Court File No. 34245

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

HER MAJESTY THE QUEEN

Appellant
(Respondent)

- and –

FRANK RALPH LADUE

Respondent
(Appellant)

- and –

BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION and CANADIAN CIVIL LIBERTIES ASSOCIATION

Interveners

FACTUM OF THE INTERVENER BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

(pursuant to Rules 37 and 42 of the *Rules of the Supreme Court of Canada*)

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PART I - Overview

1. The British Columbia Civil Liberties Association (BCCLA) accepts the facts set out by the Appellant and the Respondent, and would emphasize the following additional facts. Mr. Laduc, a residential school survivor, was supposed to be sent to Linkage House in Kamloops, a small facility for male Aboriginal offenders, where residents are expected to work with an Elder who provides guidance and services such as Sweat Lodge ceremonies, fishing, and other Aboriginal-oriented programming.[1] Instead, he was sent to Belkin House, in downtown Vancouver. The Maple Ridge Parole Board re-screened Mr. Ladue and concluded in a report dated September 18, 2009 that he was still eligible and could still be managed at Linkage House. The report noted that substance abuse is not tolerated at Linkage House and that its residents are closely supervised and monitored.[2]

PART II- Statement of Position

2. The BCCLA submits that the trial judge erred in law by failing to follow the mandatory statutory requirements of s.718.2(e) of the *Criminal Code*[3] to search for all reasonable alternatives to imprisonment with attention to the unique circumstances of Aboriginal offenders as elaborated in *R. v. Gladue*.[4] It also submits that the trial judge erred by not giving enough weight to the restorative and rehabilitative principles of sentencing and their continued relevance under long-term offender (LTO) provisions and by not recognizing their close connection with the protection of public safety. Finally, the sentence imposed by the trial judge was disproportionate in all the circumstances of the case.

PART III- Statement of Argument

The Need to Search for Reasonable Alternatives to Imprisonment for Aboriginal Offenders

3. Section 718.2(e) was enacted in 1996 in recognition of the crisis of Aboriginal overrepresentation in Canada's prisons, a crisis that has gotten worse since that time. In

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[1] Trial judgment at paras. 13, 18; Appellant's Record at 140-141.
[2] Appellant's Record at 139-142.
[3] R.S.C. 1985, c. C-46 [*Criminal Code*].
[4] [1999] 1 S.C.R. 688 [*Gladue*].

2008/2009, Aboriginal people accounted for 27% of admissions to provincial custody, 18% of admissions to federal custody, and 21% of admissions to remand.[5]

4. In *Gladue*[6] this Court recognized that s.718.2(e) has a strong remedial purpose to reduce overreliance on imprisonment in general, and overrepresentation of Aboriginal people in particular. The Court stressed that s.718.2(e) imposed a mandatory duty on trial judges to search for reasonable alternatives to imprisonment for all offenders but with particular attention to the distinct circumstances of Aboriginal offenders.

The Dual Forward and Backward Looking Orientation of Section 718.2 (e)

5. Section 718.2(e) has dual and mutually re-enforcing backwards and forward looking dimensions. Looking backwards, it requires trial judges to examine "the unique systemic or background factors that have played a part in bringing the particular aboriginal offender before the court".[7] Section 718.2(e), however, requires trial judges to go beyond frequently tragic background and systemic conditions. It also requires a forward looking search for all reasonable alternatives to imprisonment, including "the types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular aboriginal heritage or connection."[8]

6. The requirements of s. 718(2)(e) will not be met by a simple mention that the offender is Aboriginal or even by a fuller explanation of some of the distinctive background factors that help explain why an Aboriginal person has committed an offence. This is mere lip service to *Gladue*. It does nothing to further the objective of reducing overreliance on incarceration and gross overrepresentation of Aboriginal persons in prison.[9]

7. The background factors may provide insight into the forward-looking aspect of s.718(2)(e), namely which sentencing options may or may not be appropriate, including those which are alternatives to imprisonment. For example, an understanding of the person's heritage (e.g. Inuit, Métis, Dene, Mohawk, etc.), as well as their life experiences, (e.g. experiences in

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[5] Donna Calverley "Adult Correctional Services in Canada, 2008/2009 Juristat Fall 2010, Vol. 30, no. 3 at 11.
[6] *Gladue, supra* at para. 33.
[7] *Ibid.* at para. 66.
[8] *Ibid.* at para. 66.
[9] For another case where a trial judge neglected the second forward looking part of the *Gladue* test see *R.. v. Loring,* 2009 BCCA 166 at para. 19.

residential schools or other institutions) will provide valuable insight into whether a particular sentencing option is culturally appropriate[10] for that individual or whether that option may minimize the chances of successful rehabilitation.

