

Case Name:

R. v. Rahim

Between

**Her Majesty the Queen, and
Karim Ahmad Rahim, accused**

[2006] A.J. No. 559

Nos. 050826783-P1; 050931666-P1; 051122745-P1;

051316271-P1

Alberta Provincial Court
Calgary, Alberta

Maloney Prov. Ct. J.

Oral Judgment: February 3, 2006.

(269 paras.)

Sentencing -- Offences against the administration of law and justice -- Escapes and rescues -- Failure to attend court -- Offences against person and reputation -- Assaults -- Assault -- Wilful and forbidden acts in respect of certain property -- Cruelty to animals -- Particular sanctions -- Imprisonment -- Concurrent sentences -- Probation -- Conditions -- Prohibition orders -- Firearms -- Miscellaneous sanctions -- Sentencing considerations -- Time already served -- Protection of the public -- Submissions -- Submissions by Crown -- Submissions by accused and counsel for accused -- Criminal record -- Lengthy -- Related -- Guilty plea -- Offence committed while accused on interim judicial release or probation -- Health (incl. mental health) -- Family background -- Sentencing of the accused who pled guilty to cruelty to animals, failure to appear, and assault -- The accused suffered from schizo affective disorder and had a prior criminal record -- He had no support system in the Calgary area and was single -- The accused was sentenced to one day imprisonment for each of the three charges, to be served concurrently, with no warrant of committal, and two years' probation -- Criminal Code, s. 446(5).

Sentencing of the accused who pled guilty to cruelty to animals, failure to appear, and assault -- The accused suffered from schizo affective disorder -- The accused was caught on videotape kicking a duck, which sent it flying against a brick wall, then stepping on it to stop the duck's suffering -- He failed to appear with respect to the cruelty to animals charge -- In a separate incident, the accused pushed another patient of the mental hospital, causing her to fall backwards -- The victim struck the back of her head on the floor but sustained no lasting injuries -- The accused had a criminal record, was on probation at the time of the assault, and had failed to comply with other Court directions -- He had served three months' pre-trial custody -- He had no support system in the Calgary area and was single -- HELD: The accused was sentenced to one day imprisonment, with no warrant of committal for assault; one day imprisonment,

concurrent, with no warrant of committal for cruelty to animals; one day imprisonment, concurrent, with no warrant of committal for failure to attend; two years' probation, including a term requiring him to take his medication; two year firearms prohibition; and two year pets prohibition -- A period of probation with strict conditions was necessary to ensure the protection of the community.

Statutes, Regulations and Rules Cited:

Criminal Code, s. 446, s. 446(5), s. 465

Counsel:

G. Haight, Esq. For the Crown

N. Eshleman, Esq. For the Accused

MAHONEY PROV. CT. J. (orally):--

- 1 MR. ESHLEMAN: Your Honour, I have instructions to enter guilty pleas this morning in respect of Mr. Karim to three counts on the docket.
- 2 THE COURT: Yes.
- 3 MR. ESHLEMAN: That would be the docket ending 783 relating --
- 4 THE COURT: Is that a summary matter, just to assist me?
- 5 MR. HAIGHT: Yes, sir.
- 6 THE COURT: It is not a charge that we often see.
- 7 MR. HAIGHT: Straight summary, sir.
- 8 THE COURT: Thank you.
- 9 THE COURT CLERK: Yes, it is.
- 10 THE COURT: You have canvassed the relevant provisions of the Criminal Code with your client?
- 11 MR. ESHLEMAN: Yes, I have, Your Honour.
- 12 THE COURT: Thank you. So, guilty plea on that one.
- 13 MR. ESHLEMAN: As well in respect of the assault charge, 745, and -- and a -- a fail -- one fail to appear charge, the docket ending 271 relating to November 8th. I understand my friend will make application in respect of the remaining fail to appear charge.
- 14 MR. HAIGHT: Yes, sir.
- 15 THE COURT: Thank you, you may be seated, Mr. Karim.

