
CANADA / JUDGMENT

R. v. Danjou

2020 BCSC 1819

COURT

Supreme Court of British Columbia

DECIDED

13 August 2020

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2020 BCSC 1819 R. v. Danjou

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Danjou,

2020 BCSC 1819

Date: 20200813

Docket: 88594-2

Registry: Kelowna

Regina

v.

Tejwant Danjou

Before: The Honourable Madam Justice Beames

Oral Reasons for Judgment

Counsel for the Crown:

S. McCallum

M.D.E. Lefebure

Counsel for the Accused:

D.M. Turko, Q.C.

S. Dawson

Place and Date of Trial/Hearing:

Kelowna, B.C.

February 28, March 2-6,

March 9-13, June 1-5, July 3, 2020

Place and Date of Judgment:

Kelowna, B.C.

August 13, 2020

- [1] THE COURT: On July 22, 2018, Rama Gauravarapu was beaten to death. The accused, Tejwant Danjou, is charged with her second degree murder. He admits he killed Ms. Gauravarapu, but denies he had the specific intent required for murder and says he should be found guilty of manslaughter.
- [2] The victim and the accused were in a common-law relationship commencing approximately December 31, 2015. She was 56, employed as a financial planner, and owned her own home. He was 69 at the time, self-employed as a property manager, and licensed as a managing broker with the Real Estate Council of British Columbia. They lived together in the victim's home until at least May 26, 2018.
- [3] Friends of both the victim and the accused noticed or were told of issues developing in the relationship in the spring of 2018. Mr. Danjou began questioning Ms. Gauravarapu's fidelity and accusing her of sleeping with others. In an argument recorded on Mr. Danjou's phone on May 9, 2018, Mr. Danjou accused her of "fucking around". He told her she was a nymphomaniac and that he had caught her cheating.
- [4] A 9-1-1 call on May 25, 2018 resulted in the Surrey RCMP attending at Ms. Gauravarapu's residence. On that evening, Ms. Gauravarapu arrived at the home of her friend, Ms. Gill, who observed Ms. Gauravarapu to be crying hysterically and barefoot. Ms. Gauravarapu told Ms. Gill that Mr. Danjou was beating her up and had been trying to strangle her. She said that he was going to kill her. Ms. Gauravarapu told Ms. Gill that she was scared for her life.
- [5] Ms. Gill, her son, and Ms. Gauravarapu drove to Ms. Gauravarapu's residence. Ms. Gill told Mr. Danjou to come out of the residence. He told her that he was common law and tried to close the door. Ms. Gill's son called the police. When the police attended, Ms. Gauravarapu told the police that she and Mr. Danjou had been arguing for three days, but she did not disclose any threats or violence to the police officer. Mr. Danjou, who was visibly intoxicated, was removed from the home, arrested, and taken by the police to a facility to sober up. Ms. Gill heard Mr. Danjou say, "I'm going to get you for this" while looking at Ms. Gauravarapu, as he was being escorted to the police vehicle.
- [6] A recording of the incident which occurred on May 25, 2018 was made and subsequently found on Mr. Danjou's phone. Hitting sounds, crying, and screaming can be heard. The accused can be heard saying, "I will kill you". A friend of Mr. Danjou, Bill Dade, was told by

Mr. Danjou that he and Ms. Gauravarapu had had a fight or argument and that Mr. Danjou would be moving out. Mr. Dade helped Mr. Danjou move some of his belongings. Mr. Danjou told another friend, Gary Sanghera, that Ms. Gauravarapu wanted him to move out but he did not want to move out because he loved her. Both friends say that Mr. Danjou later told them he would not be moving out.

- [7] Ms. Gauravarapu played the May 25 recording for a friend, Punam Sheldan. Ms. Gauravarapu told Ms. Sheldan that Mr. Danjou said that if he could not have her, he would kill her. That recording was played for Ms. Sheldan on June 19. Ms. Sheldan stayed with Ms. Gauravarapu for a few days after listening to the recording, out of fear for Ms. Gauravarapu's safety. Ms. Gauravarapu also told Ms. Sheldan that she was afraid Mr. Danjou would play the "common-law card" and make a claim to her property.
- [8] Text messages between Ms. Gauravarapu's telephone and Mr. Danjou's telephone also illustrate the issues in the relationship in the spring of 2018. In response to three text messages over an hour and 12 minutes on May 10, Ms. Gauravarapu eventually replied by texting Mr. Danjou, in part, "I have given my whole heart to and doted on you, but I can't take this continuous false accusations ". Mr. Danjou responded that he had no words to express regrets and that he could not live without her.
- [9] On May 15, she texted him saying, "Every few days you pick a fight with me" and, "As the saying goes, All good things must come to an end. I guess that goes for us as well, so be Happy and have a good life." He responded, "My happiness is only with you."
- [10] In the morning of May 25, she texted him setting out details of how she said he had physically assaulted her, and saying:
- I am at my wits end trying to figure out why you behave the way you do. You need professional help. I am no one to give you advise [sic] but I hope you will get that help so that your next relationship will prosper and be a happy one. Please move out as soon as possible. I do not want to drag this on. This time it is really over. Goodbye.
- He responded by saying, "In your heart you know that The Fault is not entirely mine" and "I cannot live without you." She responded saying, in part, "No matter what the situation it does not give you the right to become physically abusive." He responded, "You are right."
- [11] On May 26, the day after the police attendance, Ms. Gauravarapu texted Mr. Danjou, saying her head hurt and she thought she had a concussion.
- [12] On the evening of June 5, a conversation between Mr. Danjou, Ms. Gauravarapu, and Ms. Gill was recorded on Mr. Danjou's phone. In that recording, Ms. Gauravarapu can be heard telling Mr. Danjou that he had hit her and beat her to a pulp, that her head still hurt, and that she had made a big mistake by saving him from the police.

- [13] On June 6, they had another text exchange, with him professing his love, saying he could not live without her, and her responding, "I really would like to end this in a civilized manner"; "That is done. You are on your own. No going back from here on"; and, "You have never truly apologized for beating me up so badly last Friday. The effects are still lingering." His response to that was, "Shaking is what took place and I have apologized for everything."
- [14] In June 2018, Mr. Danjou's telephone was used to perform internet searches on semen detection testing, proving a common-law relationship in British Columbia, evicting a common-law partner, and how long a person will last after their "cartood" is cut. There is also a note saved on his telephone with a description of how to cut a carotid artery, and an anatomical diagram of carotid arteries and other structures in the neck.
- [15] In a counselling session Mr. Danjou attended and recorded on his telephone on June 17, 2018, Mr. Danjou spoke of Ms. Gauravarapu telling him they were done, but then they got back together again. He told the counsellor:
- But I don't see anything happening in the future, but I still have to work on that. If anything happens, how to handle it. And how I'm gonna handle it is, sit down and if there's something, uh, I think there's something, I will bring it up with her, but don't have to cross the line. I don't have to get mad and abuse her and all that stuff . She's been hurt enough by me, so.
- [16] He went on to tell the counsellor that Ms. Gauravarapu was taking him back and that he was "on top of the world".
- [17] Another note was found on Mr. Danjou's telephone, created on July 19, which references "they met between 10 and 12 a.m.", and where "her" car had been parked. This is consistent with evidence at trial that Ms. Gauravarapu thought Mr. Danjou was following her and checking up on her.
- [18] Both Mr. Danjou and Ms. Gauravarapu told friends they were going to Kelowna on July 21, 2018 for the weekend.
- [19] On July 21, 2018, they drove to West Kelowna in Ms. Gauravarapu's car. They checked into a room at the Best Western Hotel, which had been pre-booked in Ms. Gauravarapu's name. The room number was 205.
- [20] Much of what occurred on July 22, 2018 was captured on CCTV video, without audio. That morning, Mr. Danjou exited the couple's room at 6:49 a.m., went in the direction of the hotel's breakfast room, and returned to the room carrying two cups approximately five minutes later. He left the room again approximately 20 minutes later and returned to the room within a couple of minutes. At 8:14, both left the room and went in the direction of the breakfast room. At 8:39, they headed back towards the room, at one point briefly holding hands.

