

Court of King's Bench of Alberta

Citation: R v Rice, 2022 ABKB 773

Date: 20221124
Docket: 210554192Q1
Registry: Edmonton

Between:

His Majesty the King

Crown

- and -

Nicholas Rice

Accused

Restriction on Publication

Identification Ban – See the *Criminal Code*, section 486.4.

By Court Order, information that could identify the Victims must not be published, broadcast, or transmitted in any way.

NOTE: Identifying information has been removed from this judgment to comply with the ban so that it may be published.

**Sentencing Judgment
of the
Honourable Justice J.J. Gill**

Overview

[1] The Accused (“RICE”) pled guilty to 3 counts of luring in relation to three Complainants contrary to section 172.1 (1)(a) of the *Criminal Code* (the guilty pleas). In addition, he was found guilty of 1 count of luring contrary to section 172.1 (1)(a) and one count of obtaining sexual services from a minor for consideration contrary to section 286.1(2) of the *Criminal Code* in relation to a fourth Complainant (the guilty verdicts).

Background

a) The Guilty Pleas

[2] An Agreed Statement of Facts was entered in relation to the guilty pleas. An excerpt is attached (Appendix 1).

b) The Guilty Verdicts

[3] The following Agreed Statement of Facts was entered at the trial.

- a. Following RICE’s arrest in September 2019 for unrelated charges, police issued a media release seeking victims who may have had contact with RICE. As a result of the media release, “O” contacted police.
- b. In July of 2019, O (16 years old) received a request from an Instagram user with the screen name “David” offering to be her Sugar Daddy, specifically “David” offered money in exchange for nude images of her and companionship. O and “David” initially messaged on Instagram but subsequently moved their chats to Snapchat.
- c. O sent nude photographs of the entirety of her body, including her breasts and vagina to "David" along with videos of her touching herself.
- d. The Accused had also sent videos of himself masturbating on multiple occasions.
- e. In addition to exchanging intimate photos and videos, O and “David” spoke by audio chat on Snapchat several times.
- f. Approximately a week after they began communicating, O realized that "David" was her mom’s best friend’s sister - RICE. O had known RICE through indirect associations with his family since she was five (5) years old.
- g. RICE is approximately three hundred (300) pounds and six foot three while O is approximately one hundred (100) pounds and approximately five foot four.
- h. When RICE’s phone was searched, 11 images of O and 8 videos of her were located on his cell phone. The Complainant stated that all the images and videos were sent to the Accused at this request.
- i. Of these images, six images are of the Complainant's breasts, buttocks, and vagina, and of the videos, seven videos are of the Complainant performing sexual acts upon herself in various states of undress. In one video it shows the Complainant’s face only and of her saying "Nic cum in my 16-year-old pussy please..."
- j. During the time the O had contact with RICE he sent her at least three payments (possibly more) of \$300 using Paypal. The payments were made on July 24 and 31 and August 12, 2019.

- k. In the summer and fall of 2019, RICE drove a 2006 Black Ford F250 with an Alberta license plate.
- l. On multiple occasions (at least two) occasions in the summer of 2019, RICE and O met in person, engaged in sexual activity. On at least two of these occasions RICE drove O out of town. On at least one of these occasions during the course of the sexual activity, RICE engaged in choking of O.

[4] Based on this Agreed Statement of Facts and the evidence at trial I found that RICE befriended the Complainant (aged 16 at the time) on social media and offered her money in exchange for sexual favors.

[5] After entering into a so-called sugar daddy relationship, the Complainant sent RICE the sexualized photos and videos in exchange for money. RICE provided specific directions in terms of the types of sexualized photographs and videos that he wanted the Complainant to provide.

[6] I found that these sexualized photographs and videos were provided for the sexual gratification of RICE. I also found that RICE was explicitly paying for the photos and videos and that these were sexual services.

[7] In addition, considering the sequence in which the events unfolded: that is, the creation of a sugar daddy relationship followed immediately by the provision of sexualized videos and photos; and then followed the next day by sexual activity and a few days later payment of money, I concluded that RICE was also implicitly paying for the sexual activity which involved digital and sex toy stimulation.