16 THE ACCUSED: Thank you, sir.

17 MR. HAIGHT: Sir, if I might deal with the cruelty to animals --

18 THE COURT: Yes.

19 MR. HAIGHT: -- charge first. This happened on July 9, 2005, at approximately nine in the morning. The accused was sitting on the ground next to the main entrance of the Drop In Centre located on Riverfront Avenue S.E. here in the City of Calgary. A -- he was watching a duck, a wild duck, walk around in front of him for about three minutes. The accused, who was, as I say, sitting, stood up abruptly and kicked the duck sending it flying against the brick wall. The duck flapped around a little bit, obviously injured and -- and suffering and the accused after that went over and stepped on it, killing it. This was captured on surveillance video, sir, and the accused was identified by staff members at the Drop In Centre. The accused gave a statement to the police afterwards saying that he didn't because it was funny, although in fairness, he also made some remarks about the incident which made it clear that the accused was suffering from some mental problems. Is that admitted?

20 MR. ESHLEMAN: Those facts are admitted.

21 THE COURT: Thank you, I will accept the plea.

22 MR. HAIGHT: Next, sir, if I might deal with the next substantive offence --

23 THE COURT: Yes.

24 MR. HAIGHT: -- the assault.

25 THE COURT: September 24, 2005.

26 MR. HAIGHT: Yes, sir.

27 THE COURT: Sir, this happened on that date at 10:45 in the morning at the Peter Lougheed Centre here in the City of Calgary. The accused -- well, I understand it sounds like he was a patient at that hospital. Excuse me, was walking through the unit that he was on when he was approached by the victim, Janice Hornby, who I'm assuming was another patient in the hospital. She bent down to the accused' feet and told him that it looked like he was going to fall because his shoes were in poor condition and his pants were dragging -- excuse me -- on the floor. The accused then stood up and pushed Ms. Hornby into her chest area with two open palms causing Ms. Hornby to fall backwards, at which time she struck the floor with the back of her head. She suffered pain as a result, but no lasting injuries. Those are the circumstances there, sir.

28 MR. ESHLEMAN: Those facts are also admitted, Your Honour.

29 THE COURT: Thank you, I will accept that plea.

30 MR. HAIGHT: Finally, sir, with respect to the failure to appear on November 8th, that relates to the cruelty to animals charge the accused was to appear in courtroom 102 to answer that charge. It was a docket appearance, obviously he failed to appear.

31 THE COURT: Also admitted?

32 MR. ESHLEMAN: Yes, it is.

33 THE COURT: Thank you, I accept that plea. The remaining count is to be withdrawn?

34 MR. HAIGHT: Yes, please, sir.

35 THE COURT: It is.

36 MR. HAIGHT: Sir, the Crown is --

37 THE COURT: Prior record?

38 MR. HAIGHT: -- is alleging a record, yes. Sorry, sir, if I might have a moment.

39 THE COURT: Yes.

40 MR. HAIGHT: Sir, before I pass up the record, I'm crossing out an entry that my friend is not prepared to admit and the Crown is not --

41 THE COURT: Takes no issue with that?

42 MR. HAIGHT: -- is not prepared to prove it, in any event.

43 THE COURT: The record as -- with the deletion is admitted.

44 MR. ESHLEMAN: Thank you.

45 MR. HAIGHT: Sir, in addition to those convictions, sir, the Crown alleges the following convictions from the most recent back.

46 THE COURT: The record will be Exhibit 1, madam clerk. *EXHIBIT 1 - Criminal record

47 THE COURT: Additions?

48 MR. HAIGHT: For -- yes, sir. June 27, 2005, assault, one day; June 17, 2005, assault 30 days.

49 THE ACCUSED: No, I have one assault charge against Janice. I don't have any other assault charges.

50 THE COURT: Continue.

51 MR. HAIGHT: Perhaps I'll wait.

52 THE COURT: Just -- yes. Mr. Karim --

53 THE ACCUSED: Yes, sir.

54 THE COURT: -- just listen and then we -- you will have a chance with Mr. Eshleman. The Crown is just alleging these are additional char -- convictions on your record, so listen carefully.