The Trial Judge's Approach in this Case

8. It is not enough to comply with s.718.2(e) to refer to Mr. Ladue, as the trial judge did, as a "damaged person...through no fault of his own"[11] much less to the more pejorative reference in his correctional assessment to him being "comfortable in victim stance".[12] The BCCLA respectfully submits that this was at most a backwards looking approach[13] that did not fulfill the twin obligations of s.718.2(e). The trial judge should have also looked to the future and assessed whether placement at Linkage House was a reasonable alternative to a three year penitentiary sentence.

9. The trial judge made no explicit mention of the duty in s.718.2(e) to search for all reasonable alternatives to imprisonment for Aboriginal people. The B.C. Court of Appeal has stated in *R. v. Mack*[14] that such failures do not constitute errors of law. Not referring to s.718.2(e) in reasons for sentence, however, creates a risk that trial judges will ignore their mandatory duties. The BCCLA submits that *Mack* is not good practice and it should be disapproved in this case. The best way to ensure that the mandatory requirement in s.718.2(e) to search for reasonable alternatives to imprisonment is fulfilled is for sentencing judges to make specific reference not only to the principles in *Gladue*, but to examine any reasonable alternatives to imprisonment that exist and undertake an analysis of why these options are *not* appropriate in the circumstances of the case. There is a real danger of judges failing to implement the substantive requirements of *Gladue* if a passing mention is all that is required.

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[10] Considering the diversity of Aboriginal peoples in Canada, the mere fact that a program has an "Aboriginal" focus does not *per se* make it culturally appropriate. Judges should take note of not only the fact that a person is Aboriginal, but should also consider their particular ancestry and community linkages.
[11] Trial judgment at para. 31.
[12] As quoted in Trial judgment at para. 25.
[13] Trial judgment at para. 18.
[14] [2008] BCCA 520 at para. 12. The approach taken in *R. v. Napesis*, 2010 BCCA 499 at para. 17 in emphasizing full reasons for sentencing with reference to s.718.2(e) is preferable.

A Forward Looking Application of Section 718.2(e)

10. The remedial purpose of s.718.2(e) requires a forward looking consideration of all reasonable alternatives to imprisonment and this remedial purpose is only more pressing given increasing Aboriginal overrepresentation. A good example of a future oriented application is found in the Ontario Court of Appeal's decision in *R. v. Jacko*[15]. Watt J.A. stressed that compliance with s.718.2(e) required that judges "must do more than simply acknowledge restorative justice sentencing objectives and note approvingly the rehabilitative efforts of those convicted. They must have some tangible impact on the length, nature and venue of the sentence imposed."

11. The Court of Appeal took a similar approach in the present case, concluding that "While the trial judge acknowledged his Aboriginal heritage, she did not give it any tangible consideration when sentencing Mr. Ladue. If effect is to be given to Parliament's direction in s. 718.2(e), then there must be more than a reference to the provision. It must be given substantive weight, which will often impact the length and type of sentence imposed."[16]

12. *Gladue* requires an optimistic yet still reasonable approach to sentencing. The Court of Appeal noted that the trial judge had stressed Mr. Ladue's many unsuccessful attempts to abstain from intoxicants but nevertheless it emphasized that:

> Mr. Ladue desires to succeed, as exhibited by his request not to be sent to Belkin House. However, he is addicted to drugs and alcohol, which can directly be related to how he was treated as an Aboriginal person. He has not reoffended in a manner which threatens the safety of the public. He will ultimately be released into the community without supervision. Unless he can manage his alcohol and drug addiction in the community he will very likely be a threat to the public. Repeated efforts at abstinence are not unusual for those dealing with addiction. Indeed, Mr. Ladue demonstrated that he is capable of abstinence as shown by his conduct a number of years ago.[17]

13. The BCCLA submits that this approach properly placed Mr. Ladue's background in its full context and focused on the real possibility that serving his sentence at Linkage House would both advance the remedial purposes of s.718.2(e) and fulfill the purposes of sentencing including protection the public by dealing with the underlying causes of offending.

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[15] 2010 ONCA 452 at para. 87.
[16] Appeal decision at para. 64.
[17] Appeal decision at para. 63.