[8] Based on these findings I conclude that the Crown has proven beyond a reasonable doubt that RICE communicated for and obtained sexual services of a person under 18 contrary to section 286.1(2) of the *Criminal Code*

[9] Based on the evidence I also found the Accused guilty of luring for the purposes of facilitating under s 163.1 and 286.1(2).

c) The Offender

[10] RICE is 34 years old with no prior criminal record. He lives with his parents at home and has an older sibling. He is a journeyman welder and long-haul truck driver. For the last three years he has been working as a trucker.

[11] A report from a psychologist Dr. Dewhurst was filed. RICE attended psychological therapy and counselling sessions and made significant progress.

[12] RICE expressed remorse during sentencing.

Positions of Crown and Defence:

The Guilty Pleas: joint submission

[13] In relation to the guilty pleas there is a joint submission of consecutive sentences of 18 months on each of the 3 counts of luring for a total of 4 ½ years jail.

The Guilty Verdicts: submissions of counsel

1) The Crown

[14] In relation to the guilty verdicts, the Crown takes the position that the appropriate sentence would be five years concurrent for the child prostitution and luring charges and consecutive to the 4 and ½ years for the guilty pleas for a sentence of 9 and ½ years. Taking into account totality, the 5-year sentence should be reduced to 4 years for a total sentence of 8 ½ years.

[15] The Crown emphasized that this case involved exploitation. The luring was more than preparation. It led to the sexual contact. The Complainant was required to testify.

[16] The Crown noted that there are several aggravating factors of the section 286.1(2) offence:

- i. The number of meetings (2-4).
- ii. The meetings took place at night in remote locations. The Complainant was exposed to physical danger as she was essentially captive on a remote road.
- iii. RICE is a family friend and while not a position of trust, there was an increased exploitative dynamic as a result of the relationship and the family connection
- iv. RICE was significantly older.
- v. There was payment of a significant sums for the sexual contact (\$900 -\$1200).
- vi. RICE choked her and used a sex toy for his sexual gratification.

[17] The Crown referred to several cases. In *R v Friesen*, 2020 SCC 9 the Supreme Court outlined several principles that are relevant to this case.

[18] In *R v Alcorn*, 2021 MBCA 101, the Court increased a 15-month jail sentence to 5 years for a section 286.1(2) conviction. In that case, a 39-year-old offender exchanged a 60 oz. bottle of alcohol with an intoxicated 16-year-old for sexual intercourse. The sexual services were less frequent and possibly less intimate than this case.

[19] Also relevant is *R v Lemay*, 2020 ABCA 365, although not a case involving prostitution, the 35-year-old male was convicted of luring and committing sexual interference with the 15-year-old daughter of his friend and was sentenced to four years for the sexual interference and 18 months consecutive for the luring for a total sentence of 5 ½ years.

[20] In *R v Sinclair*, 2022 MBCA 65, the Court reduced the accused's sentence of 5 years to 3 and ½ years for luring. There were many victims (12). The accused lured children on the internet and asked them to participate in video calls with him on Skype. There were 12 victims. The youngest of the children was 13 years old at the time of the offenses. The offender made 112 child pornography images and 52 child pornography videos of 4 identified children and 8 unidentified. He had a related criminal record.

[21] In *R v Rose*, 2019 MBCA 40 the offender received a sentence of four years for offences of luring and obtaining sexual services for consideration of a person under 18. The accused paid the vulnerable Complainant \$40 for fellatio.

[22] No victim impact statements were filed.

2) The Defence

[23] The Defence disagrees with the sentence proposed by the Crown.

[24] An appropriate sentence for the luring conviction is 18 months which is the same sentence as the sentence proposed in relation to the other 3 Complainants. RICE's conduct was similar in all 4 cases. His moral blameworthiness is the same with respect to all the victims.

[25] In regard to the section 286.1(2) conviction the Defence notes that the sexual activity was legal. The age difference does not attract criminal culpability. There was no exploitation. RICE was not in a position of trust. He paid for the videos and companionship, not sexual services.

[26] Also relevant is that RICE has made significant efforts at rehabilitation. The report from Dr. Dewhurst confirms he attended 32 therapy and counselling sessions. He has made significant progress. His parents also confirm the efforts he has made at home. He has no prior criminal record. He has been otherwise of good character and a constructive member of society. He has extended family support. Several letters of support were filed. RICE is extremely remorseful for his behavior.

[27] In addition, RICE has complied with extremely onerous bail conditions for several years with no breaches. That also speaks to his rehabilitation.