55 MR. HAIGHT: So, I'll -- I'll just reiterate so that the accused --

56 THE COURT: We have got June --

57 MR. HAIGHT: -- might --

58 THE COURT: -- June, an assault, one day >05; June 17th, another assault, 30 days --

59 MR. HAIGHT: -- yes, sir.

60 THE COURT: -- >05.

61 THE ACCUSED: But, Your Honour, maybe --

62 THE COURT: Just -- just listen --

63 THE ACCUSED: -- it's the principle.

64 THE COURT: -- just listen -- listen for the time being. You are not -- your -- I -- you have not been asked to admit these yet, but I need to hear what they are.

65 THE ACCUSED: Oh -- oh, okay.

66 MR. HAIGHT: What I'll do, sir, is hand the tracking sheet to my friend to assist my friend.

67 THE COURT: Yes.

68 MR. HAIGHT: September 30, 2004, theft, one day with 18 months probation.

69 THE COURT: That is theft under?

70 MR. HAIGHT: A theft under, yes. September 30, 2004, so same date, assault, one day with 18 months probation. And also on that date, September 30, 2004, possession of a concealed weapon, one day, 18 months probation. And I'll give this to my friend so that it assists him in speaking to his client.

71 MR. ESHLEMAN: We'll admit that record, Your Honour.

72 THE COURT: It is admitted?

73 MR. ESHLEMAN: Yes.

74 THE COURT: Thank you.

75 THE ACCUSED: Yeah, I'm sorry, Your Honour, I --

76 THE COURT: That is fine. No, that is fine. It is important that you listen and speak up.

77 THE ACCUSED: Yeah.

78 MR. HAIGHT: Thank you, sir. Sir, the Crown's main concern here relates to the mental health of the accused.

79 THE COURT: Yes.

80 MR. HAIGHT: Clear -- clearly, the killing of the wildlife was -- appears to have been related to some mental health issues that the accused was experiencing. I do have on my file a report which was prepared by Dr. --

81 THE COURT: You may be seated, Mr. Karim, if you wish.

82 THE ACCUSED: Pardon me?

83 THE COURT: You can be seated, if you wish.

84 THE ACCUSED: Okay.

85 MR. HAIGHT: -- by Dr. Metelitsa for the purposes of fitness issues, sir, but certainly the accused was assessed

while at the Forensic Unit and it appears that he has an extensive psychiatric history --

86 THE COURT: Yes.

87 MR. HAIGHT: -- and apparently has -- is suffering from a mental condition known as a schizo affective disorder.

88 THE COURT: Yes.

89 MR. HAIGHT: The accused has been in custody on these matters since, I understand, November 28th or perhaps the day previous to that. In any event, that's when he was --

90 THE COURT: Novem -- November 28th?

91 MR. HAIGHT: -- yes, that's when he was ordered detained, sir. He also prior that and I'll let my friend give you the details, but also was detained for a period of time for the purposes of the fitness assessment.

92 THE COURT: Yes.

93 MR. HAIGHT: That was in September.

94 THE COURT: Yes, of course.

95 MR. HAIGHT: So -- excuse me -- the Crown is not seeking further time, although both incidents were rather gratuitous assaults on an individual and -- and a duck in each case. The Crown is most concerned that the accused be given proper supervision in the community. I am seeking, sir, a period of probation. I think it should be for at least two years, sir, given the accused' record. I note that there are a number of entries for violence. Both of these have violence features. So, I'm asking for a two year probation period with conditions that the accused attend FAOS as directed. There was note in the forensic report -- if my friend doesn't have any difficulty, nor do I, if Your Honour wishes to look at that report, but it is noted in the report that he has some issues with taking his prescribed medications. I would ask that there be a condition of probation that he take all prescribed medications. In addition, sir, I understand that the accused doesn't have any animals, but as a precaution I am seeking an order under 446(5) prohibiting the accused from owning any animal for a period of two years. And that's from owning or having custody or control of any animal. And that's under --

96 THE COURT: That is --

97 MR. HAIGHT: -- Section 446 --

98 THE COURT: -- Section 446(5)?

99 MR. HAIGHT: -- yes, sir. And sir, I think that certainly it should be noted that the accused has served a number of days in custody. If Your Honour is prepared accede to my submission, thank you.