Gladue and Serious Offences

14. The Appellant relies on a comment in *Gladue*[18] which states that s.718.2(e) does not mean "that, as a general practice, aboriginal offenders must always be sentenced in a manner which gives greatest weight to the principles of restorative justice, and less weight to goals such as deterrence, denunciation and separation." This statement in *Gladue* must, however, be read in light of this Court's subsequent statement in *Wells*[19] that:

> The generalization drawn in *Gladue* to the effect that the more violent and serious the offence, the more likely as a practical matter for similar terms of imprisonment to be imposed on aboriginal and non-aboriginal offenders, was not meant to be a principle of universal application. In each case, the sentencing judge must look to the circumstances of the aboriginal offender.

15. The trial judge erred in not giving sufficient consideration to the forward looking Linkage House option. It has the potential of achieving all the goals of sentencing including public safety in a manner that was sensitive to Mr. Ladue's distinctive circumstances.

The LTO Scheme and Possibility of Rehabilitation in the Community

16. The s.753.3 offence (breach of a LTO supervision order) should be evaluated not only by reference to its status as an indictable offence subject to a 10-year maximum, but in the context of the LTO scheme as a less restrictive and more rehabilitative alternative to the dangerous offender designation. It is inappropriate to speculate whether the respondent would/could be designated as a dangerous offender in light of the 2008 amendments.

17. Introduced in 1997, the long-term offender scheme is meant to protect public safety in a manner that involves "managed reintegration" and avoids "simplistic solutions".[20] By allowing serious and repeat offenders to serve up to ten years in the community subject to a LTO, the scheme recognizes the need to rehabilitate even those who are at a substantial risk of reoffending. The scheme can be seen as an application of the restraint principle in s.718.2(e) to long term and serious offenders.

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[18] *Gladue, supra* at para. 78.
[19] [2000] 1 S.C.R. 207 at para. 50.
[20] *House of Commons Debates,* 35th Parl 2nd Sess, No 80 (3 October 1996) at 5037 and 5038 (Hon. Gordon Kirkby).

18. A condition for the granting of LTO designation, as distinct from a dangerous offender one, is that "there is a reasonable possibility of eventual control of the risk [of re-offending] in the community."[21] This requirement is a meaningful one that requires LTO offenders be capable of being rehabilitated during the determinate time of their sentences.[22]

19. Although Mr. Ladue breached his long term supervision on more than one occasion, there was more than simply "some hope" that he could be rehabilitated. Although LTO legislation is concerned with public safety, it is also concerned with rehabilitation.[23]

The Connection Between Rehabilitation and Public Safety

20. There is a danger that the grouping of the purposes of sentencing under restorative and punitive factors[24] may create a dichotomy between these factors and lead trial judges to focus on one to the exclusion of others. A more holistic approach would recognize how all of the factors can work together to contribute to a just, peaceful and safe society.[25]

21. In cases involving addiction and substance abuse, and in the distinct context of Aboriginal people and the terrible legacy of the residential school experience, sustainable public safety can often not be achieved without effective rehabilitation. For many Aboriginal offenders, rehabilitation may involve various forms of healing that can be facilitated by integration with Aboriginal communities, or by a reconnection with traditional practices.

22. Mr. Ladue's extensive criminal record, as well as his history of breaches should not be surprising given the nature of addiction. Genuine rehabilitation that contributes to lasting public safety is always an uncertain endeavour. The LTO provision recognizes this by attempting to manage two forms of risk: the risk of re-offending and the risk of attempting to rehabilitate long-term offenders. All that is required under s.753.1(1)(c) is a "reasonable possibility" of "eventual control" of the risk of re-offending after offenders have served their

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[21] *Criminal Code, supra,* s.753.1(1)(c).
[22] *R v. McCallum* (2005), 201 CCC (3d) 541, 2005 CanLII 8674 at para. 47 (Ont. C.A.); *R v. Walford*, [2007] OJ No 744, 2007 CanLII 5533 at paras. 77-78 (Ont SCJ); *R. v. D.V.B.*, 2010 ONCA 291 at para. 57 (QL).
[23] *R. v. L.M.*, [2008] 2 S.C.R. 163 at paras. 42 and 48.
[24] *Gladue, supra; R. v. Proulx*, [2000] 1 S.C.R. 61.
[25] *Criminal Code, supra,* s.718.

term of imprisonment. This accords with the acknowledgement in *Gladue*[26] that rehabilitation is neither easy nor certain but that it will not generally be accomplished through imprisonment.