- [21] At 10:20 a.m., they left their room again. As they walked down the hall towards the elevator, he briefly put his arm around her shoulders. They left the hotel and drove out of the parking lot, returning to the hotel at 11:24 with some items. By 11:26, they were back in the room. Mr. Danjou left the room for approximately 10 minutes between 12:03 and 12:13. Both left the room and went to the main floor of the hotel at 12:45. Ms. Gauravarapu then returned to the room shortly before a cab pulled up in front of the hotel. Mr. Danjou got into the cab at 12:48, after pacing in the lobby and appearing to speak to the front desk clerk. Ms. Gauravarapu, after appearing to speak to a cleaning person on the second floor of the hotel, entered her room and then returned to the lobby. She spoke to the front desk clerk, who appears to have reset her room key card. Ms. Gauravarapu then entered the cab at 12:52. In the cab, according to one of the many admissions filed in this trial, they had casual conversation.
- [22] The cab arrived at Mission Hill Winery at 12:59, and by 1 p.m. Ms. Gauravarapu and Mr. Danjou were out of the cab and walking toward the entrance of the winery. They had lunch at the winery, consisting of food and one bottle of wine. They finished lunch before 2:32 p.m., at which time they are shown on the CCTV recording inside the wine shop at the winery. They purchased two wine-tasting vouchers and sat at a wine-tasting bar and had wine. They also purchased four bottles of wine. At 3:09, they left the wine shop and walked around the winery grounds a bit, including a brief visit to the bell tower at the winery. By 3:13, they had taken seats at a table on the patio near the bell tower. At 3:15, Ms. Gauravarapu left the table, returning at 3:19, carrying a tray with glasses. A "corkage" fee of \$10 was paid to the winery at 3:18. Shortly after Ms. Gauravarapu returned to the table, the couple had another person take a photograph of them.
- [23] At 3:34, a man, who turned out to be the security manager at the winery, Don Drissel, approached the table and spoke to the couple. Mr. Drissel said he did most of the talking, welcoming them to the winery, asking where they were from, and engaging in general conversation. Mr. Drissel testified that the woman he spoke to was friendly, but she did not ask any questions, while the man was not friendly, did not engage, and looked away from Mr. Drissel as Mr. Drissel spoke. The interaction was very short, lasting approximately one minute or less.
- [24] At 3:39, Ms. Gauravarapu and Mr. Danjou moved to another table on the patio. After Ms. Gauravarapu left the table for a couple of minutes, returning at 4:21, she spent some time looking at or using her telephone. Mr. Danjou then took or grabbed the phone out of her hands, looked at the phone, and then returned it to her, while she remained seated with her arms crossed. After Mr. Danjou pushed or slid the phone back to her, she collected her belongings, stood up, and walked away. Mr. Danjou then stood, collected some items, and walked away. While he was out of view, Ms. Gauravarapu returned to the table. Shortly after that, Mr. Danjou also returned to the table. Ms. Gauravarapu then left the area again and Mr. Danjou followed her again.

- [25] A private wine tour guide, Bryan Van, was waiting for his guests outside the wine shop that afternoon. While he was there, he saw an incident in the courtyard area of the winery which is not caught on any of the security videos. He saw a man, whom he later identified as Mr. Danjou, walk in front of a woman and then stop abruptly and, to use his words, get right up in her face. He grabbed the glasses off the face of the woman in a violent and angry manner. The couple then went separate directions. The man walked to the fountain located outside the wine shop, near to where Mr. Van was waiting. Mr. Van testified that Mr. Danjou watched the woman very intensely from a distance, while cursing and "using some pretty awful words" as he did so. He saw the woman walk toward the restaurant at the winery, and Mr. Danjou got up from his leaning position and walked towards where she was going. They met at approximately the same place where Mr. Van had first seen them arguing. Mr. Van described Mr. Danjou as being right up in her face again. Mr. Danjou took his sunglasses off, threw them down, and stomped them. He then made his way out toward the winery parking lot. The woman made her way past Mr. Van and into the wine shop, after calmly picking up the pieces of the glasses. On a later search in the hotel, a broken pair of sunglasses were found and seized.
- [26] From different camera views, it is clear that but for one brief period of approximately two minutes, Ms. Gauravarapu remained in the wine shop from approximately 4:31 until shortly before 5:10 when she walked towards the winery entrance and got into a cab at 5:11. While she was in the wine shop, she looked out the windows of the wine shop several times.
- [27] Mr. Danjou, on the other hand, walked back to the patio area at 4:36, then went to the parking lot area, back toward the wine shop, back to the parking lot area at the entrance, and eventually got into a cab and left the winery at 5:04.
- [28] Mr. Danjou arrived back at the hotel at 5:10 and entered the lobby at 5:12. He sat briefly in the lobby and then went to the room on the second floor which he had shared with Ms. Gauravarapu. At 5:17, Ms. Gauravarapu entered the hotel lobby and at 5:18 went to the second floor. She and Mr. Danjou met in the hall and he can be seen on the video to be gesturing. He walked back to the room with her following and both entered the room at 5:19. Approximately three minutes later, Mr. Danjou left the room and went back to the lobby. He approached the front desk at 5:23 and had to wait approximately four minutes for service. While he was waiting, he wiped his eyes and his nose several times. Between 5:27 and 5:30, the desk clerk, Hayden Keller, and Mr. Danjou spoke. Mr. Keller, who had checked the couple in on July 21 and had had interactions with Mr. Danjou earlier on July 22, testified that Mr. Danjou asked for another room, saying that he needed more space. Mr. Keller checked Mr. Danjou into the room next door, Room 203. He testified that Mr. Danjou had no difficulty understanding the check-in process. By 5:30, the check-in process was complete and at 5:32 Mr. Danjou walked down the second-floor hallway toward the two adjacent rooms.

[29] At 5:33, Mr. Danjou recorded a conversation between himself and Ms. Gauravarapu, which was found on his telephone. The audible portions of the conversation, which is in both English and Hindi, were transcribed and translated as follows, and I will use the initials as they appear in the transcript:

TD: At least listen to me.

RG: No, now you can do yours, right. What figure it out.

TD: Rama, I'll take a room -

RG: take a room.

TD: - but take it with you.

RG: Take a room, first get your stuff out at least right.

TD: Yeah.

RG: Take a room.

TD: Yeah.

RG: Take take out the rest out later.

TD: Okay, take me in the morning. Because, I want, can I

RG: what.

TD: Why are you scared of me?

RG: I'm not scared, I'm

TD: Going to take this because you know too

TD: Have not done anything bad at this time.

RG: That's okay.

TD: I broke glasses.

RG: That's okay.

TD: But, no.

RG: That's okay.

TD: I'm getting angry with you.

RG: That's fine. Your goes Whatever you do, do, say, everything is right.

[30] At 5:35, video shows Mr. Danjou in the hallway with a suitcase and bags. Three minutes later he was back in the hall empty-handed, walking toward the elevator, and then walking to the lobby on the first floor. It appears from the video that he had his room key reset and he

returned to his room. By 5:44, he was back in the hall, without bags, walking toward the elevator again. Between 5:46 and 5:53, Mr. Danjou was in the lobby or outside at the front of the hotel. He spoke with the front desk clerk, sat in the lobby, and went to the ATM machine in the lobby. At 5:54, he returned to the second floor and spent a short time leaning against the wall across from a room door, in the vicinity of the room he had shared with Ms. Gauravarapu and the room that he had just rented, Rooms 205 and 203 respectively. After walking toward the elevator, walking back towards the rooms, and then returning to the elevator, Mr. Danjou appeared in the lobby again at 5:56. Again, he was inside and outside the hotel, speaking to the desk clerk and sitting in the lobby, until a cab arrived at 6:07. Mr. Danjou got into the cab. According to the preliminary hearing evidence of the cab driver, Mr. Bull-Perry, which was admitted at trial by agreement, and additional video evidence which has been admitted also by agreement, Mr. Danjou went by cab to a gas station to buy cigarettes and was also taken to the Greyhound bus station in West Kelowna, before being returned to the Best Western Hotel at 6:23.

- [31] Mr. Bull-Perry testified that Mr. Danjou asked about the cost of travelling to Vancouver by cab. After going to the Greyhound station, Mr. Danjou told Mr. Bull-Perry that there was a bus available the next morning. He told Mr. Bull-Perry that he had travelled with a friend to visit some wineries and that the friend had left him without a way to get home. Mr. Bull-Perry gave Mr. Danjou a quote for driving him home, and a business card. Mr. Danjou paid the taxi fare with a credit card, inserting his card and entering a PIN, and then he got out of the cab. Mr. Bull-Perry testified at the preliminary inquiry that he saw no signs of intoxication. He described Mr. Danjou as calm, relaxed, and talkative. He testified that there was nothing strange or unusual in Mr. Danjou's behaviour.
- [32] At 6:25, Mr. Danjou entered the hotel and by 6:26 appears to have entered his own room on the second floor.
- [33] According to the telephone records included in the admissions filed in this case, Mr. Danjou called Ms. Gauravarapu's phone at 6:28, but the call was not answered. Between 6:28 and 6:48, the following messages were sent and received between the telephones belonging to Mr. Danjou and Ms. Gauravarapu:

Sender

Time

Message

Danjou's phone

18:28:41

Am I getting a ride with you?

Gauravarapu's phone

18:29:49

No

Danjou's phone

18:30:29

Why

Danjou's phone

18:30:40

I came with you

Gauravarapu's phone

18:31:16

That doesn't mean anything

Gauravarapu's phone

18:32:02

You're on your own

Danjou's phone

18:34:36

You are mad for what?

Danjou's phone

18:37:44

Just because I had a smoke

Danjou's phone

18:41:37

You have my car keys

Danjou's phone

18:43:03

Please call me. Let's talk.

Danjou's phone

18:48:00

I need my phone charger also [sic]. Please leave it outside. I will pick it up in 10 min.