100 THE COURT: Mr. Eshleman. First of all, did the accused take any issue with his -- his mental illness? Obviously he has been suffering from, it would appear, some form of schizophrenia for a number of years and this is a common situation before these courts. Regrettably, it is a social issue. Unfortunately, the people with those afflictions get into conflict with criminal law and that is --

101 MR. ESHLEMAN: Mr. --

102 THE COURT: -- filters down to these courts.

103 MR. ESHLEMAN: -- yes. Mr. Karim has indicated that he has been seeing a doctor with some regularity. Which doctor is that?

104 THE ACCUSED: Xie -- Dr. Xie.

105 THE COURT: Dr. Xie at -- at --

106 THE ACCUSED: Peter -- Peter Lougheed.

107 THE COURT: -- at the Peter Lougheed, yes.

108 MR. ESHLEMAN: And -- and while in custody he has mentioned to me his concern for taking his medication and that's one of the worries that -- that he has had while in custody that his medication will run out in the -- in the near future, if it hasn't already.

109 THE ACCUSED: Yeah, the -- I asked and they told me we gonna put -- supply three days for you -- for you when you go on these -- for me, they gonna do that.

110 MR. ESHLEMAN: Okay.

111 THE ACCUSED: But, Your Honour, I -- I wanted to say one thing, Mr. Eshleman. The objection to the medication, I have to take it. Like there's no question, I take my medication.

112 MR. ESHLEMAN: All right.

113 THE ACCUSED: Because if I don't take it, I don't sleep.

114 MR. ESHLEMAN: I can tell you, Your Honour, that Mr. Karim is single. He's never been in a -- any lengthy relationship. He has been in Canada for a lengthy period of time, since 1988. He has not in that time worked and I can tell you that those circumstances have come about as a result, as the court has noted --

115 THE COURT: How -- how does he support himself? Is he on AISH here in this province? I see there is --

116 MR. ESHLEMAN: -- that's -- he -- he indicates that --

117 THE COURT: -- in Saskatchewan for a period of time.

118 MR. ESHLEMAN: -- that he's on a --

119 THE ACCUSED: I'm not on AISH.

120 MR. ESHLEMAN: -- a form of government social service.

121 THE COURT: You get AISH?

122 THE ACCUSED: No, Your Honour, because my deportation, they don't give me AISH.

123 THE COURT: Right.

124 MR. ESHLEMAN: What I can --

125 THE COURT: So, it is some kind of public assistance, in any event?

126 THE ACCUSED: They give me benefit.

127 THE COURT: Yes.

128 MR. ESHLEMAN: -- what I -- what I am prepared to say on his behalf is that -- that he is entering a -- a guilty

plea in respect of his matter, that he did surrender himself to the police following the matter going to warrant. In respect of the assault, it has been noted and I'd stress that -- that there was no injury that occurred as a result of this push. Granted, he has a -- a poor record in respect --

129 THE COURT: He has got a history of that and that --

130 MR. ESHLEMAN: -- yes.

131 THE COURT: -- again is a fairly common feature of people who suffer from these mental illnesses. He was on probation at the time of these offences, which is a little bit troubling. He does not appear to have a history of failing to comply with probation, but there are failings to comply with other court directions.

