

SUPERIOR COURT OF JUSTICE

HIS MAJESTY THE KING

v.

MOHAMMAD MOIZ OMAR

R E A S O N S F O R S E N T E N C E

THE HONOURABLE JUSTICE R. DURNO  
on JULY 25, 2023, at BRAMPTON, Ontario

APPEARANCES:

S. Shaikh / J. Pearson

Counsel for the Crown

S. Robichaud / Jacob Roth

Counsel for Mohammad Moiz Omar

(i)  
Table of Contents

SUPERIOR COURT OF JUSTICE

T A B L E O F C O N T E N T S

REASONS FOR SENTENCE

PAGE 1

**Legend**

[sic] - indicates preceding word has been reproduced verbatim and is not a transcription error.

(ph) - indicates preceding word has been spelled phonetically.

Transcript Ordered:	JULY 31, 2023
Transcript Completed:	AUGUST 11, 2023
Ordering Party Notified:	AUGUST 17, 2023

TUESDAY, JULY 25, 2023

R E A S O N S F O R S E N T E N C E

5 DURNO, J. (Orally):

10 On Saturday, March 19, 2022, at about seven o'clock in the morning, over 30 congregants were at the *Dar Al-Tawheed Islamic Centre* in Mississauga when Mohammed Moiz Omar entered, armed with a hatchet and bear spray.

15 He approached the congregants from behind, discharged the bear spray and swung his hatchet at the congregants. The congregants heard him say, "I hate you.", and, "You are all terrorists.", while he was spraying the bear spray.

20 The incident was captured on security cameras and the Agreed Statement of Facts includes a screenshot from that footage.

25 The congregants pushed Mr. Omar to the ground, restraining him. While Mr. Omar kicked one of the congregants in the stomach, fortunately none of the congregants received serious injuries. However, multiple congregants suffered side-effects from the bear spray, in particular, a burning sensation in their mouth and throat. It took several days for the effects of the bear spray to diminish in the Mosque, resulting in

30

the Mosque being closed for some time. The cost to clean the Mosque and make it habitable again, pursuant to the Agreed Statement, was over \$16,000.

When police searched Mr. Omar's car, they found a large knife, cleaver, hammer, rope, drill bits, safety goggles, fire extinguishers, an unknown chemical, and an iPhone. Receipts seized revealed that most of the items had recently been purchased at a Canadian Tire store.

While being transported by the police, Mr. Omar declared, "I fucking hate those people." While in the cell he exclaimed, "I wish I had the chance to fucking kill them all."

The subsequent investigation revealed Mr. Omar intended to perpetrate a mass casualty event when he attacked the *Dar Al-Tawheed Islamic Centre*, an attack he planned for about a year. The attack was also aimed at intimidating a segment of the public (Muslims) with regard to their security.

Mr. Omar made several admissions in his statement to police including that his attack was provoked by an intolerant and violent religion that promotes the murder of those who do not subscribe to its tenets. He expressed hatred for Muslims, and his disappointment that

5 he failed to inflict any real harm to the  
victims. He spoke of his planning, efforts to  
acquire a firearm, and an intention to use his  
car to run down Muslims two days prior. He also  
discussed that he considered an attack on the  
Pakistani Consulate. When asked if he hoped to  
inspire others to commit similar attacks, he  
commented, "In a sense, ya. You can always  
hope."

10 His motivation for the attack was "revenge". He  
referenced specific global *jihadist* attacks that  
justified violent retaliation.

15 His comments included, again, he hated Islam.  
Although he has a Muslim background, he is an  
atheist and was not a member of the Mosque. He  
believed Islam was a violent and terrorist  
religion, and believed Islam allowed for the  
murder of people. He went to Canadian Tire to  
get items to commit the attack. He attempted to  
acquire firearms to carry out his attack but was  
unsuccessful.