23. As this Court recognized in *R. v. Johnson*[27] all of the principles and purposes of sentencing including s.718.2(e) of the *Criminal Code* apply when sentencing a person under s.753.3 of the *Code*. This approach recognizes that the purposes of sentencing should be read together in a holistic and purposive manner as contributing to a just, peaceful and safe society. As the Ontario Court of Appeal stated:

> We do not read *Gladue* as saying that there are cases in which the *Gladue* principles will not apply. While we agree that there will be cases in which the principles and objectives expressed in *Gladue* will not weigh as heavily as other **sentencing** objectives, and that, in those cases, it may be likely that "the terms of imprisonment for aboriginals and non-aboriginals will be close to each other or the same" the *Gladue* principles remain applicable in all cases where an aboriginal person is the offender.[28]

24. A holistic approach should be taken to all of the purposes of sentencing. Rehabilitative and restorative purposes, as well as deterrent and denunciatory ones, all are sometimes required for public safety.

The Dangers of an Overly Punitive Approach to LTO Breaches

25. Lower courts have frequently and increasingly taken a punitive approach to sentencing under s.753.3 that focuses on the maximum term of imprisonment and minimizes or ignores the role of restraint, rehabilitation and s.718.2(e).

26. The Court of Appeal in this case correctly noted the rehabilitative ambitions of LTO's and that s.718.2(e) applies to sentences under s.753.3. As Bennett J.A. noted:

> In my respectful view, the direction to exercise restraint with particular attention to Aboriginal offenders is still to be applied even in the circumstances of a long-term offender. Much will depend on the circumstances, but the direction is not to be disregarded or downplayed simply because the accused is a long-term offender. Indeed, given the focus on rehabilitation and the reintegration of the offender in the community, as noted in *L.M.*, as well as protection of the public, the principles of restraint and restorative justice may play a significant role in sentencing such offenders, depending on the circumstances.

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[26] [1999] 1 S.C.R. 688 at para. 72.
[27] [2003] 2 S.C.R. 357 at para. 23.
[28] *R. v. Jensen* (2005), 195 C.C.C.(3d) 14, 2005 CanLII 7649 at para. 27 (Ont.C.A.).

> I add that this principle is not limited to Aboriginal offenders in this sense – *L.M.* clarifies the distinction between long-term and dangerous offenders, in that the former will return and live in the community after serving a fixed sentence. The principles of rehabilitation are still very much in play for a long-term offender. Here, the trial judge concluded that rehabilitation was no longer a factor for Mr. Ladue, which is an error, apart from her consideration of his Aboriginal circumstances.[29]

27. The most influential lower court decision which has taken a punitive approach is *R. v. H.P.W.*[30] In that case, the Alberta Court of Appeal stated that rehabilitation, including empathy, towards offenders with addictions "has a limited role to play as the status of long-term offender is such that rehabilitation has already been determined to be extremely difficult or impossible to achieve." It also stated that "once an offender is declared to be a long-term offender, consideration of restorative justice and other features of aboriginal offender sentencing will play little or no role" and declared that with respect to the particular offender that "consideration of his aboriginal heritage can play no role" because he was not accepted by any Aboriginal community.[31]

28. The BCCLA submits that the above statements ignore this Court's recognition in *R v. L.M.*[32] of the relevance of all sentencing principles including rehabilitation and s.718.2(e) in LTO determinations and respectfully asks that they be disapproved in this case.

29. The BCCLA also submits that *H.P.W.* is flawed as a matter of sentencing philosophy. It stresses deterrence and separation as the most important means to protect the public without recognizing how rehabilitative and restorative purposes can contribute to public safety. After all, Mr. Ladue will eventually be released. Without rehabilitation, his substantial risk of re-offending will likely continue.