[28] The issue of parity is important. In *R v Misay*, 2021 ABQB 485, the accused pleaded guilty to one count of luring. The Court imposed a jail term of 15 months followed by two years' probation. *R v Sinclair*, *supra* is distinguishable as it involved many victims.

[29] In summary, the Defence submits that a further 1 ½ years for the prostitution and luring charges is appropriate for a total sentence of 6 years. This sentence should then be reduced to 5 ½ years to take into account the principle of totality, RICE's remorse, his severe release conditions and his therapy and other rehabilitation efforts.

Legal Parameters:

[30] The maximum sentence for conviction of Luring a Child under section 172.1 (1)(a) is 14 years imprisonment and 10 years for Communicating to Obtain Sexual Services under section 286.1(2).

Case Law

[31] In *R v Friesen*, 2020 SCC 9 the Supreme Court outlined several principles that are relevant to this case. At paragraph 5, the Supreme Court confirmed that sentences for sexual offences against children must increase as these are violent crimes that wrongfully exploit children's vulnerability and cause profound harm to children, families and communities.

[32] While the Supreme Court in *Friesen* was addressing sentencing principles for the offence of sexual interference and closely related offences the Court was also clear that the principles outlined had relevance to sentencing for other sexual offences against children and should be drawn upon when imposing sentences for these offences. At paragraph 44:

[44] Given the facts of this case, the guidance we provide is focused on sentencing principles for the offence of sexual interference and closely related offences such as invitation to sexual touching (Criminal Code, s. 152), sexual

exploitation (Criminal Code, s. 153(1)), incest (Criminal Code, s. 155), and sexual assault (Criminal Code, s. 271). **However, the principles that we outline also have relevance to sentencing for other sexual offences against children, such as child luring (Criminal Code, s. 172.1). [2] Courts should thus draw upon the principles that we set out in this case when imposing sentences for such other sexual offences against children.** Courts may also draw upon these principles when imposing sentences for child abduction and human trafficking offences where the victim is a child and the factual foundation for the conviction involves sexual violence or exploitation.

(emphasis added)

[33] At paragraph 110 the Supreme Court directed that an upward departure from past precedent is required because Courts' understanding of the gravity and harmfulness of sexual offences against children has deepened.

[34] Particularly relevant to the facts of this case is that the Supreme Court emphasized that courts must be careful to impose proportionate sentences in cases where the victim is an adolescent, acknowledging that this age group is disproportionately victimized by sexual violence. At paragraph 136:

[136] **At the same time, courts must also be particularly careful to impose proportionate sentences in cases where the victim is an adolescent. Historically, disproportionately low sentences have been imposed in these cases, particularly in cases involving adolescent girls, even though adolescents may be an age group that is disproportionately victimized by sexual violence (Benedet, at pp. 302, 304 and 314; L. (D.O.), at pp. 464-65, per L'Heureux-Dubé J.). In particular, sexual violence by adult men against adolescent girls is associated with higher rates of physical injury, suicide, substance abuse, and unwanted pregnancy (I. Grant and J. Benedet, "Confronting the Sexual Assault of Teenage Girls: The Mistake of Age Defence in Canadian Sexual Assault Law" (2019), 97 Can. Bar Rev. 1, at p. 5; "The 'Statutory Rape' Myth", at p. 269; R. v. Hess, [1990] 2 S.C.R. 906, at pp. 948-49, per McLachlin J.).**

(emphasis added)

[35] As noted by the Crown also relevant is that in 2015 Parliament enacted the Tougher Penalties for *Child Predators Act* which made several changes to the *Criminal Code*. The maximum sentences for sexual interference and child luring both increased from 10 years to 14 years. Making and distributing child pornography became purely indictable offences with mandatory minimums of one year (and the maximum sentences increased to 14 years).

[36] Similarly, on December 4, 2016, Bill C- 36 came into force which doubled the maximum sentence in relation to a child prostitution offence under section 286.1(2) from five to 10 years. In the decision of *R v Charboneau*, 2019 ABQB 882, Justice Ackerl noted at paragraph 34 that "sentencing decisions arising before Bill C- 36 must be cautiously viewed. That legislation, in effect signaled Parliament's intent to not only elevate potential sentences but recognized protection of children as a fundamental Canadian value".

Obtaining Sexual Services from a Minor for Consideration: section 286.1(2)

[37] In *R v Alcorn*, *supra* the Manitoba Court of increased a 15-month sentence for a section 286.1(2) offence to five years.