- [34] At 6:48, Mr. Danjou left his room and at 6:49, he was in the lobby. He went outside for a few minutes and at 6:53 he walked back through the lobby and to the elevator. At 6:54, he went down the second-floor hallway and entered a room on the right. It is admitted that at 6:54:16, or shortly thereafter, Mr. Danjou commenced assaulting Ms. Gauravarapu in her room, Room 205.
- [35] The room immediately below Ms. Gauravarapu's room was occupied by Erin Kulak and her spouse. Ms. Kulak was awakened from a nap by loud noises from the room above. She described it as loud, almost rhythmic, thumping sounds. She initially thought it was kids jumping off a bed. She testified that the picture on the wall in her room was moving. She thought the noises went on for five to 10 minutes before she called the front desk to make a noise complaint, but she testified that she has a poor sense of time. At 6:57, one of the front desk clerks, Faith Cote, took a call at the front desk from Ms. Kulak, who complained about the noise. Ms. Cote was a new employee, so she consulted with Hayden Keller, who was senior to her, about what to do. She then twice called the room above Ms. Kulak's room, which was Ms. Gauravarapu's room, but there was no answer. On instructions from Mr. Keller, she went up to the second floor to listen at the door to Room 205. Ms. Cote went upstairs, arriving at the door just before 7:01, and listened at the door. She saw a phone charger on the floor outside the door. She was able to hear some sounds which she described as sounding like someone was being "pushed around", which sounds stopped and started again. She heard no talking. She returned to the front desk to report to Mr. Keller, arriving at the desk at 7:02.
- [36] Mr. Keller was busy checking in guests when she arrived. Once he became free, she reported what she had heard and it was agreed that she would go back to the room, knock on the door, and raise the noise complaint personally with the occupant.
- [37] Ms. Cote returned to the second floor at 7:06, knocked and announced herself as guest services. She asked that the door be opened. A male voice replied through the door, "We need no services".
- [38] She said she needed to talk to the occupant to address a noise complaint and asked him to open the door. He replied okay, and tried to open the door. The door security latch got stuck. He closed the door to remove it and then opened the door. Ms. Cote recognized the male from earlier. She advised him of the complaint, told him to keep it down, and handed him the phone charger she had picked up outside the door. She noticed that the man had a red stain on his pants around the knee area. She then saw a woman sitting or leaning against the wall. She said the woman's face was badly swollen and her eyes were shut. There was a broken wine bottle near her feet. The woman said "help", in a quiet voice and with apparent difficulty. The man said she did not need any help. Ms. Cote replied okay, backed away from the door, and went back to the elevator to return to the front desk to tell Mr. Keller to call 9-1-1.

- [39] Ms. Cote said that in her interactions with the man, he was talking normally, replied to things she asked, which replies were appropriate, and that he seemed to understand what she was saying. She said that it did not seem like he had any emotion about the circumstances, as if this was "just another thing of the day".
- [40] While Ms. Cote walked down the hall to the elevator, at approximately 7:08, Mr. Danjou came out of the door to Room 205, looked down the hall towards Ms. Cote, and then disappeared from the camera view as if he had re-entered the room.
- [41] By 7:09, Ms. Cote was back at the front desk. By 7:11, Mr. Keller was using the phone, and at 7:13 he handed the phone to Ms. Cote. At 7:18, the first police vehicle arrived, and at 7:21 Ms. Cote and three police officers were at the door to Ms. Gauravarapu's room, Room 205. Ms. Cote used a key card to open the door and the police officers entered the room, finding Ms. Gauravarapu in obvious medical distress.
- [42] Constable Hartridge, who arrived at the hotel at 7:22, was assigned to check video footage. He learned Mr. Danjou had rented the room next door to 205 and he asked Ms. Cote to open that room for him, which she did. There was no one inside that room. Constable Hartridge noted blood on the door handle to the exit door for the second floor, and followed the blood trail down the stairwell and out the side door of the hotel. He was able to follow blood drops outside the building onto the sidewalk, so he called for the police dog service.
- [43] At 8:03, Corporal Roberts arrived with his police dog and tracking started shortly thereafter. The dog tracked the scent down the street, running behind the hotel, then turning down an alley roadway between the Home Depot store and the parking lot and strip mall adjacent to the hotel. The track continued up the alley roadway, past a row of dumpsters, to a Tim Horton's beside Highway 97. The track continued a short distance down Highway 97. Blood droplets were found along the entire route, including at the Tim Horton's drive-through. The dog "head snapped" when he passed the dumpsters, indicating to Corporal Roberts that he should come back and check the dumpsters at some point.
- [44] On Highway 97 or along Highway 97, the dog lost the track and when he was unable to reacquire a track, Corporal Roberts, with the dog, returned to the area of the dumpsters. The dog became very excited and attempted to jump into one of the dumpsters, which Corporal Roberts observed to be full of flattened cardboard. Corporal Roberts announced his presence and demanded that anyone in the dumpster get out. When there was no response, Corporal Roberts lifted his dog into the dumpster. He heard a yell and saw a man, Mr. Danjou, appear. When Corporal Roberts told Mr. Danjou that he was under arrest and to show his hands, Mr. Danjou did not comply, but said, "Get your dog off me". Mr. Danjou grabbed the dog and held him away from himself. Corporal Roberts demanded that Mr. Danjou release the dog, and when Mr. Danjou did not comply, Corporal Roberts drew his gun and repeated the demand. Within seconds, Mr. Danjou released the dog and put both his hands up. Corporal Roberts described Mr. Danjou as having a very cold "thousand-yard" stare. Corporal Roberts agreed that on average people are very panicked when confronted

by a police dog, but Mr. Danjou was not panicked. He thought Mr. Danjou's look was a "threat cue", such that he would not have turned his back on Mr. Danjou.

- [45] Corporal Roberts holstered his gun and pulled his dog away from Mr. Danjou. By that time, Constable Hartridge had arrived. Mr. Danjou was commanded to get out of the dumpster, and when he said he could not get out, Constable Hartridge, with the assistance of Constable Goodwin, who had arrived seconds before, lifted Mr. Danjou out of the dumpster.
- [46] Constable Hartridge assisted in fully handcuffing Mr. Danjou and laying him on the grass on his stomach. He asked Mr. Danjou if Mr. Danjou had any weapons and Mr. Danjou replied no. He was with Mr. Danjou close to 40 minutes and heard Mr. Danjou in conversation. He heard Mr. Danjou to speak in a clear voice. He said Mr. Danjou did not seem agitated or confused. He saw no signs of mental health issues or intoxication. He conceded that when Mr. Danjou was given his s. 10(a) rights by Constable Goodwin, who used the word homicide, Mr. Danjou said, "I don't understand. What is homicide?" He also conceded in cross-examination that Mr. Danjou stared forward, did not show any emotion, and spoke in a very tired voice.
- [47] Constable Goodwin arrived at the dumpster while Mr. Danjou was still inside. He heard Constable Hartridge yelling at Mr. Danjou to get out and he heard Mr. Danjou say he could not get out. Constable Goodwin assisted Constable Hartridge in lifting Mr. Danjou out of the dumpster. He was assigned to arrest Mr. Danjou. He described Mr. Danjou as cooperative. He seemed calm. After his rights were read to him and he was asked if he understood, Mr. Danjou said and nodded yes, and then told Constable Goodwin that he needed to go to the hospital. He said that his heart was beating very fast, and Constable Goodwin could hear Mr. Danjou breathing. He advised Mr. Danjou to control his breathing.
- [48] An ambulance attended and eventually transported Mr. Danjou to the Kelowna General Hospital. Lana Wilde, a paramedic of 24 years' experience, primarily dealt with Mr. Danjou at the scene of the arrest where the ambulance arrived at 8:40 p.m., after first attending at the hotel where Ms. Wilde had attended to Ms. Gauravarapu and eventually called her time of death at 8:19 p.m. Ms. Wilde cleaned and dressed some minor lacerations and abrasions on Mr. Danjou and connected him to monitors to check his blood pressure, pulse, and heart rate. She testified that he was having an irregular heartbeat, which fluctuated over her time with him.
- [49] Jason Arnold was the driver of the ambulance that night. He described Mr. Danjou as being flat, quiet, and emotionless. He assisted Ms. Wilde in taking vitals. He recalls smelling some odour of alcohol and hearing some slurred speech.
- [50] Although Mr. Danjou's physical injuries were insignificant, it was decided that he needed to go to the hospital due to his irregular heartbeat, which he denied having experienced before. In the ambulance, Ms. Wilde told Mr. Danjou that she wanted to do an EKG. He declined and Ms. Wilde did not insist. She found she was able to communicate with Mr. Danjou. She asked him questions and he responded appropriately. She was able to

understand him. When asked, he told her he had not used drugs but that he had been drinking that day. Ms. Wilde testified that whatever amount he had ingested, it did not appear to impair his ability to communicate with her. She did not detect an odour of alcohol. She made no observations that caused her concern about Mr. Danjou's mental health. She described him as having been cooperative with her. She described him as being not talkative.

- [51] On arrival at the hospital, Mr. Danjou was assessed and treated by Jonathan Rogers, an emergency room nurse, and Dr. Jeffrey Eppler, an emergency medicine doctor, amongst others.
- [52] Mr. Rogers testified that he had no difficulty establishing communication with Mr. Danjou. He got responses to the questions he asked, which responses seemed appropriate. Most of Mr. Danjou's responses were yes or no, or otherwise short. Mr. Rogers did not see any decline in Mr. Danjou's alertness or cognitive function throughout his dealings with Mr. Danjou. He testified that Mr. Danjou was "kind of withdrawn and subdued", but cooperative. Mr. Danjou declined an updated tetanus shot when it was offered to him.
- [53] Mr. Rogers observed no signs that Mr. Danjou was intoxicated by drugs or alcohol. He saw nothing in his assessment of or interactions with Mr. Danjou that suggested that Mr. Danjou should be seen by a mental health nurse. Between the time Mr. Danjou was admitted and the time Mr. Rogers went off shift at 7:30 a.m. the next morning, Mr. Rogers estimated that he spent an hour and a half to two hours with Mr. Danjou.
- [54] Dr. Eppler was supervising a resident, Dr. Bailey, on the night of July 22, 2018. Dr. Bailey primarily dealt with Mr. Danjou. Dr. Eppler reviewed Dr. Bailey's work and then assessed Mr. Danjou himself at approximately 10 p.m. He found Mr. Danjou to be responsive to questions, but not expansive in his answers. Mr. Danjou was very quiet. After assessing Mr. Danjou, Dr. Eppler decided that as a result of his rapid heart rate and some of the lab results, that Mr. Danjou may have had a mild heart attack, so he consulted with a cardiologist, administered ASA, and decided to keep Mr. Danjou overnight for observation.
- [55] Dr. Eppler was not concerned that Mr. Danjou was having any cognitive difficulties, and he was not concerned that Mr. Danjou had any mental health issues.
- [56] Justina Warezak, an emergency room nurse, also dealt with Mr. Danjou overnight, as essentially a backup to the primary nurse, Mr. Rogers. Ms. Warezak noted no signs of impairment in her dealings with Mr. Danjou. She did not think there were any signs that he needed a mental health assessment. Mr. Danjou was calm and cooperative. He responded and appeared to understand her communications and requests, but she did note that he was very quiet, speaking only when she asked questions, and engaging only when she specifically interacted with him.

