| --- | --- | --- |
| May 23, 2017 | Assault March 5, 2017  (Ontario) | 28 months |
| March 31, 2017 | Assault May 27, 2016  (Ontario) | 15 months |
| October 20, 2011 | Manslaughter  July 11, 2009  (Ontario) | 9 years |
| March 26, 2009 | Assault x 5  Breach of conditions  Causing a disturbance  (Ontario) | 130 days  (+25 days remand) |
| August 7, 2008 | Breach of conditions  (Ontario) | Suspended sentence  2 days remand |
| May 27, 2008 | Assault  Assault police officers  (Quebec) | 6 months conditional sentence |
| June 30, 2006 | Possession of drugs  (Ontario) | 7 days |
| October 31, 2005 | Assault with a weapon  (Ontario) | 9 months served in the community  30 days remand |
| August 16, 2005 | Assault  Breach of conditions  (Ontario) | Suspended sentence |

1. *R. v. Gladue*, [1999] 1 S.C.R. 688 [*Gladue*]. [↑](#footnote-ref-1)
2. *R. v. Ipeelee,* 2012 SCC 13, [2012] 1 S.C.R.433 [*Ipeelee*]. [↑](#footnote-ref-2)
3. *Gladue*, *supra* note 1 at para. 83. [↑](#footnote-ref-3)
4. *R.* *v*. *Killiktee*, 2011 ONSC 5910. [↑](#footnote-ref-4)
5. 2011 ONSC 1527; 2011 ONSC 5910; 2013 ONCA 332; 2017 ONCJ 966. [↑](#footnote-ref-5)
6. *Ipeelee, supra* note 2 at para. 59*.* [↑](#footnote-ref-6)
7. Peter Kikkert, Canadian Encyclopedia, available online. [↑](#footnote-ref-7)
8. *R.* *v.* *Killiktee*, *supra* note 4 at para. 12. [↑](#footnote-ref-8)
9. *R.* *v.* *Mikijuk*, 2017 NUCJ 2. Appeal allowed: 2017 NUCA 5. [↑](#footnote-ref-9)
10. Inhabitants of Nunavut. [↑](#footnote-ref-10)
11. Traditional Inuit knowledge. [↑](#footnote-ref-11)
12. *Ipeelee, supra* note 2 at para. 144. [↑](#footnote-ref-12)
13. *R.* *v.* *Killiktee*, *supra* note 4 at para. 24. [↑](#footnote-ref-13)
14. *R.* *v*. *Killiktee*, 2013 ONCA 332. [↑](#footnote-ref-14)
15. *R.* *v*. *Killiktee*, 2017 ONCJ 966. [↑](#footnote-ref-15)
16. Except where indicated otherwise, the complaints were prosecuted by way of indictment. [↑](#footnote-ref-16)
17. Section 270(1)(a)(2)(a) *Cr. C.* [↑](#footnote-ref-17)
18. Section 266(a) *Cr. C.* [↑](#footnote-ref-18)
19. Section 264.1(1)(a)(2)(a) *Cr. C.*  [↑](#footnote-ref-19)
20. Section 145(5)(a) *Cr. C.* Section 787(1) *Cr. C.* sets out a maximum sentence of two years less a day for a summary offence. [↑](#footnote-ref-20)
21. Hugues Parent & Julie Desrosiers, *Traité de droit criminel: la peine*, 2d ed., Tome 3 (Montreal: Thémis, 2016) No. 91 at 139. [↑](#footnote-ref-21)
22. *Goulet* *c*. *R.,* 2017 QCCS 725 at para. 37. [↑](#footnote-ref-22)
23. *R. v. Pham*, 2013 SCC 15; *R. v. Suter,* 2018 SCC 34. [↑](#footnote-ref-23)
24. See the analysis of the Honourable Jacques Ladouceur in *R. c. Iserhoff*, 2019 QCCQ 2339, on the collateral consequences of custody for Aboriginal offenders (at para. 172). [↑](#footnote-ref-24)
25. *Régimballe* *c*. *R.*, 2012 QCCA 1290 at para. 62. [↑](#footnote-ref-25)
26. H. Parent & J. Desrosiers, *supra* note 21, No.30 at 53. Cited with approval by the Court of Appeal in *Denis-Damée c. R.*, 2018 QCCA 1251 at para. 58. [↑](#footnote-ref-26)
27. *Ipeelee, supra* note 2 at para. 37. [↑](#footnote-ref-27)
28. *Ibid.* at para. 73. [↑](#footnote-ref-28)
29. *Gladue*, *supra* note 1. [↑](#footnote-ref-29)
30. *Ibid.* at para. 73. [↑](#footnote-ref-30)
31. *Ibid.* at para. 84. [↑](#footnote-ref-31)
32. *Ibid.* at para. 93, point 8. [↑](#footnote-ref-32)
33. *Ibid.* at para. 91. [↑](#footnote-ref-33)
34. *Ipeelee, supra* note 2. [↑](#footnote-ref-34)
35. *Ibid.* at paras. 64, 73, 76, and 79. [↑](#footnote-ref-35)
36. Emphasis added. [↑](#footnote-ref-36)
37. *Denis-Damée c*. *R.*, *supra* note 26. [↑](#footnote-ref-37)
38. File 155-01-000734-152 in the district of Roberval. [↑](#footnote-ref-38)
39. File 155-01-000608-166. The murder case was conditionally stayed on April 7, 2017. [↑](#footnote-ref-39)
40. *R. c. Denis-Damée*, 2017 QCCQ 6825 Sentenced on May 29, 2017. [↑](#footnote-ref-40)
41. *R. v. Wells*, 2000 SCC 10 at para. 38. [↑](#footnote-ref-41)
42. *Ipeelee, supra* note 2 at para. 2. [↑](#footnote-ref-42)
43. *Ibid.* at para. 73. [↑](#footnote-ref-43)
44. *R. v. Boisvert*, 2011 QCCA 1277 at para. 16. [↑](#footnote-ref-44)
45. *R.* *c*. *Chachai*, 2012 QCCA 568 at para. 4. [↑](#footnote-ref-45)
46. “Jump, step and gap principles”. In this regard, see *R. v. Bernard,* 2011 NSCA 53; *Andrade v. R*., 2010 NBCA 62. [↑](#footnote-ref-46)
47. *Denis-Damée c*. *R.*, *supra* note 26 at para. 99. [↑](#footnote-ref-47)