[38] The comments of the Court on section 286.1(2) at paragraph 11 are pertinent:

The Legislation

[11] **Child prostitution laws address the “unique effects of prostitution on [children] in light of their inherent vulnerability and heightened need for protection”** (*R v Ackman*, 2017 MBCA 78 at para 36).

[12] Section 286.1(2) of the Code was enacted as part of the Protection of Communities and Exploited Persons Act, SC 2014 c 25 at section 20 (the PCEPA). It is similarly worded to its precursor, section 212(4), except that the maximum punishment was doubled to ten years’ imprisonment and a higher mandatory minimum sentence was added for a subsequent offence:

[13] The PCEPA was Parliament’s legislative response to the decision of Canada (Attorney General) v Bedford, 2013 SCC 72, which declared invalid three prostitution-related offences. The PCEPA makes both adult and child prostitution illegal.

(emphasis added)

[39] In *R v Alcorn*, the court noted that obtaining the sexual services of a child for consideration is an extremely grave crime, and that for sentencing purposes, the normative case for treating this crime as gravely as other sexual offences of violence or exploitation is persuasive. Starting at paragraph 41:

[41] I agree with the comment of Juriansz JA in *R v Ramelson*, 2021 ONCA 328, when he said that “[o]btaining the sexual services of a [child] for consideration is an extremely grave crime” (at para 102). For sentencing purposes, the normative case for treating this crime as gravely as other sexual offences of violence or exploitation is persuasive.

[42] Child prostitution is a paradigm of serious wrongdoing. Like other sexual offences, child prostitution is a universally accepted wrong. There is no reasonable debate against the law taking a hard paternalistic approach to prohibit child prostitution. Such behaviour offends core societal values as to harm, autonomy, culpability and, because the victims are primarily of one race and one gender, equality. The harmful consequences—physical, psychological and societal—that flow from child prostitution are justification to treat it as severely as other sexual offences of violence or exploitation.

[45] Given the language of Friesen and the legislative scheme created by the PCEPA, there is a principled rationale in favour of, for the purposes of sentencing, treating section 286.1(2) of the Code in the same manner as other sexual offences against children, such as sexual assault, sexual interference and sexual exploitation. Indeed, if one applies the directions in Friesen and considers the inherent wrongfulness of child prostitution, the potential harm flowing from it,

and the actual harm suffered by children who are objectified and commoditized, there is no reason why a gross violation of a child's autonomy and integrity should be treated differently merely because an offender's conduct transgressed the norm against sexual exploitation as opposed to the norm against sexual contact in the absence of consent.

[46] Following the path of equivalency is also consistent with the legislative scheme. In *Friesen*, the Supreme Court explained that maximum penalties help “determine the gravity of the offence and thus the proportionate sentence” (at para 96). The maximum punishment for section 286.1(2) of the Code is the same as for sexual assault (where the victim is age 16 or older) and roughly equivalent for sexual assault (where the victim is age 15 or younger), sexual interference and sexual exploitation. Parliament has “repeatedly increased sentences for sexual offences against children” (*Friesen* at para 98), which sends the message that the courts should treat offences whose penalty has been increased, more significantly (see para 99). Section 286.2 (2) of the Code is an example of this “trend” (Clayton C Ruby, *Sentencing*, 10th ed (Toronto: LexisNexis, 2020) at section 23.960).

Luring: section 172.1(1)(a)

[40] In *R v Misay*, 2021 ABQB 485 the accused pleaded guilty to one count of luring. The accused was 23 and the complainant 15. The Court imposed a jail term of 15 months followed by two years' probation. Mitigating factors included the accused's cooperation in admitting the essential elements. The accused's remorse was reflected in his guilty plea, and he attended 20 sessions of counselling. In *R v Misay*, the luring only involved communications. In this case the luring had more serious consequences as it led to sexual contact.

[41] The case of *R v Lemay*, 2020 ABCA 365 is also instructive as to the gravity of the luring offense. The 35-year-old male was convicted of luring and committing sexual interference with the 15-year-old daughter of his friend. He was sentenced to four years for the sexual interference and 18 months consecutive for the luring for a total sentence of 5 ½ years.

[42] In *R v Sinclair*, 2022 MBCA 65 the Manitoba Court of Appeal imposed a 5-year sentence for luring (reduced it to 3 ½ years for totality).