- [57] Either or both of Constable Goodwin and Corporal Foster were with Mr. Danjou while he was in the emergency department. All of their interactions with Mr. Danjou were captured on an audio recording.
- [58] Throughout his observations and interactions with Mr. Danjou at the hospital, Constable Goodwin described Mr. Danjou as being calm, polite, quiet, subdued, and cooperative. Mr. Danjou asked Constable Goodwin several times over the course of several hours what Constable Goodwin's name was. Mr. Danjou spontaneously asked at the hospital what homicide meant, after saying at the scene of arrest that he did not understand what homicide meant. He asked Constable Goodwin to find out how much wine he, that is Mr. Danjou, had consumed. He also told Constable Goodwin that his wife had been having an affair and that evidence could be found in a truck in Surrey, which he wanted the police to search.
- [59] Corporal Foster arrived at the hospital at approximately 10 p.m. and had several interactions and observations of Mr. Danjou through until 6:30 or 7 a.m. when she was relieved, although Mr. Danjou slept off and on during the night. Corporal Foster described Mr. Danjou as being standoffish, stubbornly not interested in talking to her, and dismissive. He would not make eye contact with her. He did volunteer to Corporal Foster that he believed his wife had been having an affair. She observed him to be cooperative and engaged with hospital staff. Although she could smell a "small" smell of alcohol when she leaned over him, she was not concerned that he was having difficulty understanding what was going on.
- [60] Corporal Foster asked Mr. Danjou if he had a lawyer. When he seemed not to understand how the process of getting a lawyer worked, she tried to assure him that she could help him get in touch with a lawyer. He communicated to her that he did not want to talk to a lawyer at that time. When she encouraged him again to speak to a lawyer, his response was that he would do it in the morning. At approximately 11 p.m., Corporal Foster decided to re-Charter and warn Mr. Danjou for murder, as the original arrest had used the word homicide.
- [61] Although when she testified in court she did not recall Mr. Danjou acting shocked when she referred to his wife having been murdered or having died, Corporal Foster acknowledged that in her notebook she had made a note that Mr. Danjou did appear to be shocked that his wife had died. She believes her notes to have been made in a timely manner and to be accurate as to her perception at the time.
- [62] On the morning of July 23, Mr. Danjou was transferred from the emergency department to the cardiac ward, where he stayed until he was discharged on July 24.
- [63] His primary nurse on the day shift on the cardiac ward was Jennifer Yamaoka. She found him to be normal, but flat and emotionless in his presentation.
- [64] The Crown called Karen Chan, a toxicologist, who analyzed blood and serum plasma samples taken from Mr. Danjou at the hospital on July 22, 2018. Ms. Chan performed a back extrapolation to estimate Mr. Danjou's blood alcohol content at approximately 7 p.m. on July

22. It is admitted that Mr. Danjou's blood alcohol content was 86 milligram percent at 8:15 p.m., and 48 to 54 milligram percent at 23:59 p.m. Based on calculations and using the 8:15 blood sample, Mr. Danjou's blood alcohol content at 7 p.m. would have been between 119 and 151 milligram percent, according to Ms. Chan. Using the blood alcohol content in the serum plasma taken at 23:59 from Mr. Danjou, the back extrapolation indicates that Mr. Danjou's blood alcohol content at 7 p.m. would have been between 98 and 154 milligram percent.

- [65] The search of Mr. Danjou's room, Room 203, turned up an open bottle of vodka with a small amount missing. If Mr. Danjou drank vodka in the 30 minutes before 7 p.m., that would reduce his blood alcohol content at 7 p.m., based on the back extrapolation calculations.
- [66] A social drinker with a blood alcohol content of between 100 to 150 milligram percent will generally be mildly to moderately intoxicated, with some or all of bloodshot watery eyes, an odour of liquor on the breath, and a flushed face. The person may also have diminished attention, judgment, and fine motor control and coordination.
- [67] According to Ms. Chan, if a person is accustomed to the effects of alcohol due to being a heavier than social drinker, a higher blood alcohol content may be required before that person displays the symptoms of mild to moderate intoxication.
- [68] Ms. Gauravarapu died as a result of blunt force trauma to her head. The pathologist, Dr. Doyle, was unable to determine how many blows she sustained to her head, but he was able to determine that there were multiple blows to the head as he found lacerations in multiple locations around her scalp and head. She had injuries to the back of her scalp which left portions of her skull exposed. Those injuries, according to Dr. Doyle, were almost certainly caused by a minimum of two blows and probably many more than two, given the nature of the injuries. Ms. Gauravarapu had injuries which were caused by blunt force, some which were caused by incised or cut type motions and some which Dr. Doyle would categorize as stab injuries. She had an eight-centimetre cut to her neck at approximately the jaw line, which did not hit either the carotid artery or the jugular vein. The deepest portion of that wound was approximately five millimetres from the jugular vein. Her liver was lacerated as a result of a blunt force trauma. She had injuries to her face, including some caused by blunt force trauma and several incised or cut wounds. She had defensive-type injuries to her left and right hands and arms, including incised or cut wounds and one finger fracture.
- [69] In total, Dr. Doyle found 52 separate areas of injury. He testified that the injuries he noted were more consistent with a frenzied sort of attack than a strategic attack.
- [70] A broken wine bottle was found in Ms. Gauravarapu's room, Room 205. Ms. Cote, as I said earlier, had seen the broken bottle right at Ms. Gauravarapu's feet when she spoke to Mr. Danjou from the door of the room. Hair was embedded in what appeared to be blood on the outside of the bottle. The curve of the bottle was consistent with at least one of the cut wounds observed by Dr. Doyle.

- [71] Bloodstain pattern analysis of the blood found in Room 205 was performed by Sergeant Watts. He also did bloodstain pattern analysis of blood found on Mr. Danjou's clothing. Most significantly, it was Sergeant Watts' opinion that some of the bloodstain patterns found in Room 205 were consistent with blows having been struck to an area where there was already blood, while the source of the blood was close to the floor. He opined that bloodstains could have come from multiple blows to Ms. Gauravarapu's head on or near the ground. He testified that there would have had to be a blow to create the blood source in the first instance, and then at least one more blow to create the bloodstain pattern.
- [72] Sergeant Watts also found that the bloodstains found on Mr. Danjou's left shoe were consistent with the shoe being near multiple force-related events at different angles. That shoe also came into contact with a source of blood and after that contact, spatter stains were deposited. It is admitted that Ms. Gauravarapu's DNA profile was found on Mr. Danjou's shirt, pants, and shoes, as well as in several areas of Room 205, including the ceiling.
- [73] Blood was also found on the door to Room 202, across the hall from the rooms rented to Ms. Gauravarapu and Mr. Danjou. Sergeant Watts testified that what appeared to him to be blood on that door was likely deposited by transfer or contact. He opined that it would not be necessary for force to be applied to effect the transfer - touch on the door or leaning against it would have been sufficient. He testified that the source of blood which created the transfer stain on door 202 by contact had a sufficient quantity or volume of blood to also leave a flow pattern, or drip, downward from the contact or transfer stain.
- [74] The defence called Dr. Tomita, a forensic psychiatrist, as the only defence witness. Dr. Tomita interviewed Mr. Danjou twice, for a total of six hours, on July 8, 2019. He had a one-hour interview with Mr. Danjou's eldest daughter. He also received Crown disclosure, including statements taken from friends and co-workers of both Ms. Gauravarapu and Mr. Danjou, transcripts of conversations and arguments between Ms. Gauravarapu and Mr. Danjou, and statements from witnesses who saw either or both of Ms. Gauravarapu and Mr. Danjou on July 22, 2018.
- [75] Dr. Tomita is of the opinion that Mr. Danjou meets the diagnostic criteria for:
1. delusional disorder - jealousy type;
 2. alcohol use disorder, mild to moderate severity;
 3. narcissistic personality traits, short of a full-blown disorder; and
 4. dissociative amnesia.
- [76] Dr. Tomita qualified his opinion to a certain extent. He noted that he found Mr. Danjou to be a careful historian, "not wanting to disclose details that might cast him in a negative light unless he was certain about details from the disclosure, in which case he freely volunteered them". He also noted an obvious difference in the considerable detail Mr. Danjou offered about early history as compared to the circumspect and less spontaneous provision of

details Mr. Danjou offered about alleged abuse of Ms. Gauravarapu and events that occurred around the time of the offence.

