

Sentence cannot be served after convicted person dies: Manitoba Court of Appeal

By **John L. Hill**

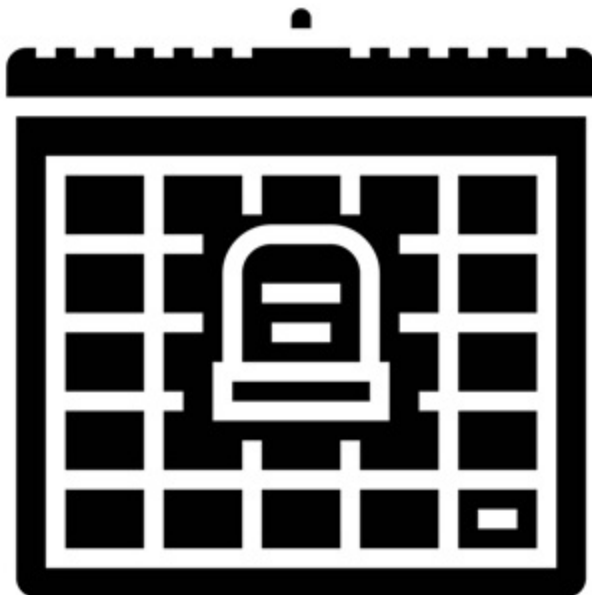
Law360 Canada (July 2, 2026, 12:38 PM EDT) -- A recent case before the Manitoba Court of Appeal will likely infuriate those who expect our courts to be tough on crime. The facts of the original conviction are horrendous and are set out here to allow the reader to understand the emotional factors at play for appeal court judges.

Matthew Marjanovic was sentenced for his role in the brutal 2017 killing of Mustafa Peyawary after a jury found him guilty of second-degree murder, while his three co-accused were convicted of first-degree murder. The sentencing issue before the court was not whether he was guilty but how long he should remain ineligible for parole. Although second-degree murder carries a mandatory life sentence, the judge had discretion to set parole eligibility between 10 and 25 years (*R. v. Marjanovic*, 2019 MBQB 183).



John L. Hill

Peyawary was lured to the apartment, stripped to his underwear, bound with plastic restraints, beaten with expandable batons and stun batons, repeatedly shocked with electricity, stomped on and ultimately strangled. The attack lasted between 11 and 22 minutes while the victim screamed for help. The court characterized the murder as “bloody horrific.” Although the exact motive remained unknown, the judge found it was connected to criminal activity, likely involving drug trafficking.



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The judge found that Marjanovic was deeply involved in the planning and early stages of the attack, even though the jury was not satisfied beyond a reasonable doubt that he met the legal requirements

for first-degree murder.

The evidence established that Marjanovic participated in purchasing cleaning supplies and other items used during and after the murder, indicating prior knowledge that violence was planned. He knew Peyawary had been lured to the Airbnb apartment where the attack occurred. He was aware that Peyawary would be beaten and tortured to obtain information or punish him. He understood that the planned assault involved such extreme violence that death was a likely consequence. He was physically present at the apartment when Peyawary was overpowered, stripped and restrained. His DNA was found on a disposable nitrile glove inside the apartment, and his watch and bracelet were left behind during the attack. The judge concluded that Marjanovic helped subdue Peyawary, removed his clothing and assisted in preparing the victim for the prolonged assault.

Although the evidence did not establish beyond a reasonable doubt that Marjanovic participated in the later stages of the torture and killing sufficiently to make him guilty of first-degree murder, the judge concluded that he was “all in, hands on, at the start of the attack” and bore extremely high moral responsibility for the murder.

At the time of the offence, Marjanovic was 29; he had completed Grade 12 and had no prior criminal record; he had held steady labour jobs, enjoyed strong family support and had behaved well while in pretrial custody. However, text messages introduced by the Crown suggested he earned substantial income through organized criminal activity.

The court identified numerous aggravating circumstances: participation in planning the attack; knowledge that Peyawary would be tortured; and a prolonged and exceptionally violent assault. There was also the victim’s forcible confinement; an apparent motive arising from criminal activity; attempts to clean up the crime scene; and Marjanovic’s efforts to avoid arrest for more than four months afterward. The judge also emphasized that Marjanovic never accepted responsibility, expressed remorse or explained his role in the killing.

The Crown sought 24 years of parole ineligibility, while the defence argued for the statutory minimum of 10 years.

The judge rejected both positions. He held that a 10-year period failed to reflect the extraordinary brutality of the offence and Marjanovic’s high moral blameworthiness. Conversely, imposing 24 years would effectively treat him as though he had been convicted of first-degree murder, contrary to the jury’s verdict. The court emphasized that although Marjanovic may not have actively participated in the final acts causing death, he knowingly helped initiate and facilitate a murderous assault involving torture and prolonged violence. His culpability was therefore significantly greater than that found in many second-degree murder cases.

The court sentenced Matthew Marjanovic to life imprisonment with 18 years of parole ineligibility before he may apply for parole. He was given a lifetime prohibition on possessing weapons and an order requiring him to provide a DNA sample for the national DNA databank.

On Sept. 8, 2022, while at Stony Mountain Institution, he was charged with possessing methamphetamine for the purpose of trafficking and possessing a weapon dangerous to the public peace — what inmates call “a shiv.” He pleaded guilty to these charges in provincial court. He was sentenced on March 21, 2024, to 33 months to be served consecutively to his life sentence.

Marjanovic appealed his sentence. The Appeal Court’s decision was delivered on June 22, 2026 (*R. v. Marjanovic*, 2026 MBCA 61). He asked the court to vary the provincial court sentence so it would run concurrently with his life sentence.

In a brief 11-paragraph decision, the Manitoba Court of Appeal said the provincial court judge imposed a sentence that was incorrect in law. A 33-month sentence would have to run after the offender died. This is not new law. The Appeal Court cited precedent dating back over 50 years (*R. v. Sinclair*, (1972) 6 C.C.C. (2d) 523 (ONCA)). The Appeal Court also correctly observed that offences committed after a life sentence has been imposed do have consequences. In Marjanovic’s case, the sentence will delay his parole eligibility by 11 months. Even for prisoners who have committed ghastly offences, the rule of law must apply.

John L. Hill practised and taught prison law until his retirement. He holds a JD from Queen's and an LLM in constitutional law from Osgoode Hall. He is also the author of Pine Box Parole: Terry Fitzsimmons and the Quest to End Solitary Confinement (Durvile & UpRoute Books) and The Rest of the (True Crime) Story (AOS Publishing). His most recent book, Acts of Darkness (Durvile & UpRoute), was shortlisted as one of five nominees for the Crime Writers of Canada's Brass Knuckles Award for Best Nonfiction Crime Book. Contact him at johnlornehill@hotmail.com.

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