Totality

[43] In *R v Rose*, 2019 MBCA 40 the Court addressed the issue of reducing a sentence to reflect totality. Beginning at paragraph 29:

[29] As an initial observation, the decision to reduce a sentence to reflect totality considerations is a delicate matter of judgment and discretion. It is most certainly not a matter of mathematical calculation or scientific precision.

[30] Among the factors to be considered are the factors set out in *R v Hutchings*, 2012 NLCA 2 at para 84, which were adopted by this Court in *GJM* (at para 10):

The question of whether a combined sentence for multiple offences is unduly long or harsh, and therefore not proportionate, on a last look requires a sentencing judge to take into account and balance several factors that Green

CJNL neatly summarized in *R v Hutchings* (R), 2012 NLCA 2, 316 Nfld & PEIR 211 (at para 84):

- (a) the length of the combined sentence in relation to the normal level of sentence for the most serious of the individual offences involved;
- (b) the number and gravity of the offences involved;
- (c) the offender's criminal record;
- (d) the impact of the combined sentence on the offender's prospects for rehabilitation, in the sense that it may be harsh or crushing; and
- (e) such other factors as may be appropriate to consider to ensure that the combined sentence is proportionate to the gravity of the offences and the offender's degree of responsibility.

See also *R v Arbuthnot* (SM), 2009 MBCA 106 at para 18, 245 ManR (2d) 244; *R v PK*, 2012 MBCA 69 at para 20, 280 ManR (2d) 258; *R v Draper* (TG), 2010 MBCA 35 at para 31, 251 ManR (2d) 267; *R v Wozny* (CP), 2010 MBCA 115 at paras 56-60, 262 ManR (2d) 75; *R v Boissonneault* (MJ), 2012 MBCA 40 at para 28, 280 ManR (2d) 114; *R v James* (GM), 2013 MBCA 14 at para 73, 288 ManR (2d) 269; and *R v Golden* (BR), 2009 MBCA 107 at para 87, 245 ManR (2d) 254.

[44] Also relevant are the Manitoba Court of Appeal comments in *Rose* upholding a 21 year sentence imposed for a number of sexual exploitation offenses. At paragraph 37:

[37] It is true that a 21-year sentence in Canada is rare (see *R v M* (CA), 1996 CanLII 230 (SCC), [1996] 1 SCR 500 at paras 71-75). **However, the sexual exploitation of young, vulnerable teenagers is a problem of longstanding concern in Manitoba that requires denunciation by this Court and the community at large.** Given the unique circumstances of this case, the sentence is not demonstrably unfit, and we see no basis for appellate intervention. (emphasis added)

Analysis

Principles of Sentencing:

[45] In *R v Lemay*, *supra* the ABCA noted at paragraph 60 that the primary aims of sentencing in the context of these types of sexual exploitative offences are deterrence and denunciation, reflecting the profound harm the offences caused to the victim and to society. At the same time the court must give weight to any significant mitigating factors and totality.

[46] The Supreme Court in *Freisen*, *supra* directed that Courts must impose sentences that are proportionate to the gravity of sexual offences against children and the degree of responsibility of the offender.

Mitigating and Aggravating Factors

[47] I agree with the Crown that the aggravating factors include the following. The payment for multiple sexual encounters in settings where the victim was particularly vulnerable. The sexual encounters involved incidents with choking, digital penetration and the use of a sex toy.

There was also an increased element of exploitation resulting from RICE's connection with the victim's family.

[48] The mitigating circumstances are RICE's remorse and his efforts at rehabilitation. I also consider the onerous bail conditions he was released under and the fact that he complied with those conditions while productively working as a truck driver. However as noted by the Crown the weight to be given to the bail conditions is somewhat attenuated by the fact that much of his release time occurred during the Covid lockdown and while Covid restrictions were in place

Decision:

1) The Guilty Verdicts

a) Section 286.1(2)

[49] RICE took advantage of a vulnerable young victim. The Supreme Court in *Friesen supra* confirm that this type of exploitative behavior warrants a significant sentence. In terms of an appropriate sentence, the *Alcorn* and *Lemay, supra* cases are instructive. *Alcorn supra* imposed a sentence of five years for similar type of activity. Notably in *Alcorn* the sexual services were less frequent and possibly less intimate. *Lemay* was a sexual interference (4 years) and a luring case (18 months consecutive) also involving an adolescent and a significantly older accused.