- [77] Dr. Tomita testified that it was clear to him that Mr. Danjou had read the Crown disclosure and heard evidence which coloured the way Mr. Danjou presented information to Dr. Tomita. He found Mr. Danjou to be largely unable to talk about his emotional or psychological state, which made it difficult for Dr. Tomita to make an assessment. Dr. Tomita testified that Mr. Danjou became tangential and "veered off" when Dr. Tomita's interview of him got closer to the incident, and Dr. Tomita found that Mr. Danjou would discuss "physical facts" about July 22, but not much about subjective matters.
- [78] Dr. Tomita defined delusional disorder - jealousy type as a difficult diagnosis to make. It is a matter of professional opinion on which experts may disagree as to when "normal" jealousy crosses the boundary to become pathological. He testified that to be diagnosed with delusional disorder - jealousy type, the patient must have a fixed and false belief of infidelity by one's spouse or lover, which is held with subjective certainty, and that evidence to the contrary will not shift that belief. He found Mr. Danjou to be consistent in his belief that Ms. Gauravarapu had had an affair or affairs, which he continued to believe up to the time of Dr. Tomita's interview of him, just shy of one year after the killing. Dr. Tomita considered that some of Mr. Danjou's descriptions of events which led him to his beliefs about infidelity to be very implausible or improbable and very odd. In his report, Exhibit 47 in the trial, Dr. Tomita documented things Mr. Danjou told him that were important to Dr. Tomita's diagnosis of delusional disorder - jealousy type. Dr. Tomita testified that the only psychiatric symptom of delusional disorder - jealous type is the false belief in the infidelity of one's spouse. While a person with the disorder cannot control whether or not he has the delusion of infidelity, a person with the disorder can, according to Dr. Tomita, control his response to it and will, absent other issues, be able to engage in rational decision making. Dr. Tomita testified that Mr. Danjou did not have psychosis. Other than the delusional beliefs, delusional disorder - jealous type does not impair a person's cognitive abilities and the person would not be expected to have a general loss of contact with reality. Disorganized thinking is not a feature of delusional disorder - jealous type. Dr. Tomita conceded that it would be unusual for a man in his sixties to develop delusional disorder.
- [79] With respect to narcissistic personality traits, Dr. Tomita described Mr. Danjou as having longstanding prominent features of his personality, including being egocentric, highly attuned to his own needs and being less concerned about others, and being controlling, including of things potentially embarrassing to himself. These traits have, according to Dr. Tomita, caused difficulty within Mr. Danjou's intimate relationships, but not necessarily in his other relationships. These traits are not causally connected to the delusional disorder - jealousy type, according to Dr. Tomita, but may have made Mr. Danjou more vulnerable.
- [80] Dr. Tomita testified that it was important to Mr. Danjou's self-esteem to have an intimate or romantic partner, and that being rejected by his partner could amount to a narcissistic blow.

- [81] With regard to alcohol use disorder, Dr. Tomita, based on his interview with Mr. Danjou and a review of witness statements and an interview of Mr. Danjou's daughter, concluded that Mr. Danjou had a mild to moderate alcohol use disorder. He concluded that the alcohol use disorder likely caused Mr. Danjou to make more maladaptive choices and engage in more maladaptive behaviours related to his narcissistic personality traits. He opined that a blood alcohol content of up to 154 milligram percent would not be high enough to bring out maladaptive personality traits if the person was a chronic heavy drinker, as that blood alcohol content would not be significantly impairing. He opined that the use of alcohol would increase the feeling of pressure to act on a delusion or would increase the possibility of seeing trivial things in a delusional way.
- [82] Finally, with regard to dissociative amnesia, this diagnosis turns completely on Mr. Danjou's having told Dr. Tomita that he cannot recall the period between shortly after the cab dropping him off at the hotel after the trip to buy cigarettes and to go to the bus depot, and being ordered to come out of the dumpster by the dog handler. Mr. Danjou told Dr. Tomita that he believes he was heading towards his room when he heard Ms. Gauravarapu's voice saying in a taunting manner, "Yes, I did have sex with him", and he recalls seeing her in a white bathrobe. When Ms. Gauravarapu was killed, she was wearing a flowered dress, not a bathrobe.
- [83] Dr. Tomita acknowledged that it is not uncommon for people charged with murder to tell him they cannot recall the event. He agreed that sometimes people do not remember an event because it is just too unpleasant.
- [84] Dr. Tomita testified that he has no way of knowing what Mr. Danjou does or does not remember, and for the purposes of his report and his opinion, he assumed that what Mr. Danjou told him is accurate to the best of Mr. Danjou's ability.
- [85] In cross-examination, Dr. Tomita was asked to listen to the recording from Mr. Danjou's phone of the discussion between Mr. Danjou and Ms. Gauravarapu at 5:33 on July 22, and to review the call history and text messages between them, between 6:28 and 6:48 on July 22, which had not been available to Dr. Tomita when he wrote his report. Dr. Tomita agreed that jealousy or delusional beliefs did not appear to be a factor in those communications.
- [86] Even if delusional beliefs influenced Mr. Danjou's decision making and actions in the killing of Ms. Gauravarapu, Dr. Tomita confirmed his opinion, which he had written in para. 236 of his report:
- [236] [H]owever, even assuming Mr. Danjou was acting in anger caused entirely by his delusional belief about her, he had choices about how to react as an attack on her was not the only response to his anger. I assume Mr. Danjou had the capacity to make volitional choices that led him towards, rather than away, from the eventual attack on Rama Gauravarapu. Assuming his amnesia for the index offence was a product of dissociative amnesia, the available data suggests that Mr. Danjou had the capacity to register and react to events as they unfolded and remained moored to the reality of these events.

[87] Dr. Tomita was the only defence witness, as I said earlier. I am mindful that while Dr. Tomita can testify about what he was told or what he read or heard in disclosure material about certain events in the context of the opinions he reached, his evidence is not evidence of the factual basis of those events: *R. v. Abbey*, [1982] 2 S.C.R. 24 at 44-46; *R. v. Kam*, 2020 BCSC 893 at paras. 117-118; *R. v. Shearer*, 2020 BCSC 116 at paras. 95-96.

[88] As the court said in *Abbey* at p. 46, later confirmed by the Supreme Court of Canada in *R. v. Gibson*, 2008 SCC 16 at para. 58:

It was appropriate for the doctors to state the basis for their opinions and in the course of doing so, to refer to what they were told not only by *Abbey* but by others, but it was [an] error for the judge to accept as having been proved the facts upon which the doctors had relied in forming their opinions. While it is not questioned that medical experts are entitled to take into consideration all possible information in forming their opinions, this in no way removes from the party tendering such evidence the obligation of establishing, through properly admissible evidence, the factual basis on which such opinions are based. Before any weight can be given to an expert's opinion, the facts upon which the opinion is based must be found to exist.

[89] By agreement, defence also entered a video and a transcript related to a flight Mr. Danjou and Ms. Gauravarapu took during which Mr. Danjou claimed the man sitting on the other side of Ms. Gauravarapu had fondled her leg. That allegation was made by Mr. Danjou to Ms. Gauravarapu in an argument recorded on Mr. Danjou's phone on May 9, 2018. Mr. Danjou claimed in the argument that he had caught Ms. Gauravarapu cheating with that man and that he had recorded it. The video is innocuous and certainly does not show what Mr. Danjou said he had seen.

[90] With that review of the evidence, I turn now to the issue in this case, which is whether the Crown has proved beyond a reasonable doubt that Mr. Danjou possessed the requisite intent for second degree murder.

[91] As I said at the outset, the Crown's position is that the evidence proves beyond a reasonable doubt all of the elements of second degree murder and that Mr. Danjou should be convicted as charged. Specifically with regard to intent, the only element of the offence in issue, the Crown says the evidence clearly shows that Mr. Danjou had subjective foresight of death when he brutally assaulted Rama Gauravarapu, as he either intended to cause her death or he intended to cause her bodily harm that he knew was likely to cause her death and was reckless whether her death ensued.

[92] The defence position is that at the time of the offence, Mr. Danjou was suffering a "mental disruption", made more intense by his alcohol consumption, that interfered with his ability to form the necessary, "subjective foresight of intention" to kill Ms. Gauravarapu. The defence says that even if Mr. Danjou intended to assault Ms. Gauravarapu, as the defence concedes he had done in the past, he could not comprehend that death would ensue. Nonetheless, says defence, it is conceded that Crown has proved that Mr. Danjou caused the death of Ms. Gauravarapu, and did so unlawfully, such that Mr. Danjou ought to be convicted

of manslaughter.

[93] Section 229 of the Criminal Code defines murder. Section 229(a) provides:

229 Culpable homicide is murder

(a) where the person who causes the death of a human being

(i) means to cause his death, or

(ii) means to cause him bodily harm that he knows is likely to cause his death, and is reckless whether death ensues or not;

[94] Section 234 defines manslaughter as culpable homicide that is not murder. As Murray J. succinctly put it in *R. v. Batstone*, 2019 BCSC 476:

[112] The difference between murder and manslaughter is intent. While murder requires a specific intent to cause death, manslaughter requires only a general intent.

[95] In *R. v. F.M.*, 2008 BCCA 111, Mr. Justice Smith for the court said:

[7] There is no disagreement, and there was none before the trial judge, that to obtain murder convictions the Crown was obliged to prove the appellants each had a subjective foresight of death. In *R. v. Martineau*, [1990] 2 S.C.R. 633, Lamer C.J.C., writing for the court, concluded (at 646) that "it is a principle of fundamental justice that a conviction for murder cannot rest on anything less than proof beyond a reasonable doubt of subjective foresight of death". In *R. v. Creighton*, [1993] 3 S.C.R. 3, McLachlin J. (now C.J.C.) said (at 58), "Subjective mens rea requires that the accused have intended the consequences of his or her acts, or that knowing of the probable consequences of those acts, the accused has proceeded recklessly in the face of the risk".