132 MR. ESHLEMAN: There is --

133 THE COURT: The Crown -- Crown is seeking a suspended sentence. Do you disagree with that?

134 MR. ESHLEMAN: -- certainly, we're in --

135 THE COURT: I mean, that is only reasonable in the circumstances.

136 MR. ESHLEMAN: -- yes, we're certainly in agreement as to -- as to that the time served is -- is an adequate penalty in this case and --

137 THE COURT: What -- what is the time served?

138 MR. ESHLEMAN: -- there -- I understand that --

139 THE COURT: The Crown's indicated he was detained on November 28th, so that makes it a couple of months --

140 MR. ESHLEMAN: -- that's correct.

141 THE COURT: -- since he's been detained, but there presumably is some prior period of time as well?

142 MR. ESHLEMAN: What we have is the -- the FA -- the FAOS was a month period from September 26th to October 24th --

143 THE COURT: So, since --

144 MR. ESHLEMAN: -- followed by --

145 THE COURT: -- since the September 26th offence, he's been effectively in custody?

146 MR. ESHLEMAN: -- but then there was -- he was released on bail following his FAOS. However, he was picked up again when -- after his matter went to warrant on November 28th and so he's been in custody since November 28th --

147 THE COURT: Yes.

148 MR. ESHLEMAN: -- another period of approximately two months. So, all --

149 THE COURT: Yes, so about --

150 MR. ESHLEMAN: -- all tolled --

151 THE COURT: -- three months.

152 MR. ESHLEMAN: -- we have the equivalent of -- if the two for one is applied, six months.

153 THE COURT: Yes, three months of actual incarceration.

154 MR. ESHLEMAN: That's correct. In -- certainly, in respect to the length of time of the suspended sentence, my only concern is that with people in respect of Mr. Karim's medical condition, they sometimes have a tendency not to be as well organized and -- and sometimes that -- there's a concern that -- that we may be setting him up for a breach in certain respects.

155 THE COURT: Well, at some point -- at some point, the community and the public need some protection and one of those is going to be Mr. Karim taking his medication.

156 THE ACCUSED: Your Honour, taking my medication there's --

157 THE COURT: Just -- just --

158 THE ACCUSED: -- no doubt about it.

159 THE COURT: -- you know, and I -- I think the Crown is being abundantly fair in suggesting two years. I mean, he has been on probation for three years in the past and it seems to have been successful and I will assume that his mental difficulties have been an affliction throughout most of his adult life and he has been reasonably successful while on probation, it would appear, in the past other than till this last set of incident --

160 MR. ESHLEMAN: Now, I understand also --

161 THE COURT: -- incidents.

162 MR. ESHLEMAN: -- that Mr. Karim has relatives residing outside of the country.

163 THE COURT: Does he have any support in the Calgary area?

164 THE ACCUSED: No, Your Honour, I have one brother. He's coming from Sweden to visit me.

165 THE COURT: But -- but here in Calgary --

166 THE ACCUSED: I don't have --

167 THE COURT: -- you do not have any family?

168 THE ACCUSED: -- I -- I think my grandma and my grandpa live in Calgary, but I don't know. Me, I have a mother in Saskatchewan, Your Honour.

169 MR. ESHLEMAN: Now, he's also brought up a number of immigration issues that may be concerned, so my only request then would be to ask that -- that the probation be drafted to accommodate any circumstances that might arise as a -- according to his immigration status here.

170 THE COURT: Be -- be specific.

171 MR. ESHLEMAN: Well, my concern is that there -- I understand from Mr. Karim that there may be some deportation movement.

172 THE COURT: That -- that would have occurred a long time ago for this individual, but that is not something that I can deal with in probation. That is a matter for immigration.

173 MR. ESHLEMAN: As well --

174 THE COURT: I mean, the record that is not admitted would appear to be two years in -- in custody with probation to follow. If anything was going to happen regarding probation -- or immigration, you would have thought it might happen at that time. But that is not the admitted record, but if there is some specific suggestion that you wish to make, I will certainly consider it, but --

175 MR. ESHLEMAN: -- I'm certain and this comes about with some regularity where -- where sometimes a probation order or a parole order may be interrupted on account of immigration concerns where -- where --

176 THE COURT: But --

177 MR. ESHLEMAN: -- where someone -- if -- if something does arise in that way --

178 THE COURT: -- well, to assist me, what specifically are you suggesting that I might put in a probation order that would be appropriate?