[50] I find that 5-year sentence is in the range for the type of predatory and exploitative behavior that occurred in this case. However, considering all the circumstances including the aggravating and mitigating factors, the relevant case law and sentencing principles I conclude that a sentence of 4 years is appropriate.

b) Section 172.1(1)(a)

[51] On the luring charge considering all the circumstances including the aggravating and mitigating factors, the relevant case law (*Misay, Sinclair* and *Lemay*), and sentencing principles I find that a sentence of 18 months is appropriate. This sentence to be served concurrently with the 4-year sentence for the section 286.1(2) conviction.

2) The Guilty Pleas

[52] In relation to the guilty pleas there is a joint submission of consecutive sentences of 18 months on each of the 3 counts for a total of 4 ½ years jail. Considering the aggravating and mitigating factors, the relevant case law and the relevant sentencing principles, I find this to be an appropriate sentence.

3) Total sentence for the Guilty Pleas and Guilty Verdicts:

[53] To the 4 ½ years for the guilty pleas I add four (4) years for the child prostitution and luring convictions resulting in a total sentence of 8 ½ years. Applying the factors outlined in *Rose, supra* to reflect totality I reduce this sentence by a year (1) and impose a total sentence of seven and a half (7 1/2) years jail imprisonment.

Ancillary Orders

[54] In addition, I impose the following ancillary orders requested by the Crown.

- a) A DNA sample pursuant to section 487.051;

- b) An order requiring RICE to comply with SOIRA for 20 years pursuant to sections 490.012(1) and 490.013(2);
- c) Forfeiture of offence related material pursuant to section 490.1;
- d) Credit for 10 days of pre-trial credit; and
- e) A section 161 order RICE be banned from the below for eight years:
 - (a) attending a public park or public swimming area where persons under the age of 16 years are present or can reasonably be expected to be present, or a daycare centre, schoolground, playground or community centre unless in the company of his own children;
 - (b) seeking, obtaining or continuing any employment, whether or not the employment is remunerated, or becoming or being a volunteer in a capacity, that involves being in a position of trust or authority towards persons under the age of 16 years;
 - (c) having any contact — including communicating by any means — with a person who is under the age of 16 years, unless it only involves his children OR the offender does so under the supervision of that child’s parent; or
 - (d) using the Internet or other digital network to communicate with anyone under the age of 18, other than his own children,

EXCEPTING THAT this 161 order does not apply to incidental or superficial contact with persons under the age of 16 who are:

- i. customers at his work place; or
- ii. employed at other places of business,

as long as such contact is necessary for you to conduct transactions there as a customer;

- iii. in public generally, such as on public transit, at a mall, at a grocery store, at a doctor’s office, at a place of worship as long as there is no communication.

Heard on the 2nd day of May, 2022 and the 17th day of October, 2022.

Dated at the City of Edmonton, Alberta this 24th day of November, 2022.

J.J. Gill
J.C.K.B.A.

Appearances:

Britta Kristensen
for the Crown

Ajay Juneja
for the Accused

Appendix 1

Docket: 210554192Q1

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

Between:

HER MAJESTY THE QUEEN

-and-

NICHOLAS ALFRED RICE

Accused

STATEMENT OF FACTS

Pursuant to the provisions of Section 724 of the *Criminal Code of Canada*, the facts outlined below are alleged by the Prosecution and admitted by the Nicolas Alfred Rice ("RICE"). It is agreed that these facts are admitted for the purpose of supporting the guilty pleas to the charges that RICE:

