



The Honourable Senator Kim Pate, C.M.

News Release

Parliament Must Ensure Sentencing Judges Can Do Their Jobs

FOR IMMEDIATE RELEASE

NOVEMBER 7, 2022 (VICTORIA & OTTAWA) – Senator Pate is pleased to join legal experts and scholars at the University of Victoria Faculty of Law today to discuss the recent decision of the Supreme Court of Canada in *R v Sharma*. The Court in *Sharma* refused to declare unconstitutional the *Criminal Code* provision that withholds conditional sentencing for certain crimes like drug trafficking or importing, with which Ms Sharma was charged. This effectively creates a mandatory penalty of imprisonment for importing prohibited substances under the *Controlled Drugs and Substances Act*.

“It is timely, as the Senate considers Bill C-5, because this decision underscores the important role of Parliamentarians in determining fair and proportionate sentences. As the Court points out in both the majority and the dissent, when it comes to Indigenous single moms like Ms Sharma, judges need the discretion to help stem the mass incarceration of Indigenous women and the state seizure of their children,” stressed Senator Kim Pate.

Mandatory penalties remove judicial discretion and thereby lead to unjust sentences. These mandatory penalties have resulted in the disproportionate and discriminatory treatment of the most dispossessed – especially poor, racialized women and those with disabling mental health issues, including those stemming from trauma.

Last week, the annual report of the Office of the Correctional Investigator underscored the urgent need to halt the tide of incarceration of Black and Indigenous Peoples. They revealed the reality that not only are the numbers increasing, but racialized prisoners are more likely to be over-classified, segregated and otherwise isolated, but they are also less likely to have access to programs and services and to be paroled. To add to this pattern for discrimination, they are further more likely to be released without adequate supports in the community and therefore more likely to be jailed again when conditional release is revoked.

“As countless reports and decisions over the past decades have stressed, instead of investing more and more resources in the criminal legal system and jailing more of the most marginalized for longer, more punitive sentences, we must invest in communities and people. The Truth and Reconciliation Calls to Action and the Calls for Justice of the Inquiry into Missing and Murdered Indigenous Women and Girls laid out clear directions and plans. It’s time for us to do our job as we work toward Reconciliation” continued Pate.

“Parliament has been slow to heed the urging of the courts to weigh in; the *Sharma* decision underscores the important role that we in the Senate must play. It is why we are trying to amend Bill C-5, to firmly entrench the ability of judges to do their jobs and exercise their discretion to craft fair and proportionate sentences.”

- 30 -

For more information:

Andrew Osborne

Office of Senator Kim Pate

andrew.osborne@sen.parl.gc.ca

Tel: 613-995-9220