179 MR. ESHLEMAN: I -- is it the case that all probation orders will be subject to immigration -- immigration considerations?

180 THE COURT: He -- he is subject --

181 MR. HAIGHT: Well, for practical purposes it certainly would.

182 THE COURT: -- if his status in this country is a landed immigrant, he's subject to whatever means --

183 MR. ESHLEMAN: Yes.

184 THE COURT: -- and requirements there are with respect to immigration legislation and his obligations in that regard and their -- their rights of enforcement of things. I do not --

185 MR. ESHLEMAN: So -- so long as -- as he's not held culpable for interruptions in his probation, then I suppose perhaps it's -- it --

186 THE COURT: Well, he will be if he breaches it.

187 MR. ESHLEMAN: -- to the extent that it's interrupted on account --

188 THE COURT: But that --

189 MR. ESHLEMAN: -- of immigration procedures.

190 MR. HAIGHT: Well, if -- if he's ordered --

191 THE COURT: Well --

192 MR. HAIGHT: -- deported, I do not know --

193 THE COURT: -- I --

194 MR. HAIGHT: -- that we're going to lay a breach.

195 THE COURT: -- I mean, that is obvious. I -- I suspect that is not the case here. He may be under that impression that it is there, but with the history, I cannot imagine that, that suddenly becomes a problem.

196 MR. ESHLEMAN: Subject to any further questions, those are our submissions, Your Honour.

197 MR. HAIGHT: Sir, just before you make your ruling, I'm wondering, sir, if I could make it clear what my submission is.

198 THE COURT: Yes.

199 MR. HAIGHT: My submission is, rather than a suspended sentence, it's splitting hair, but I'd a -- ask that perhaps one day be credited plus probation. The accused does have a lengthy record of assault related convictions.

200 THE COURT: Oh, yes -- yes.

201 MR. HAIGHT: Thank you.

202 THE COURT: Well, the record has to reflect six months equivalent.

203 MR. HAIGHT: Yes, sir.

204 THE COURT: The Crown has -- I just need to be clear, on the assault charge, how has the Crown proceeded, summarily? Madam clerk?

205 MR. HAIGHT: Has the Crown made it's election?

206 THE COURT: Madam clerk can tell me.

207 THE COURT CLERK: That's correct, summarily.

208 THE ACCUSED: Your Honour --

209 THE COURT: It is summary, so --

210 THE ACCUSED: -- I -- can I have a talk?

211 THE COURT: Yes, you can speak.

212 THE ACCUSED: Thank you. Your Honour, I've been in custody for six months -- six months --

213 THE COURT: Your are going to be -- you are going to be released.

214 THE ACCUSED: -- thank you. Me -- I appreciate, that's all I have to say.

215 THE COURT: Yes, you are going to be released.

216 THE ACCUSED: Thank you. I've been in custody for six months. First time I did --

217 THE COURT: Three months.

218 THE ACCUSED: -- four -- no, first time I did four months. Four months I did in gaol for those. This month -- this time I did two months. This is six months I did time for --

219 THE COURT: Oh, I am --

220 THE ACCUSED: -- lock up.

221 THE COURT: -- I am -- you have spent some time in custody. Since the assault in September it's been three

months. I do not know if you spent time in custody regarding the offence regarding the duck that you killed.

222 THE ACCUSED: Yeah, I did time for the duck.

223 THE COURT: That has not been put before me. Madam clerk, can you indicate on that charge, is there some pre-sentence custody because I would like to have all of it shown on the record.

224 THE ACCUSED: Yeah, I --

225 THE COURT: That is fine. Thank you.

226 THE ACCUSED: -- thank you, sir.

227 MR. HAIGHT: I might be able to assist.

228 THE COURT: That is Information one -- pardon me, that is not what I want.

229 MR. HAIGHT: Ending in 783, sir?

230 THE COURT: Yes.

231 THE COURT CLERK: Yes, sir. A warrant was issued for the accused on November 8, 2005, and the warrant was executed on November 27, 2005.