- COUNT 1: BETWEEN SEPTEMBER 1 AND SEPTEMBER 27, 2019, AT OR NEAR EDMONTON, ALBERTA, DID, BY MEANS OF TELECOMMUNICATION, COMMUNICATE WITH A PERSON WHO WAS, OR WHO THE ACCUSED BELIEVED WAS, UNDER THE AGE OF 18 YEARS, FOR THE PURPOSE OF FACILITATING THE COMMISSION OF AN OFFENCE UNDER SECTION 153(1), SECTION 155, 163.1, 170, 171, OR 279.001 OR SUBSECTION 279.02(2), 279.03(3), 286.1(2), 286.2(2), OR 286.3(2) WITH RESPECT TO THAT PERSON, CONTRARY TO SECTION 172.1 (1)(A) OF THE CRIMINAL CODE OF CANADA.. (S.R.)
- COUNT 7 : BETWEEN THE 1st of AUGUST, 2019 and the 31st of AUGUST, 2019, BOTH DATES INCLUSIVE, AT OR NEAR EDMONTON, ALBERTA, DID, BY MEANS OF TELECOMMUNICATION, COMMUNICATE WITH A PERSON WHO WAS, OR WHO THE ACCUSED BELIEVED WAS, UNDER THE AGE OF 18 YEARS, FOR THE PURPOSE OF FACILITATING THE COMMISSION OF AN OFFENCE UNDER SUBSECTION 153(1), SECTION 155, 163.1, 170, 171, OR 279.001 OR SUBSECTION 279.02(2), 279.03(3), 286.1(2), 286.2(2), OR 286.3(2) WITH RESPECT TO THAT PERSON, CONTRARY TO SECTION 172.1 (1)(A) OF THE CRIMINAL CODE OF CANADA. (A.F.)

COUNT 8: BETWEEN THE 1st DAY OF SEPTEMBER, 2019 AND THE 27th DAY OF SEPTEMBER, 2019,, BOTH DATES INCLUSIVE, AT OR NEAR EDMONTON, ALBERTA, DID, BY MEANS OF TELECOMMUNICATION, COMMUNICATE WITH A PERSON WHO WAS, OR WHO THE ACCUSED BELIEVED WAS, UNDER THE AGE OF 18 YEARS, FOR THE PURPOSE OF FACILITATING THE COMMISSION OF AN OFFENCE UNDER SUBSECTION 153(1), SECTION 155, 163.1, 170, 171, OR 279.001 OR SUBSECTION 279.02(2), 279.03(3), 286.1(2), 286.2(2), OR 286.3(2) WITH RESPECT TO THAT PERSON, CONTRARY TO SECTION 172.1 (1)(A) OF THE CRIMINAL CODE OF CANADA. (M.B.)

S.R.

1. In early September 2019, S.R. ("R") (14) received a notification on Snapchat from the Accused Nicolas RICE using the screen name "David" indicating he was geographically near to her and could be added for conversation.
2. R added "David" and he immediately asked her if she wanted to make some money. She responded that she did. At the time R was struggling with Cannabis and a vape addiction.
3. "David" stated that in return for photos of herself or companionship, he would send her money, buy her things and take her out places. R told "David" she was only 14 years of age.
4. From photos he sent of himself, R knew "David" to be an overweight, blading Caucasian male with a black truck.
5. R forwarded "David" a photo of herself naked.
6. On September 9th, "David" asked R for her address and she provided her mother's address. "David" had Uber Eats delivered to the address for R.
7. On September 13, 2019, in response to "David's" request, R sent a fully naked picture of herself standing before a full length mirror. Sometime later, "David" sent her back a video of him masturbating to her photo and ejaculating.
8. "David" then sent an e-transfer for \$85. The name on the e-transfer was RICE, Nicholas Alfred John ("RICE").
9. RICE using the screen name David repeatedly messaged R asking her to go for a ride with him so they could engage in sex. She always declined.
10. On September 16th, due to some familial issues, R's phone was taken away, her parents deleted Snapchat from the phone and some other apps.
11. On September 23rd, RICE contacted R via an application called "Discord". R had given him her contact information for this application. On DISCORD, RICE used the name TMCBAGGINZ. R's user name on DISCORD was xxxxx. Chats between RICE and Rare attached as Exhibit "A" to this Agreed Statement of Facts.

12. On September 25, 2019, R's parents found out about her conversations with RICE and contacted police. R provided a statement to police and also provided police with her phone and allowed police to take over her Discord chat with RICE.
13. On September 26, police messaged RICE to meet up the next day. RICE suggested they go for a drive and maybe go to a hotel. On September 27, RICE was arrested at the meetup location his cellphone was seized.
14. A search RICE's phone, revealed six photos R — two have only her face, three are of her breasts and one is of her in a black bra. R was able to identify herself in the photos owing to distinct necklaces pictured together with the backgrounds in the photos. These photos constitute child pornography.

A.F.