30. The B.C. Court of Appeal has recognized that treatment (in that case in custody) may be "the best hope"[33] for preventing re-offending and protecting public safety. In general, courts should adopt a holistic and integrated approach to the various purposes of sentencing that

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[29] Appeal decision at para. 74-75.
[30] (2003), 175 C.C.C. (3d) 56 at paras. 46, 40 [*H.P.W.*].
[31] *Ibid.* at paras. 50, 51. See also *R. v. Ipeelee,* 2009 ONCA 892 at para. 13, citing *H.P.W* with approval on this point. See also in *R. v. Weasel,* [2006] S.J. No. 813 at para. 86 (QL); *R. v. Gracie,* [2009] B.C.J. No 2049 at para. 16 (QL); *R. v. MacDonald,* [2009] O.J. No. 4583 at para. 34; *R. v. Payne,* 2011 NLTD 95 (CanLII) at para. 99; *R. v. Fox,* 2007 CarswellOnt 9455 at para. 22.
[32] [2008] 2 S.C.R. 163 at paras. 17, 42 ["*L.M.*"]. See also Appeal decision at para. 71.
[33] *R. v. Deacon,* [2004] BCCA 78 at paras. 40-42.

acknowledges that all the purposes of sentencing can, as recognized under s.718 of the *Criminal Code*, contribute to the maintenance of a "just, peaceful and safe society."[34]

31. A purely punitive approach ignores the objectives underlying s.718(2)(e) to reduce rates of Aboriginal incarceration. It further fails to recognize that Aboriginal offenders may be faced with additional systemic factors that make it difficult to comply with certain LTO conditions. It is simply not fair to place an Aboriginal person into an institution or setting that contributes to their cultural alienation then punish them when they fail to comply with the conditions imposed upon them. In Mr. Ladue's case, there was no consideration of the fact that his placement in Belkin House may have contributed to his drug use. The trial judge should have also turned her mind to whether Mr. Ladue's background as a residential school survivor, from a remote Northern community, and his placement in an urban, non-Aboriginal institution, contributed to his breach of the conditions. Such considerations should have informed Mr. Ladue's moral responsibility for the breach and his rehabilitative prospects.

Proportionality

32. The fundamental principle of sentencing is that the sentence must be proportionate to the gravity of the offence **and** the degree of moral responsibility of the offender. Accepting that the offence in s.753.3 is serious, that Mr. Ladue's use of intoxicants was an important risk factor in his prior offending, and that trial judges can emphasize deterrent objectives over others, punishment must still be limited by what the offender has done. Proportionality authorizes but also limits punishments[35] and a sentence can be disproportionate because it ignores the potential for rehabilitation.[36]

33. Breach of abstinence conditions should attract a lower degree of moral culpability than intentional breaches. It is, after all, the criminalization of addiction. The fact that an offender has completed a treatment program does not necessarily increase the degree of moral culpability or choice in breaching the non-intoxicant condition as addiction may require many years of treatment and multiple strategies.

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[34] *Criminal Code, supra,* s. 718.
[35] *R. v. Nasogaluak,* [2010] 1 S.C.R. 206.
[36] *R. v. Smith,* [1987] 1 S.C.R. 1045.

34. The offender's conduct should be distinguished as less serious than re-offending in terms of sexual crimes in *R. v. Payne*[37] or intentional preparation for re-offending as in *R. v. Deacon*[38] not affected by a substance addiction. In addition, the fact that Mr. Ladue was unexpectedly required to serve his sentence in downtown Vancouver as opposed to Linkage House is also relevant to his moral responsibility for the offence. It may have been destabilizing to him and it gave him easy access to narcotics. This was not adequately considered by the trial judge.

35. There appears to be a trend of increasing sentences for s.753.3 breaches. The one year sentence in *H.P.W.* rendered by the Alberta Court of Appeal in 2003 now seems to be on the low end of the range, despite its almost complete rejection of the role of rehabilitation and s.718.2(e). The recent ratcheting up of s.753.3 breach sentences undermines the rehabilitative ambitions of the LTO provisions and can result in disproportionate sentences. It is not required by statute and has not been justified. It is, however, consistent with recent increases in Canada's incarceration rate and the rate of Aboriginal overrepresentation in prison.[39]

36. The BCCLA asks this Honourable Court to re-affirm the important remedial role of s.718.2(e) as interpreted in *Gladue* as a salutary reminder that trial judges must not only look to tragic conditions related to offending, but must look to the future. They must seek and employ all reasonable alternatives to imprisonment and employ imprisonment with restraint even with respect to sentences under s.753.3 of the *Code*.

PART V - ORDER SOUGHT

37. The BCCLA takes no position on the actual sentence that is appropriate in this case. It requests permission to make oral submissions of ten minutes at the hearing of this Appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 30th day of September, 2011.