25 At one point he intended to attack a larger  
Mosque in Toronto, but it was too far to drive,  
and he references the Pakistani Consulate but  
again, it was too far to drive. He had sent  
"planning" emails to himself. He considered  
30 making a bomb but lacked the knowledge and  
skill. He downloaded plans to print a 3D  
firearm, but it was too difficult. Getting

## Reasons for Sentence

ammunition was going to be difficult. He researched various United States states to see if ammunition could be acquired without raising suspicion. He conducted surveillance on the Mosque the day before the attack. He expressed his regret and disappointment throughout the interview of not running a pedestrian over with his vehicle when he had the chance. He was going to perpetrate an attack the day before but got "stressed out". He feels bad he was not successful in the attack and noted, "I wish I had the firearms."; "I was going to burn the place down, but I didn't really get the chance."; "It's a violent terrorist religion and I hate the people. How much more clearer can I make it?"; "I should have killed that guy [referring to a Muslim pedestrian] when I had the chance."; "I even turned the detection mode off on the car yesterday and put it in sport mode so it accelerates faster — so I hit them faster."

Police executed warrants and seized documents and devices from Mr. Omar's Mississauga residence where he lived with his parents, locating a letter he had left on a desk that was directed to the police containing an apology for any inconvenience that he may have caused them and included the passwords to his devices.

An extraction from his computer hard-drive disclosed video footage of the March 15, 2019

5  
Christchurch Mosque shootings in New Zealand that resulted in the deaths of 51 people and injury to another 40. During one of his interviews conducted, Mr. Omar said he particularly enjoyed seeing a woman being shot in the attacks.

10  
The examination of the hard-drive also disclosed Mr. Omar's attempts to obtain the 3D printer capable of printing a firearm, numerous emails he sent to himself disclosing a high level of planning, including how to prepare and carry out attacks and avoid police detection. This coincides with what Mr. Omar told police. He had researched police response times in both Toronto and Peel Regions.

15  
**The Offences**

20  
Mr. Omar has pled guilty to:

- 25
1. Administering a noxious thing (bear spray) with intent to endanger life or cause bodily harm, contrary to section 245(1)(a) of the *Criminal Code*,
  2. Assault with a weapon (axe), contrary to section 267(a) of the *Criminal Code*, and,
  3. Mischief to religious property with the motivation of bias, prejudice, or hate based on religion, contrary to section
- 30

430(4.1) of the *Criminal Code*.

5  
10  
With regard to all of the offences, Mr. Omar acknowledges that each offence constitutes terrorist activity, pursuant to section 83.01(1) and 83.27 of the *Criminal Code*. Section 83.27 provides that if the offender has been given notice before their plea of this fact, the maximum sentence for any offence is life in prison, and notice was given.

**The Positions of Counsel**

15  
20  
Experienced counsel have placed before me a joint submission on all aspects of sentence: 8 years reduced by the *Summers* pretrial custody deduction, and 244 days *Duncan* mitigation credit for harsh jail conditions.

25  
Further, it is agreed that Mr. Omar should not be eligible to apply for parole until he has served one half of the sentence imposed today. That term deals with eligibility. The National Parole Board determines if and when parole would be granted.

30  
Ms. Shaikh submits the sentence for the assault with a weapon should be 8 years and the other offences 5 years concurrent.

Counsel agree on the corollary orders that will issue — DNA and section 109 orders.



... DISCUSSIONS BETWEEN THE COURT AND COUNSEL  
RE. ACCURATELY SETTING OUT THE BACKGROUND AND  
POSITIONS OF COUNSEL - RECORDED/NOT TRANSCRIBED

THE COURT:

**Victim Impact Statements**

Victim Impact Statements help judges in two  
ways:

First, to understand the circumstances and  
consequences of the crime more fully, and,

Second, to apply the purposes and principles  
of sentencing in a more textured context.

(*R. v. Taylor* [2004] OJ No. 3439 C.A.)

Karine Devost, Senior Legal Counsel for the  
National Council of Canadian Muslims read a  
community impact statement noting horrific  
attacks of this nature threaten the very purpose  
of Mosques, a place of peace and worship, which  
allow the members of the Muslim community to  
come together and practice their faith. It was  
an existential attack on the very fabric of the  
religious identity and spiritual practices of  
all Muslims in Canada, leaving Muslims fearful  
for their day-to-day safety.

The statement also included reference to the  
increase in hate-based crime across Canada,

## Reasons for Sentence

including more Muslims having been killed in targeted hate attacks than any other G-7 country because of Islamophobia.

5 The statement concludes, "Hate-motivated violence impacts individual victims and their communities and erodes the foundation of Canada's identity."; "The freedom to express one's religious views without fear is foundational to our democratic society."