15. In searching RICE's phone subsequent to his arrest, police noted two videos and one photograph of teenage girl that appeared to be taken in the Summerwood area of Sherwood Park.
16. Through doorknocks in the area, police identified the girl as A.F. ("F").
17. F (13) met Nicholas Rice, again while he was using the screen name "David" on Snapchat. She was 13 years old at the time but told "David" she was 14. "David" offered to buy F material things in exchange for pictures of herself.
18. F initially sent clothed photos of herself, but "David" got upset and requested nude photos.
19. F initially provided a false name and phone number to "David." When "David" discovered these lies he became angry with F. F stated that RICE would 'block' her and 'unblock' her on Snapchat and tell her he was mad at her. F continued the interactions, however, because she still needed RICE to buy her the things, she was not able to buy on her own at her age.
20. F met with "David" five times in August of 2019. During those meetings, "David" provided F with marijuana, vodka, vaping equipment, Skipthedishes and a vibrator.
21. On two occasions, "David" met F in Summerwood and asked her to show him her breasts and genitals while she was standing on the sidewalk, outside of his car. F believed that "David" took photos but later learned he had taken a video.
22. F was 5'3" tall and weighed 95 lbs at the time. She was frightened of "David" when she was in his presence.

23. RICE begged F to meet him for sex and to take videos of herself playing with the vibrator.
24. F broke contact off with the accused at the end of August of 2019 by deleting him from her Snapchat contacts list.
25. The intimate recordings of F as recovered from RICE's phone are as follows:
 - a. The first video was taken on August 17th, 2019 at 7:18 pm. It is 16 seconds long and shows F standing on the east sidewalk on Summercourt Way; her face is not visible but her upper body and waist are visible, it is day light outside, she is standing beside an open vehicle door (passenger door) and facing into a vehicle, she is wearing a pink sweater, green sports bra, and grey sweat pants. F lifts up the front of her sweater and pulls down her bra to expose her bare breasts to the person filming her. She turns to show her back to the camera and pulls down her sweat pants to expose her underwear and buttocks, she pulls up her pants and then turns to face the camera and pulls down both her sweat pants and underwear to expose her bare genitals.
 - b. The second video was taken on August 26th, 2019 at 1:04 pm. It is 13 seconds long and filmed at the same location. F is wearing a black dress, standing on the east sidewalk, her face and body are clearly visible, it is day light outside, she is standing beside an open vehicle door (passenger door) and facing into the vehicle. she pulls down the front of her dress to expose her bare breasts to the person filming her, she then pulls up her dress and pulls down her underwear to expose her genitals and turns her back to the camera to expose her bare buttocks before pulling up her underwear and pulling her dress back down.
 - c. Four intimate images: in three photos F's breasts are exposed and in fourth photo she is naked except for a black bra.

M.B.

26. When RICE's phone was searched six images and two videos of an teenage female were identified to be those of a 16 year old, M.B. ("B") of South Bend, Indiana.
27. B met RICE on Instagram on September 9, 2019. On that date he asked B if she wanted a 'Sugar Daddy'. Attached and marked as Exhibit "B" is a copy of the initial exchange. RICE was using a username of t00lb0x
28. B and RICE moved their chats to Snapchat and B she sent naked images and videos of herself to RICE in exchange for money. RICE and B continued messaging until September, 25, 2019.

29. B had made RICE aware from the beginning of their conversations that she was only 16 years of age, but he still wanted naked images from her.

30. The intimate recordings of B as recovered from RICE's phone are as follows:

- a. Six photos of B exposing her breasts while laying back on a pillow of some sort. In four of the videos B's face is visible. In the other two photos, B was identified by a bracelet she is wearing.
- b. A 9 second video of B in which B is topless, her face and breasts are in view and she says, "Do you like my 16 year old titties....daddy?.." and she uses her right hand to rub and grab her breasts.
- c. A five second video of B in which B is topless, her face and breasts are in view. B has her forearm below her breasts and does not speak in the video.

31. RICE paid at 100 dollars to B by Paypal in exchange for nude images and videos and conversation. An image of B's Paypal QR code was located on RICE's phone.

OF WHICH IS ADMITTED.

DATED this _____ day of _____, A.D. 20____ at the City of Edmonton, Alberta.

NICHOLAS ALFRED RICE
Accused

AJAY JUNEJA
Counsel for the Accused

DATED this 21st day of March, 2022 at the City of Calgary, Alberta.

BRITTA KRISTENSEN
Agent of the Attorney General of Alberta