[96] In other words, the Crown must prove beyond a reasonable doubt that Mr. Danjou had a subjective foresight of death when he assaulted Ms. Gauravarapu, in that he either intended to cause her death or intended to cause her bodily harm which he knew was likely to cause death and he was reckless whether death resulted. It is not uncommon for the court to have no direct evidence as to the intentions or knowledge of an accused person. In cases where there is no direct evidence, then as McLachlin J., as she then was, said in *R. v. Creighton*, [1993] 3 S.C.R. 3, quoted in *Kam* at para. 100:

[100] The requisite intent or knowledge may be inferred directly from what the accused said or says about his or her mental state, or indirectly from the act and its circumstances. Even in the latter case, however, it is concerned with "what was actually going on in the mind of this particular accused at the time in question"

[97] As Holmes A.C.J. said in *R. v. Klein*, 2020 BCSC 333:

- [158] As has been noted many times in the case authorities, direct evidence of an accused person's state of mind is often unavailable. Usually, the Crown must rely on circumstantial evidence relating to the context in which the death took place, and on the reasonable inferences arising from that circumstantial evidence. In recognition of this, courts often apply a "common sense inference" that "a person usually knows what the predictable consequences of his or her actions are, and means to bring them about": *R. v. Walle*, 2012 SCC 41 at para. 64, referring to the Canadian Judicial Council's Model Jury Instructions. By spelling out this proposition about a person's intent, the common sense inference aims to provide a marker to help the trier of fact, in the appropriate circumstances, with a concept that otherwise may seem "rather amorphous" (*Walle* at para. 63).
- [159] But care must be taken in relying on the common sense inference. The inference should not displace the requirement to consider all the evidence relating to intent, particularly evidence that points away from intent. Moldaver J. for the Court in *Walle* gave the following caution:
- [63] A proper instruction also sounds a cautionary note. The jurors are admonished that the inference is permissive, not presumptive, and that before acting on it, they must carefully consider the evidence that points away from it. That is important. Left to its own devices, a jury might too readily turn to common sense for an answer, especially in cases like the present one, where common sense might suggest that anyone who fires a gun into a person's chest at close range would surely be aware of the consequences.
- [160] The common sense inference was traditionally described as applying to the "sane and sober" accused person, and was therefore sometimes said not to apply if there were signs of mental disturbance or intoxication. However, the Supreme Court of Canada has recently emphasized in *R. v. Daley*, 2007 SCC 53 and *Walle* (see below) that there are no bright dividing lines concerning the use of the inference, and that the overarching question is whether, on the whole of the evidence, the trier of fact believes or has a reasonable doubt that the accused did not have the requisite intent. The Court in *Walle* explained this as follows, and also referred to the approach of the trial judge in that case as illustrating how the general principles may properly be applied (at paras. 66-8):
- [66] After the jurors have been alerted to the pertinent evidence, they should be told that if, after considering the whole of the evidence, they believe or have a reasonable doubt that the accused did not have one or the other of the requisite intents for murder at the time the offence was committed, then they must acquit the accused of murder and return a verdict of manslaughter.
- [67] If, however, there is no evidence that could realistically impact on whether the accused had the requisite mental state at the time of the offence, or if the pertinent evidence does not leave the jury in a state of reasonable doubt about the accused's intent, then the jury may properly resort to the common sense inference in deciding whether intent has been proved.

[68] In the instant case, there was no jury. Instead, as discussed above, the trial judge considered the pertinent evidence of alcohol consumption and found that it did not leave him in a state of reasonable doubt as to whether the appellant knew that death would likely result if he shot the deceased in the chest at close range. Only then did the trial judge apply the common sense inference in finding that the appellant had the necessary intent for murder.

[161] As Madam Justice Huddart said in *R. v. Courterille*, 2001 BCCA 17 at para. 32, leave to appeal ref'd [2001] 1 S.C.R. ix, the common sense inference "does not die with the first drink". It may be applied in light of good sense and common experience that the effect of alcohol on thought processes is a continuum:

[32] I agree with Crown counsel's sensible comments in his factum.

[The common sense inference] does not die with the first drink. The collective common sense and knowledge of life possessed by twelve jurors is of fundamental importance to the unique value of juries. As Lord Denning observed, "The presumption of intention is not a proposition of law but a proposition of ordinary good sense." It is equally good sense and common experience that the effect of alcohol on thought processes is a continuum. It is a misnomer to refer to the inference as that of a "sane and sober" person. The common sense inference may be perfectly valid at lower levels of intoxication. The more intoxicated a person becomes, the greater the likelihood that drink will result first in uninhibited conduct, and ultimately in unintended conduct. It is proper to remind the jury that they may use their common sense with respect to this, even if intoxication is advanced, provided the reminder includes the admonition that the inference is permissive and subject to a consideration of the evidence of intoxication. Such a direction may be "boilerplate" to lawyers and judges, but it is helpful to jurors who deserve to be assisted not only with what the evidence is, but also with how they may deal with it.

[162] In this case, Mr. Klein does not rely on intoxication alone as the basis for displacing the common sense inference and negating specific intent. As I explained earlier, he also relies on the "rolled up" or cumulative effect of intoxication combined with mental disturbance (short of mental disorder under s. 16 of the Criminal Code).

[163] (I pause to note that the rolled up or cumulative effect "defence" is often referred to as such for convenience, and I will do so at times in these reasons. However, it actually refers to the failure of the Crown to prove a necessary element of the mens rea for the offence.)

[164] To briefly explain the role of the rolled up or cumulative effect defence, I can do no better than to quote Madam Justice Ker's summary in *R. v. Scott*, 2019 BCSC 313 at paras. 530-2:

[530] The position advanced by the defence in this case is often referred to as the "cumulative effect" defence. It largely had its genesis in the decisions of the Ontario Court of Appeal in *R. v. Clow* (1985), 44 C.R. (3d) 228, *R. v. Nealy* (1986), 30 C.C.C. (3d) 460, and *R. v. Desveaux* (1986), 51 C.R. (3d) 173. These three cases are authority for the proposition that where the evidence establishes elements of defences such as intoxication, provocation, and/or self-defence, the trier of fact should be instructed to consider and take into account all the

surrounding circumstances in determining whether the accused had the requisite intent for murder. Clow, Nealy and Desveaux were cited with approval by Chief Justice Lamer writing for the majority of the Supreme Court of Canada in *R. v. Robinson*, [1996] 1 S.C.R. 683 at para. 59. In the context of jury trials, instructions to the jury on this issue are frequently referred to as the "rolled-up charge".

- [531] Prior to the decision in *Robinson*, our Court of Appeal declined to order that a rolled-up charge was necessary in the case of *R. v. Stewart* (1995), 41 C.R. (4th) 102. Post-*Robinson*, the jurisprudence in this province started to move towards recognition of the rolled-up charge where the circumstances warrant it: *R. v. Williams*, 2001 BCCA 648 at paras. 31-33; *R. v. Kent*, 2005 BCCA 238 at paras. 22-34. In *R. v. Neumann*, 2009 BCCA 296, Mr. Justice Low, writing for the Court, held:
- [28] Once it is established that the accused caused the death of the victim by means of an unlawful act, provocation can arise at two stages of the analysis that must be undertaken by the jury to determine if the accused is guilty of murder or of manslaughter - manslaughter if he lacked intent or if, under s. 232 of the Code, he was provoked. Evidence of provocative acts might form part of the body of evidence to be considered on the question of whether the accused had either of the two possible intents in murder. At this stage of the analysis, s. 232 does not come into play. Provoking conduct by the victim of any kind is to be considered on the question of intent. In many cases, intoxication will be a factor to weigh on this issue. It is sometimes useful for the trial judge to give a "rolled-up" instruction that brings to the analysis by the jury consideration of all aspects of the evidence that have a bearing on the issue of intent, including intoxication and provocation: see *R. v. Clow* (1985), 44 C.R. (3d) 228 (Ont. C.A.); *R. v. Robinson*, [1996] 1 S.C.R. 683, 105 C.C.C. (3d) 97; and *R. v. Kent*, 2005 BCCA 238, 196 C.C.C. (3d) 528.
- [532] Mr. Justice Low went on to analyze the charge to the jury in *Neumann* and concluded it satisfied the requirements of the rolled-up charge.
- [165] The applicable authorities clearly allow mental disturbance short of s. 16 mental disorder to play a part in a rolled up or cumulative effect defence, or to function alone as the basis for reasonable doubt about specific intent. Joyce J. articulated this proposition in *R. v. Robinson*, 2010 BCSC 368 at para. 107, in an oft-quoted passage that the Court of Appeal endorsed in *R. v. Damin*, 2012 BCCA 504 at para. 47 and *R. v. O.V.*, 2015 BCCA 449 at para. 55:
- [107] Because we cannot look into the mind of the accused and there is often little direct evidence of an accused's mental state, intent must generally be proven based upon inferences to be drawn from established facts. This is where use may be made of the common sense inference that a sane and sober person intends the natural consequences of his acts. But there may be circumstances that cast doubt on whether one can safely rely on the common sense inference. Such circumstances include intoxication, whether by alcohol or drugs. In addition, evidence of a mental condition that falls short of a mental disorder that renders the accused not criminally responsible, may raise a reasonable doubt as to

whether the accused had the necessary specific intent. If such circumstances, either alone or in combination, raise a reasonable doubt that the accused had the subjective intent to cause bodily harm or that he had the subjective knowledge that the bodily harm he inflicted was of such a nature that it was likely to result in death, then the accused is entitled to the benefit of that doubt and cannot be convicted of murder.