10 The attack had a dramatic and negative impact on those who were present, their families and friends, and the large Muslim community across Canada, negatively affecting their feelings of safety, belonging and security.

15 Imam Ibrahim Hindy of the *Dar Al-Tawheed Islamic Centre* said that so many congregants were deeply shaken by the offences. There were no words to describe the feeling of violation, loss of safety, of despair the community felt that day and to this date.

20 He noted the damage to the Mosque of the pepper spray spreading throughout the ducts, and to occupants of the building including school children. He notes the repair costs were \$25,000.

25 That the attack was shortly before the month of *Ramadan* caused many congregants to fear

## Reasons for Sentence

5 attending the Mosque. The level of fear caused many to stay home. Parents and staff of the elementary school were extremely scared to continue sending their children to school and work. They had to hire extra security. Students needed counselling and the Mosque brought in mental health organizations to help support their efforts. He concluded the community was severely impacted.

10 Noorani Sairally was one of the congregants at the Mosque when the attack occurred. The offences have dramatically altered his life, initially resulting in him going on short-term disability at a reduced income. He sought therapy. His peace was disrupted during prayers as he was constantly on guard, jumpy and easily startled. He obtained some relief when security padlocks were installed.

15 The mother of a 15-year old boy who was at the Mosque wrote of the impact on her son. He came home panicky, shaking and scared. His heart was beating very fast. He was emotionally and mentally harmed by the attack as he constantly talked about it. He has yet to receive proper treatment or diagnosis despite his parents' efforts. The experience has been stressful, draining and embarrassing. The attack has changed their lives. The mother stopped working to focus on her son's rehabilitation. Still every time he enters the Mosque, he lives in

fear.

In dealing with the Imam, I neglected to indicate it was incredibly painful to him not to be able to provide assistance since he was out of the country.

**The Offender**

Mohammad Moiz Omar is 26 years old and was 23 at the time. He lives with his parents who were in Pakistan at the time of the attack.

Omar Razak, the offender's father, wrote his son had a tough childhood, being severely bullied because of his unique physique, short stature and lazy eye. He was often ridiculed and made fun of, resulting in his low self-esteem, stress and frustration. When the family moved back to Pakistan, his depression worsened as he was more severely bullied.

The offence was a complete shock to his parents. They are deeply ashamed of his actions. His father has had many discussions with his son and feels he understands the gravity of his actions and the pain he caused everyone. He wishes nothing more than to make sincere amends. He has expressed a firm resolve to fix his underlying personal issues that led to his offending.

5 He has already enrolled in Yorktown Family Services, Estimated Time of Arrival program where counsellors work to de-radicalize people against violence. There is a letter from Yorktown Family Services confirming their involvement, including conducting intake and what would occur when the offender is in the community. He has agreed to engage with workers periodically while in custody.

10 There is also a very detailed psychiatric assessment conducted by Dr. Hy Bloom, an experienced and well-regarded forensic psychiatrist. He notes that the attack on those at the Mosque was intended to be considerably more egregious than turned out to be the case. The doctor notes his ineptness likely inured to the benefit of his intended victims. He notes Mr. Omar has had a markedly marginal life in relative isolation, and has thus far underperformed and failed to meet personal and family expectations in multiple domains.

25 Mr. Omar presented as unusually cooperative and candid during the assessment. He admits the offences and has provided both the authorities and the doctor with an explanation for the conduct that centers around longstanding misgivings he has reportedly had about (seemingly mainstream/conservative/fundamentalist) Islam.

30

5  
10  
15  
The idea that his religion is as worthy of condemnation, if not contempt, as Mr. Omar has evidently come to believe over time, was seemingly implanted, his parents suggested, when Mr. Omar started to internalize the most negative views about how Islam was portrayed in the media when he was barely into adolescence. He became fixated on following media reports and Internet stories with a bearing on that subject matter, and started to fantasize about committing actual harm against seemingly high value symbolic targets of his religion of origin, culminating in the behaviours in question when his physical capacity became realized just shortly prior to the offences in question. The doctor references "vehicular" there.

20  
25  
As regards the level and depth of his remorse, it was hard to gauge in any event, given his neurodevelopmental limitations. His capacity to experience and express remorse and empathy for others is likely hypotrophic compared to normals, as a result of his neurodevelopmental disorder (ASD — Autism Spectrum Disorder).