232 MR. HAIGHT: Prior to that, sir, the accused was released, it looks like it was on -- on some form of promise to appear --

233 THE COURT: Yes, okay.

234 MR. HAIGHT: -- and on August 10th --

235 THE COURT: Well, that --

236 THE COURT CLERK: Yes.

237 THE COURT: -- yes, that is helpful.

238 MR. HAIGHT: -- he didn't appear.

239 THE COURT: It is helpful. I have got it.

240 MR. HAIGHT: Thank you.

241 THE COURT: If you would stand please, Mr. Karim.

242 THE ACCUSED: Thank you, sir.

243 THE COURT: Mr. Karim, first of all, I accept your guilty pleas on the offences to which they have been given today. Madam clerk, the record is to reflect on the assault and the Information 783, injuring or the duck, the record to reflect on each of those two offences three months of pre-sentence custody. The sentence on each of those today is one day with no warrant of committal, to be served concurrently to one another plus a period of two years on probation. I will get to the terms of that in a moment. With respect to the failure to attend court, the sentence today is one day with no warrant of committal. There will be no victim surcharges. Clearly, that would be an undo hardship on Mr. Karim.

244 With respect to the probation, the statutory terms will apply. While you are on probation, you are to keep the peace and be of good behaviour.

245 THE ACCUSED: Yeah, I do that.

246 THE COURT: You are to report to this court whenever required to do so. You are to report to probation within two business days of your release in person and thereafter as, where and when directed. During the period of this order you are not to -- oh, that four -- 465 -- do you have any pets?

247 THE ACCUSED: No, Your Honour -- no. Only I wish to -- I wish to buy those dogs, they don't grow up. They don't grow, I -- I like those little puppies, but I never had money for it.

248 THE COURT: Pursuant to Section 446(5), madam clerk, it will be a condition of probation. I do not know that it has to be -- I think it is a freestanding order, is it not?

249 MR. HAIGHT: Yes, sir, you can have a concurrent order under probation, if you prefer.

250 THE COURT: Yes -- yes. Madam clerk, it will be a freestanding order separate from probation under Section 446(5) that he is prohibited from owning or having in his custody or control an animal or bird for a period of two years from today's date. The wording is very simple out of -- out of 446(5). That will be a freestanding order that will be prepared and I will sign that in chambers. The other terms of probation will be that you will reside where approved at all times. That you will attend for any assessment, treatment or counselling to which you are directed by probation. That you will continue to see Dr. Xie --

251 THE ACCUSED: Yeah.

252 THE COURT: -- at Peter Lougheed Centre here in Calgary, Alberta, during the period of this order and I take it you consent to take your medication?

253 THE ACCUSED: I will, Your Honour.

254 THE COURT: You are to take all medications prescribed for your use --

255 THE ACCUSED: Always, I gonna.

256 THE COURT: -- by Dr. Xie -- by Dr. Xie --

257 THE ACCUSED: Yes.

258 THE COURT: -- or any other physician as directed.

259 THE ACCUSED: Yes.

260 THE COURT: I am going to direct that you abstain from owning, carrying or possessing a weapon of any kind at any time during the period of this order. You cannot have a weapon on you.

261 THE ACCUSED: I don't own weapon, Your Honour --

262 THE COURT: I -- I am making it --

263 THE ACCUSED: -- I'm not the type of person to carry a weapon.

264 THE COURT: -- well, you are not to do it and you are not to have that in your possession during the period of this order. Any other terms that the Crown might seek or Mr. Eshleman, that you might think are of assistance to this

individual?

265 MR. HAIGHT: No, thank you, sir.

266 MR. ESHLEMAN: That would seem to cover it, thank you.

267 THE COURT: Thank you. Thank you very much, Mr. Karim, you should be released later today. You are on probation for two years --

268 THE ACCUSED: Yes, Your Honour.

269 THE COURT: -- you have to comply with all of the terms.

MALONEY PROV. CT. J.

cp/e/qw/qlmmm