- [98] Evidence that may be relevant to determining the actual intent of an accused person includes the nature and extent of the injuries inflicted and the degree of force required to inflict them: *R. v. Rodgerson*, 2015 SCC 38 at paras. 19, 55. After-the-fact conduct may be relevant to intent and may be used to distinguish between different levels of culpability: *R. v. Calnen*, 2019 SCC 6 at para. 119. After-the-fact conduct can be used to rebut certain defences if conduct is not consistent with the state of mind alleged at trial (*R. v. Eli*, 2014 BCSC 2116 at para. 143), and to show that the mental condition of the accused did not rebut the mens rea for the murder (*R. v. O.V.*, 2015 BCCA 449 at para. 41). Included in the types of post-offence conduct which may be relevant to intent are failure to provide aid to the victim (*R. v. Campbell*, 2018 ONCA 837 at para. 12), and purposeful and goal-directed actions after the offence (see, for example, *R. v. Scott*, 2019 BCSC 313 at para. 540; *R. v. G.C.Z.*, 2015 BCSC 1952 at paras. 44-45; and *R. v. Bourget* 2019 MBCA 10 at para. 3).
- [99] The existence of a motive may also be relevant to the issue of intent. In *R. v. Griffin*, 2009 SCC 28 at para. 60, Madam Justice Charron for the majority of the Supreme Court of Canada said:
- [60] In turn, that evidence of motive is relevant and admissible particularly where, on the issues of identity and intention, the evidence is purely circumstantial, is equally well established at law: *Lewis v. The Queen*, [1979] 2 S.C.R. 821, at pp. 834-38.
- [100] In *Griffin* at para. 63, the majority dealt with the relevance of the past relationship between the accused and the victim as it related to the issue of motive, saying:
- [63] The connection between a deceased's state of mind and that of an accused arises by virtue of a pre-existing relationship between the two; if a deceased and an accused are unknown to one another, this course of logic can find no application. That the relationship between a deceased and an accused was acrimonious or that the two had engaged in a dispute in the period leading up to a murder are highly relevant to the issue of motive because such information may afford evidence of the accused's animus or intention to act against the victim: *R. v. Pasqualino*, 2008 ONCA 554, 233 C.C.C. (3d) 319, at para. 31. See also *R. v. Lemky* (1992), 17 B.C.A.C. 71, aff'd [1996] 1 S.C.R. 757. This is not to say that a deceased's state of mind alone is capable of proving motive. Insofar as it affords evidence of the nature of the relationship between a deceased and an accused, however, a deceased's state of mind is one piece of evidence that may be relevant to the issue of motive.

- [101] With those legal principles in mind, I return to the evidence and my findings of fact and the issue in this case, namely, has the Crown proved beyond a reasonable doubt that when Mr. Danjou committed his assault on Ms. Gauravarapu, he acted with subjective foresight of the consequences of his actions and either meant to kill her or meant to cause her bodily harm which he knew was likely to cause her death and was reckless whether death ensued or not?
- [102] Mr. Danjou and Ms. Gauravarapu had been in a common-law relationship commencing at the end of 2015. By May of 2018, the relationship had seriously deteriorated. Ms. Gauravarapu alleged in a text message to Mr. Danjou on May 10 that he was making false allegations, abusing, and demeaning her. He responded by expressing regrets and saying he could not live without her. On May 15, she texted him, seemingly intending to end the relationship, closing the message by telling him to be happy and have a good life. His response was that his happiness was only with her.
- [103] On May 25 in the morning, she texted him saying that he had choked her and hurt her. His response was that the fault was not entirely his and that he could not live without her.
- [104] On the evening of May 25, he assaulted her and can, on the recording, be heard saying he would kill her. She ran from the house and went to Ms. Gill's home, as I have said earlier. The police attended and found Mr. Danjou to be intoxicated and removed him from the house. Before the police attended, Ms. Gill spoke to Mr. Danjou at the door and he refused to leave the house, saying he was common-law. As he was escorted from the home by the police, Ms. Gill heard Mr. Danjou saying, while looking at Ms. Gauravarapu, "I'm going to get you for this".
- [105] That incident was followed by apparent periods of separation and reconciliation. Mr. Danjou attended counselling on July 17, four days before the couple departed for West Kelowna, during which he said they were getting back together and he was on top of the world.
- [106] There is no evidence to suggest anything unusual occurring between the couple between the time they arrived to check in at the Best Western Hotel on July 21 and the time they left the wine shop at Mission Hills Winery shortly after 3 .m. on July 22, having had lunch in the restaurant and then wine tasting in the wine shop. Thereafter, there were several notable events. The first visible sign of discord occurred when Mr. Danjou took Ms. Gauravarapu's cellphone out of her hands. Shortly after, Ms. Gauravarapu gathered her things and left, followed shortly after by Mr. Danjou. Mr. Van then witnessed Mr. Danjou grab Ms. Gauravarapu's sunglasses off her face in a violent manner. They walked off in separate directions. Mr. Van then saw Mr. Danjou watching Ms. Gauravarapu at a distance, staring intently and cursing. Mr. Van watched as Mr. Danjou walked towards or walked to meet Ms. Gauravarapu and for the second time get "right up in her face", to use Mr. Van's words. Mr. Danjou took off his own sunglasses, threw them down, and stomped them as Mr. Van watched. Throughout this time, Mr. Van described Ms. Gauravarapu as remaining calm. Mr. Danjou then walked toward the exit of the winery and Ms. Gauravarapu entered the wine

shop where she remained, occasionally looking out the window, for over half an hour, aside from one brief time when she stepped out of the shop.

- [107] Mr. Danjou and Ms. Gauravarapu took separate cabs back to the hotel. Shortly after they met on the second-floor hallway and went to Room 205, Mr. Danjou was back at the front lobby arranging to book his own room. In a recording he made on his phone at 5:33, within minutes of getting his own room, he can be heard asking Ms. Gauravarapu to take him in the morning, asking why she was afraid of him, and telling her he is getting angry.
- [108] He moved baggage down the hall to his own room. At approximately five minutes to six, Mr. Danjou was in the second-floor hallway leaning against the wall, approximately across from Room 205, and appeared to be looking at that room.
- [109] After a couple of discussions with the front desk clerk, Mr. Danjou got in a cab outside the hotel. He then purchased cigarettes, made inquiries about the cost to travel to Vancouver by cab, and made inquiries at the bus depot about available buses to the Lower Mainland.
- [110] Throughout his interactions with the front desk clerk and the cab driver, Mr. Danjou seemed to them to be normal. The cab driver described him as calm, relaxed, and talkative with no signs of intoxication.
- [111] Within minutes of his return to the hotel, Mr. Danjou called Ms. Gauravarapu, but she did not answer. He then texted her to ask if he was getting a ride with her. She replied no and told him he was on his own. That was at 6:32. He then messaged her five times without a response from her. The fourth of those five messages said, "Please call me. Let's talk." The final one, at 6:48, said he needed his phone charger and asked her to leave it outside the door where he would pick it up in 10 minutes. Following that message, Mr. Danjou briefly left the hotel, and by 6:54 p.m., he had entered Room 205 and commenced assaulting Ms. Gauravarapu.
- [112] Although Mr. Danjou told Dr. Tomita that he had certain recollections of seeing and hearing Ms. Gauravarapu as or after he walked down the hotel hallway, I have no direct admissible evidence of those things which Mr. Danjou told Dr. Tomita. What Mr. Danjou told Dr. Tomita in that regard is hearsay, the truth of which is unknown and untested, to paraphrase the court in *Shearer* at para. 95.
- [113] The assault on Ms. Gauravarapu was violent and sustained. Within minutes of the assault commencing, the loud noises from Room 205 had awoken Ms. Kulak, a guest in the room below. She thought the sounds were from kids jumping off beds and described the picture on the wall of her room moving. After she called the front desk clerk, Ms. Cote attended and listened at the door at approximately 7:01. She heard the sounds of someone "being pushed around". At 7:06, she returned to the door of Room 205 to speak to the occupant or occupants.

- [114] Ms. Kulak testified, and I accept, that there was a short break in the noise of between 30 seconds and two minutes, following which the noise resumed and got louder.
- [115] I find that the pause in the noise coincides with Ms. Cote's second attendance at Room 205.
- [116] On that second attendance, Ms. Cote knocked on the door, announced herself as guest services, and Mr. Danjou replied. When he said they needed no services, she asked him to open the door. He complied. He took the phone charger which she found outside the door and handed it to him.
- [117] Only after interacting with Mr. Danjou did Ms. Cote notice Ms. Gauravarapu badly beaten, leaning against the wall. When Ms. Gauravarapu said, "Help", Mr. Danjou responded, "She doesn't need any help".
- [118] After Ms. Cote backed away from the door, Mr. Danjou looked down the hall towards Ms. Cote, heading for the elevator. Ms. Cote was in the elevator at 7:08. I find that Mr. Danjou resumed his assault of Ms. Gauravarapu after looking down the hallway towards Ms. Cote.
- [119] Ms. Kulak, having decided to go outside the hotel for a cigarette, could still hear the noises in her room from upstairs as she left her room and went down the hall to the lobby. She arrived in the lobby seconds before 7:11 p.m., as can be seen on the CCTV video. Additional proof that the assault continued after Ms. Cote went to the elevator comes from the evidence of Constable Schwindt and Sergeant Abels, which evidence I accept, which was that Ms. Gauravarapu was laying on the floor when they arrived, not sitting or leaning against the wall as she had been when Ms. Cote backed away from the door. The bloodstain pattern analysis also confirms that blows were struck to a blood source at or near the floor, consistent with blows to a bleeding head already on the floor.
- [120] The violence of the assault on Ms. Gauravarapu is also obvious from the autopsy results. She had multiple wounds to her head and neck. As I said earlier, she had 52 separate areas of injury. Some of her injuries were caused by blunt force trauma or blunt force, some were caused by cutting or stabbing. I find that at least some of the injuries were inflicted using a wine bottle as a club and after it broke as a sharp sort of weapon. Ms. Gauravarapu also had defensive wounds.
- [121] After the assault, Mr. Danjou fled the hotel through a side door. Blood was found on the door to 202, which I find was put there by Mr. Danjou, possibly looking for a place to hide on his way to the exit. His clothes and shoes were covered in blood and what may have been red wine stains. As I said earlier, he travelled some distance on foot and then backtracked a short distance and hid under cardboard in a dumpster where he was found by the police dog.
- [122] All of the evidence of Mr. Danjou's conduct before and after the offence show that he was acting purposefully and in a cogent manner.