30  
Mr. Omar, the doctor wrote, is not able to provide assurances that he has distanced himself from the thinking that led to the events. If he is to be taken at his word, he expected to be killed by police in the course of or immediately after the events, and still harbours the idea of

ending his life through suicide at some point in the future.

**Diagnostic and Psychodynamic Formulation**

5  
The doctor looked at diagnostic and psychodynamic formulation noting Mr. Omar appears to come by his difficulties honestly to a degree. He suffered from some neurodevelopmental insult at or soon after birth and contended with complications thereafter that would essentially dog him over the course of his life.

10  
15  
The doctor looked at the medical records. They attest to the longstanding difficulties and include references to him contending with foetal distress and other medical problems soon after birth. The doctor notes repeated observations throughout, including one by a psychologist who conducted an assessment in 2014 identifying his limitations and capacity for social and interpersonal achievement.

20  
25  
30  
Mr. Omar presents as a naïve and psychologically and emotionally unworldly and unsophisticated individual with limited self-awareness. Dr. Bloom noted the offender's traits and habits, including that of smiling amongst other things at inappropriate times and concluded: "The above description of symptoms and phenomena strongly suggest a diagnosis of Autism Spectrum

Disorder, mild, without accompanying intellectual impairment, associated with a presumptive prenatal/intranatal neurodevelopmental problem."

The doctor concluded that as regards the motivation, he suspected there was more than one motivational force likely at play, as is commonly the case in situations involving violence.

From a psychiatric perspective motivation is intimately more complex and subsumes unconscious factors, i.e., factors not within the individual's conscious awareness. The doctor strongly suspects Mr. Omar's declared animosity towards Muslims reflects self-hatred/self-loathing that he has projected onto his culture/religion based on his failure to fit in.

Dr. Wright, who performed testing as well, and Dr. Bloom agreed in their conclusion that, "Mr. Omar appears to be suffering from longstanding difficulties in keeping with Autism Spectrum Disorder, including a preoccupation with world news from childhood, poor social judgment and social skills, very limited prosody in speech, social disconnection."

During periods of distress, these individuals can experience extreme emotional outbursts, psychotic episodes and exacerbation of existing



poor social judgment.

**Risk Assessment**

5  
10  
With respect to the risk assessment, the doctor concluded Mr. Omar's risk for the same or similar behaviours in the future is a vexing issue and a difficult one about which to make cogent comments/predictions. Standard risk assessment tools are of little to no assistance in his case, as they were never conceived of for behaviour committed in the context of the herein conduct and its apparent motivations.

15  
20  
The doctors found that Autism Spectrum Disorder is now being posited for the first time in this case. He has never had any intervention bearing this diagnostic consideration in mind, and hence, Mr. Omar has been and continues to be untreated and unmanaged for his particular and challenging mental health problems.

**Recommendations**

25  
The doctor provided a series of recommendations with respect to the future course for Mr. Omar. They are outlined in the psychiatric report.

**The Factors in Aggravation**

30  
In any sentencing there are factors in aggravation as well as those in mitigation.

I will deal first with those in aggravation.

1. The offence was motivated by bias, prejudice and hate based on religion, a statutory aggravating factor, section 718.2(a)(i).
2. The offences were planned and deliberated upon. It was not a spur of the moment incident.
3. The offences were terrorist activities.
4. While in his allocution Mr. Omar expressed remorse and the willingness to address his issues, there remain concerns from the report as to whether or not he has relinquished his ideological views.
5. In the section that I just referred to a few moments ago, there remains risk concerns with respect to his risk going forward.
6. Further, that the attack occurred in a place of worship is aggravating. Pursuant to section 2(1) of the *Charter of Rights and Freedoms* everyone has the fundamental freedom of conscience and religion. In their community impact statement the Nation Council of Canadian Muslims wrote that Mosques are places of peace and worship.

Mosques are where members of the Muslim community come together and practice their faith, as is their right.

- 5
7. The congregants were vulnerable victims with their backs to him when he entered.

**The Factors in Mitigation**

10  
There are also factors in mitigation.

- 15
1. The offender pled guilty. While it is an important mitigating factor, it is wrong to impose the same mitigation for every guilty plea. (*R. v. Daya* 1007 ONCA 693). The significance varies. In this case, from conducting the pretrial conferences in the Superior Court, counsels' position was very clear from the outset — this case was going to resolve. There was no preliminary inquiry so the witnesses and in particular, the congregants, did not have to testify and relive the events of that date. I agree with Mr. Robichaud's submission that a trial may very well have had to have been held in a different jurisdiction as a result of a change of venue.