Kent Roach and Kelly Doctor
Co-Counsel for the British Columbia
Civil Liberties Association

[37] 2011 NLTD 95 (CanLII).
[38] 2004 BCCA 78.
[39] Donna Calverley, "Adult Correctional Services in Canada, 2008/2009 Juristat Fall 2010, Vol. 30, no. 3 at 11.

PART VI – Table of Authorities

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Secondary Sources

Source	Paragraph
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House of Commons Debates, 35th Parl 2nd Sess, No 80 (3 October 1996) (Hon. Gordon Kirkby).	17

PART VII – Statutes Cited

***Criminal Code of Canada*, R.S.C. 1985, c. C-46, s.718**

Purpose	Objectif
718. The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:	718. Le prononcé des peines a pour objectif essentiel de contribuer, parallèlement à d'autres initiatives de prévention du crime, au respect de la loi et au maintien d'une société juste, paisible et sûre par l'infliction de sanctions justes visant un ou plusieurs des objectifs suivants :
(a) to denounce unlawful conduct;	a) dénoncer le comportement illégal;
(b) to deter the offender and other persons from committing offences;	b) dissuader les délinquants, et quiconque, de commettre des infractions;
(c) to separate offenders from society, where necessary;	c) isoler, au besoin, les délinquants du reste de la société;
(d) to assist in rehabilitating offenders;	d) favoriser la réinsertion sociale des délinquants;
(e) to provide reparations for harm done to victims or to the community; and	e) assurer la réparation des torts causés aux victimes ou à la collectivité;
(f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.	f) susciter la conscience de leurs responsabilités chez les délinquants, notamment par la reconnaissance du tort qu'ils ont causé aux victimes et à la collectivité.

***Criminal Code of Canada*, R.S.C. 1985, c. C-46, s.718.2(e)**

718.2 A court that imposes a sentence shall also take into consideration the following principles:	Principes de détermination de la peine 718.2 Le tribunal détermine la peine à infliger compte tenu également des principes suivants:
...	...
(e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all	e) l'examen de toutes les sanctions substitutives applicables qui sont justifiées dans les circonstances, plus particulièrement en

offenders, with particular attention to the circumstances of aboriginal offenders.

ce qui concerne les délinquants autochtones.

***Criminal Code of Canada*, R.S.C. 1985, c. C-46, s.753.1(c)**

Application for finding that an offender is a long-term offender

753.1 (1) The court may, on application made under this Part following the filing of an assessment report under subsection 752.1(2), find an offender to be a long-term offender if it is satisfied that

(c) there is a reasonable possibility of eventual control of the risk in the community.

Demande de déclaration — délinquant à contrôler

753.1 (1) Sur demande faite, en vertu de la présente partie, postérieurement au dépôt du rapport d'évaluation visé au paragraphe 752.1(2), le tribunal peut déclarer que le délinquant est un délinquant à contrôler, s'il est convaincu que les conditions suivantes sont réunies :

c) il existe une possibilité réelle que ce risque puisse être maîtrisé au sein de la collectivité.

***Criminal Code of Canada*, R.S.C. 1985, c. C-46, s.753.3**

753.3 (1) An offender who, without reasonable excuse, fails or refuses to comply with long-term supervision is guilty of an indictable offence and liable to imprisonment for a term not exceeding 10 years.

Where accused may be tried and punished

(2) An accused who is charged with an offence under subsection (1) may be tried and punished by any court having jurisdiction to try that offence in the place where the offence is alleged to have been committed or in the place where the accused is found, is arrested or is in custody, but if the place where the accused is found, is arrested or is in custody is outside the province in which the offence is alleged to have been committed, no proceedings in respect of that offence shall be instituted in that place without the consent of the Attorney General of that province.

753.3 (1) Le délinquant qui, sans excuse raisonnable, omet ou refuse de se conformer à la surveillance de longue durée à laquelle il est soumis est coupable d'un acte criminel et passible d'un emprisonnement maximal de dix ans.

En quel lieu l'accusé peut être jugé et puni

(2) Un accusé qui est inculpé d'une infraction aux termes du paragraphe (1) peut être jugé et condamné par tout tribunal ayant juridiction pour juger cette infraction au lieu où l'infraction est présumée avoir été commise, ou au lieu où l'accusé est trouvé, est arrêté ou est sous garde, mais si le lieu où l'accusé est trouvé, est arrêté ou est sous garde est à l'extérieur de la province où l'infraction est présumée avoir été commise, aucune poursuite concernant cette infraction ne devra être engagée en ce lieu sans le consentement du procureur général de cette province.