- [123] The nature of the attack, coupled with the conduct of Mr. Danjou, would, absent other factors, lead to an inescapable conclusion that Mr. Danjou had the specific intent required for murder.
- [124] However, it is necessary that I consider the defences of intoxication, mental disturbance short of NCRMD, and all of the other evidence bearing on the issue of intent.
- [125] As I said earlier, without consideration of the ingestion of vodka by Mr. Danjou shortly before the attack on Ms. Gauravarapu, Mr. Danjou had a blood alcohol content which would put him in the category of mild to moderate impairment. Consumption of vodka shortly prior to 7 p.m. would only reduce, not increase, his blood alcohol content at 7 p.m.
- [126] The evidence is clear that Mr. Danjou was more than a social drinker. Even if he had been only a social drinker at the time of the offence, he was only mildly to moderately impaired at most. The Supreme Court of Canada in *R. v. Daley*, 2007 SCC 53 defined three legally-relevant degrees of intoxication. Mr. Danjou, on the basis of all of the evidence, fell into the category of mild intoxication, about which the majority in *Daley* said at para. 41:
- [41] This is where there is alcohol-induced relaxation of both inhibitions and socially acceptable behaviour. This has never been accepted as a factor or excuse in determining whether the accused possessed the requisite mens rea.
- [127] Given Mr. Danjou's level of functioning before the offence, including his normal interactions with the front desk clerk when he booked his own room and his interactions with the cab driver, Mr. Bull-Perry, in the short time before the attack on Ms. Gauravarapu commenced, I am satisfied that Mr. Danjou was not intoxicated or impaired to the degree that it affected his ability to understand and foresee the consequences of his assault on Ms. Gauravarapu.
- [128] I will continue to consider the issue of intoxication when I consider the rolled-up defence and all of the evidence bearing on the issue of intent.
- [129] Dr. Tomita has diagnosed Mr. Danjou as suffering from delusional disorder - jealousy type. Based on all of the evidence, including all of the recordings of the arguments between Mr. Danjou and Ms. Gauravarapu, I think it likely that he does suffer from delusional disorder - jealous type. However, Dr. Tomita was clear in his opinion that the disorder does not impair a sufferer's cognitive abilities, nor his ability to control his reactions or engage in rational decision making. Disorganized thinking and psychosis are not features of the disorder. Perhaps more importantly, there is no admissible evidence that the attack on Ms. Gauravarapu was connected to Mr. Danjou's delusions, despite the defence theory that Mr. Danjou became jealous when Mr. Drissel spoke to the couple on the patio at the winery. As I said earlier, the first sign of discord happened significantly later and was the incident of Mr. Danjou grabbing Ms. Gauravarapu's phone. The communications between Mr. Danjou and Ms. Gauravarapu in the short time leading up to the assault clearly establish that Ms. Gauravarapu was insistent that Mr. Danjou get his own room and find his own way back to

Vancouver, and that Mr. Danjou was on his own. This took place in the context of a troubled relationship which Ms. Gauravarapu had threatened to end in the past. It also takes place in the context of Mr. Danjou's personality traits. Mr. Danjou, shortly before the attack commenced, expressly warned Ms. Gauravarapu that he was getting angry with her when she insisted that he get his own room and take his things with him.

- [130] The defence says there are many things that show Mr. Danjou was in a state of "mental disruption" at the time of and after the offence. For example, Ms. Cote described Mr. Danjou as being emotionless when she spoke to him in the doorway at Room 205. Another example is what defence counsel speculated about Mr. Danjou accidentally locking himself out of Room 205 when he looked down the hall to the back of Ms. Cote, which I have concluded did not happen. Another example is what is described as his "aimless" walking away from the hotel after he fled, rather than taking a cab. Again, I will consider all of the evidence bearing on the issue whether the Crown has proved the requisite intent beyond a reasonable doubt, but I do want to say that I do not agree with the characterization of Mr. Danjou's departure from the hotel. After the assault concluded, and within minutes of Ms. Cote heading for the elevator, Mr. Danjou, I find, decided to flee. That reflects his awareness that Ms. Cote would be calling for help. From the blood on the door to 202, I infer he either tried the door to that room or bumped against it on his way to the side exit. His route, once he left the hotel, was not aimless, but rather was logical, given the location of the hotel that he was attempting to flee and that he was a visitor to the city. His failure to call a cab was rational, given his appearance.
- [131] Defence counsel also point to Mr. Danjou's flat affect when dealing with the police dog handler and the other police officers, the ambulance attendants, and the hospital personnel. This evidence, while relevant to my overall assessment and to the "rolled-up" defence, does not demonstrate that Mr. Danjou's jealousy delusions or narcissistic personality traits interfered with his ability to think, focus, or make decisions. He remained, throughout his dealings with the police and medical personnel, appropriately responsive, demonstrating his cognitive functions were intact.
- [132] As to Mr. Danjou's statements to the police asking that the police find out how much he drank and to investigate his wife's alleged infidelity and evidence of infidelity, this evidence is more supportive of a conclusion that he was considering excuses or rationales for his actions than suggesting he had somehow had a break from reality.
- [133] It must be recalled again that Dr. Tomita testified that while he believed Mr. Danjou was suffering from a delusional disorder at the time of the offence, his opinion remained, as I quoted earlier, that:

236 [E]ven assuming Mr. Danjou was acting in anger caused entirely by his delusional belief about her, he had choices about how to react as an attack on her was not the only response to his anger. I assume Mr. Danjou had the capacity to make volitional choices that led him towards, rather than away, from the eventual attack on Rama Gauravarapu. Assuming his amnesia for the

index offence was a product of dissociative amnesia, the available data suggests that Mr. Danjou had the capacity to register and react to events as they unfolded and remained moored to the reality of these events.

- [134] I find that any mental disorder suffered by Mr. Danjou did not prevent him from foreseeing the consequences of his actions. They are insufficient to raise a reasonable doubt as to specific intent.
- [135] The cumulative effect of mild to moderate intoxication and some degree of mental disorder must be considered. The evidence of Dr. Tomita is of assistance. He testified that while alcohol use likely caused Mr. Danjou to make more maladaptive choices and to be less in control in terms of his responses to anger if the alcohol content was high enough, his opinion remained firm that the amount of alcohol reflected in Mr. Danjou's blood alcohol content would not be significantly impairing.
- [136] The evidence supports the conclusion that Mr. Danjou's actions before, during, and after the offence were purposeful and goal-directed. The evidence of the deteriorating relationship between Mr. Danjou and Ms. Gauravarapu is relevant to the issue of motive and intent: Griffin at para. 63, citing *R. v. Pasqualino*, 2008 ONCA 554 at para. 31. As Williams J. said in *R. v. B.E.*, 2019 BCSC 1442:
- [90] [E]vidence of motive may nonetheless be relevant and probative to the matter of intent:
- (1) As evidence, motive is always relevant and hence evidence of motive is admissible;
 - (2) Motive is no part of the crime and is legally irrelevant to criminal responsibility. It is not an essential element of the prosecution's case as a matter of law;
 - (3) Proved absence of motive is always an important fact in favour of the accused;
 - (4) Conversely, proved presence of motive may be an important factual ingredient in the Crown's case, notably on the issue of intention, when the evidence is purely circumstantial;
 - (5) Motive is therefore always a question of fact and evidence; and
 - (6) Each case will turn on its own unique set of circumstances. The issue of motive is always a matter of degree.
- [137] As I have said, the attack on Ms. Gauravarapu was prolonged and involved significant application of force, causing 52 separate areas of injury, most to her head and neck. The attack commenced before Ms. Cote's first attendance at the door, continued until it was interrupted by Ms. Cote's second attendance at the door, and resumed at least until Ms. Kulak left her room and walked towards the lobby.
- [138] There is abundant evidence that shows Mr. Danjou acted with purpose and foresight. No evidence, taken alone or in combination with other evidence, raises a reasonable doubt in my mind.

[139] Having considered all of the evidence, I find that the Crown has proved beyond a reasonable doubt that when Mr. Danjou beat, stabbed, and cut Ms. Gauravarapu, most particularly on her head and neck, that he meant to kill her or that he meant to inflict injuries which he knew, and foresaw, would likely cause her death and was reckless whether her death ensued.

[140] Mr. Danjou, please stand up.

[141] Mr. Danjou, I find you guilty as charged of the second degree murder of Rama Gauravarapu.

"A.J. Beames J."

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