20

25

30

The plea brings finality to the conviction stage of the proceedings, and also in terms of the joint submission on sentence. When

5 there are convictions after a trial,  
appeals will often follow. On occasion the  
Court of Appeal orders new trials because  
of errors at the first trial, changes in  
the law, or new evidence. Had that  
occurred, everyone could have been back in  
this courthouse two, three or four years  
from now for a second trial.

10 2. That the plea was entered during the  
pandemic, when courts are facing  
significant challenges having cases tried  
within the *Charter* mandated period adds  
significance to the plea.

15 3. Finally, at any time it is important that  
accused persons who can enter valid guilty  
pleas understand they will receive a  
meaningful reduction from the sentence that  
would have been imposed after trial.

20 4. He is a young man; a first offender.

25 5. He has support in the community from his  
family.

6. He has taken some steps to address the  
significant issues he faces.

30 7. He is willing to continue those efforts  
from what he has said.

8. He apologized for his conduct.
9. His pretrial custody has been during the pandemic when jail conditions have been more restrictive and punitive than before. As the Court of Appeal concluded in *R. v. Marshall*, everyone benefits when counsel have agreed upon the credit, as counsel have done in this case. To the date of the submissions, .5 days credit for additional 244 days.

**Summers Pretrial Custody Credit**

Mr. Omar has been in custody since his arrest, at Maplehurst, 449 days; 16 months and 7 days. That time is credited at 1.5 per day for each day because parole does not apply, there are fewer programs in holding jails, and they are often overcrowded. He will be credited with 741 days; 24 months, 11 days.

There is no mathematical formula for determining what constitutes a just and appropriate sentence. The Supreme Court has commented that sentencing is "a delicate art which attempts to balance carefully the societal goals of sentencing against the moral blameworthiness of the offender and the circumstances of the offence, while at all times taking into account the needs and current condition of and in the community." (*M. (C.A.)*, [1996], 1 S.C.R. 500 at para.91)

**The Purposes and Principles of Sentencing**

5  
The fundamental and cardinal principle of sentencing is proportionality: *Criminal Code*, s. 718.1, *R. v. Bissonette* [2022] SCC 23.

10  
The sentence "must be severe enough to denounce the offence but must not exceed what is just and appropriate, given the moral blameworthiness of the offender and the gravity of the offence". (*R. v. Nasogaluak* 2010 SCC 6, [2010] S.C.R. 206, at para.42; see also *R. v. Ipeelee*, 2012 SCC 13, [2012] 1 S.C.R. 433, at para. 37). The application of the principle assures the public that the offender deserves the punishment received. (Re. *B.C. Motor Vehicle Act*, [1985] 2 S.C.R. 486, at p. 533, per Wilson J., concurring; *R. v. Bissonette*, 2022 SCC 23.)

15  
20  
In our criminal justice system, a just sanction is one that reflects both perspectives on proportionality and does not elevate one at the expense of the other. (*R. v. Ipeelee*, [2012] 1 S.C.R. 433, at para. 37)

25  
The offences are most serious for the reasons I have outlined earlier.

30  
With respect to the offender's moral culpability, another tool to assist judges is individualization. *R. v. A.J.K.* 2022 ONCA 487 at para. 82, "Individualization is central to

5 the proportionality assessment. Whereas the gravity of a particular offence may be relatively constant, each offence is committed in unique circumstances by an offender with a unique profile."

10 The question is always whether the sentence reflects the gravity of the offence, the offender's degree of responsibility and the unique circumstances of the case. (*Parranto*, 2021 SCC 46 at para. 58)

15 While considering Dr. Bloom's comments and assessments, when I look at the motivation and all the circumstances here, the offender's moral culpability remains high.

20 The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives set out in section 718 of the *Criminal Code*. The relative importance of each of those objectives varies. (*R. v. Lyons*, [1987] 2 S.C.R. 309, at p. 329)

30 Parliament has provided the following objectives in sentencing, in section 718.1:

1. Denunciation: to denounce unlawful conduct

5  
10  
15  
20  
25  
30

and the harm done to victims or to the community that is caused by the unlawful conduct. "The penological objective of denunciation requires that a sentence express society's condemnation of the offence that was committed. The sentence is the means by which society communicates its moral values." (*R. v. M. (C.A.)*, [1996] 1 S.C.R. 500, at para. 81). This objective must be weighed carefully, as it could, on its own, be used to justify sentences of unlimited severity. (*C.C. Ruby, Sentencing (10th ed. 2020)*, at ss 1.22), *Bissonette*, at para. 6)

2. Deterrence: to deter other persons from committing offences — general deterrence is intended to discourage members of the public who might be tempted to engage in the criminal activity for which the offender has been convicted. (*R. v. B.W.P.* 2006 SCC 27, [2006] S.C.R. 941, at para. 2). When this objective is being pursued, the offender can be punished more harshly in order to send a message to the public or, in other words, to serve as an example. It is an objective that must be weighed, but the effectiveness of which has been questioned.

The Supreme Court refers to these legitimate reservations but notes) "the



fact remains that the certainty of punishment, together with the entire range of criminal sanctions does produce a certain deterrent effect, albeit one that is difficult to evaluate". (*Ruby*, at ss 1.31; *Canadian Sentencing Commission, Sentencing Reform: A Canadian Approach (1987)* at pp. 136-38); *Bissonette*).

However, a person cannot be made to suffer a grossly disproportionate punishment simply to send a message to discourage others. (*R. v. Nur* [2015] 1 S.C.R. 773)

3. The second form of deterrence is specific deterrence, "meant to discourage the offender before the Court from reoffending. (*Bissonette*)

4. Separation: to separate offenders from society where it is necessary to do so. All counsel agree that applies here.

5. Rehabilitation: to assist in rehabilitating offenders, designed to reform offenders with a view to their reintegration into society so that they can become law-abiding citizens. The objective presupposes offenders are capable of gaining control over their lives and improving themselves, which ultimately leads to a better protection of society. While it has less significance in many

cases, the Supreme Court has recently held that it is a factor to consider in all cases: *R. v. Bissonnette*, 2022 SCC 23.

5  
6. Reparation: to provide reparation for harm done to victims or to the community; and finally,

10  
7. To promote a sense of responsibility in offenders, an acknowledgement of the harm done to victims or to the community.

15  
Restraint is a further principle, section 718. Prison is the sanction of last resort. When being considered, the term should be the least intrusive and the least quantum which will achieve the overall purpose of an appropriate and just sanction. (*R. v. Hamilton and Mason* (2004) 70 O.R. (3d), 1 (C.A.) at para. 96.). However, like all principles of sentencing, restraint operates in conjunction with other principles that often pull in different directions.

25  
Parliament has directed that similar offenders who commit similar offences in similar circumstances should receive a similar sentence — the parity principle, section 718.

30  
The comments from the former Chief Justice many years ago apply to this case. (*R. v. M.* (C.A.) [1996] 1 (S.C.R.) 500):

5  
10  
15  
92. ...It has been repeatedly stressed that there is no such thing as a uniform sentence for a particular crime. Sentencing is an inherently individualized process, and the search for a single appropriate sentence for a similar offender and a similar crime will frequently be a fruitless exercise of academic abstraction. As well, sentences for a particular offence should be expected to vary to some degree across various communities and regions in this country, as the "just and appropriate" mix of accepted sentencing goals will depend on the needs and current conditions of and in the particular community where the crime occurred...

20  
I have considered the cases that have been filed and relied upon. By way of brief summary, the very dated case of *R. v. Ingram and Grimsdale* (1977), 35 C.C.C. (2d) 376 (Ont.C.A.) where the Court of Appeal examined offences committed out of bias with respect to certain groups.

25  
30  
The comments in *Dughmosh*, 2019 ONSC 2036, "deterrence of the offender and deterrence of like-minded individuals as well as denunciation of the conduct are paramount objectives in sentencing an offender for terrorism offences because of the seriousness of the offence".

In *R. v. Hersi*, 2019 ONCA 94, the Court of Appeal noted "lengthy prison sentences have to be imposed for terrorist crimes".

Further, in *R. v. Gholamrezazdehshirazi*, 2997 ABPC 198, "this type of violence, and especially violence motivated by racial and religious violence cannot be tolerated, it must be strongly denounced".

In *R. v. Lelas*, [1990] O.J. No. 1587 (C.A.) in the Court of Appeal, "the message must go out loud and clear that conduct such as that engaged in by the respondents will not be tolerated by Canadian society".

And further, the comments in *Khalid* with respect to the nature of these offences are important to keep in mind.

Finally, this is a joint submission. In *R. v. Anthony Cook*, [2016] 2 S.C.R. 204 the Supreme Court of Canada held:

32. ...a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest...

...

35. Guilty pleas in exchange for joint

5  
10  
submissions on sentence are a "proper and necessary part of the administration of criminal justice" (*Martin Committee Report* at p. 290). When plea resolutions are "properly conducted [they] benefit not only the accused, but also victim, witnesses, counsel, and the administration of justice generally" (*Martin Committee Report* at p. 281 (emphasis deleted)).

15  
20  
From my involvement in this case from the pretrials to the submissions, it is readily apparent that all counsel who have been involved in this case for the prosecution and for the defence fulfilled their responsibilities appropriately, in the best interests of those they represent. The case was prosecuted and defended by focussed professionals from start to finish. Dr. Bloom's assessment was an important consideration that was arranged. They are all to be commended.

25  
In all the circumstances, I find the joint position is a fit sentence for this offender, for these offences, in this community.

**The Sentence**

30  
I find a fit sentence is one of eight years. Eight years for the assault with the weapon and five years concurrent for the other offences. With the *Summers* deduction and *Duncan* credit,

the sentences from today's date are 5 years, 3 months and 15 days — 63 1/2 months.

5 On the assault with a weapon, 63 months 15 days in addition to 494 days pretrial custody for which he is credited with 741 days, and also taking into consideration 244 days for harsh jail conditions.

10 With respect to the administering a noxious substance and mischief, five years concurrent to each other; five years to the sentence imposed on assault with a weapon.

15 Pursuant to section 743.6, he must serve one-half of the sentence before being considered for parole.

**Corollary Orders**

20 There will be a DNA order.

25 ... DISCUSSIONS BETWEEN THE COURT AND COUNSEL  
RE. DISPOSITION OF PROPERTY ORDER -  
RECORDED/NOT TRANSCRIBED

THE COURT: Depending on when it arrives, I'll make sure that it is signed in due course.

30 ... DISCUSSIONS BETWEEN THE COURT AND COUNSEL  
RE. 109 ORDER - RECORDED/NOT TRANSCRIBED

5 THE COURT: Mr. Omar is prohibited from having  
in his possession any firearm, crossbow,  
restricted weapon, ammunition, explosive  
substance for 10 years; any prohibited firearm,  
restricted firearm, prohibited weapon,  
prohibited device, prohibited ammunition for  
life.

10 The other counts withdrawn, and in the  
circumstances, I do not think it was mentioned  
before, the fine surcharge.

15 ... DISCUSSIONS BETWEEN THE COURT AND COUNSEL  
RE. FINE SURCHARGE - RECORDED/NOT  
TRANSCRIBED

THE COURT: The fine surcharge is waived.

20 Again, I thank all counsel for your assistance  
in this matter.

25 ... MATTER CONCLUDED

30

30  
Certificate

FORM 3

ELECTRONIC CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

*Evidence Act*

5

I, L. M. Young, C.C.R., certify that this document is a true and  
*(Name of authorized person)*

accurate transcript of the recording of

R. v. OMAR, Mohammad Moiz

*(Name of case)*

in the Superior Court of Justice, held at

*(Name of Court)*

10

7755 Huronario St., BRAMPTON, Ontario taken from Recording No.

*(Court address)*

3111-214-20230725-085933-30-DURNOB.dcr,

which has/have been certified in Form 1.



15

AUGUST 11, 2023

*(Date)*

*(Electronic signature of authorized person)*

3904257178

*(Authorized court transcriptionist's  
Identification number - if applicable)*

20

Ontario, Canada  
*(Province of signing)*

25

*A certificate in Form 3 is admissible in evidence and is proof, in the absence of  
evidence to the contrary, that the transcript is a transcript of the certified  
recording of evidence and proceedings in the proceeding that is identified in the  
certificate.*

30

Form 3 - Certificate of Transcript - September 1, 2022