

CANADA / JUDGMENT

R. v. Dittmer

2025 BCCA 260

COURT

British Columbia Court of Appeal

DECIDED

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2025 BCCA 260 R. v. Dittmer

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

R. v. Dittmer,

2025 BCCA 260

Date: 20250728

Docket: CA49681

Between:

Rex

Respondent

And

Samantha Jesselynn Dittmer

Appellant

Before:

The Honourable Chief Justice Marchand

The Honourable Mr. Justice Willcock

The Honourable Justice Riley

On appeal from: An order of the Supreme Court of British Columbia, dated
October 13, 2023 (conviction) (R. v. Dittmer, Port Alberni Docket 41681-2).

Counsel for the Appellant:

G.M. Ng

S. Head

Counsel for the Respondent:

M. Shah

Place and Date of Hearing:

Victoria, British Columbia

June 2, 2025

Place and Date of Judgment:

Vancouver, British Columbia

July 28, 2025

Written Reasons by:

The Honourable Mr. Justice Willcock

Concurred in by:

The Honourable Chief Justice Marchand

The Honourable Justice Riley

Summary:

Appeal from a conviction for manslaughter by careless use of a firearm. The appellant argues the applicable standard of care, that of the "reasonable person in all the circumstances", makes insufficient allowance for the characteristics and experiences of the accused, in this case, a history of trauma and co-dependency with the deceased. She calls for modification of the standard defined in the jurisprudence. In the alternative, she submits the jury charge on this point amounted to an error of law as the trial judge failed to clarify how jurors could consider the relationship between the appellant and the deceased. Held: Appeal dismissed. The existing reasonable person test is sufficiently contextualized to account for the factors the appellant says should have been considered. In any event, placing greater emphasis on the factors of trauma and dysfunction in this case would not have benefitted the appellant, as they suggest she should have taken greater care with the firearm. Finally, there was no error in the judge's instructions to the jury which properly stated jurors were permitted to consider the relationship between the appellant and the deceased, to the extent of how it would impact a reasonable person.

Reasons for Judgment of the Honourable Mr. Justice Willcock:

Introduction

- [1] Samantha Dittmer was charged with second degree murder of her son, Jesse McPhee. Mr. McPhee died from a single gunshot wound to his chest, fired from a rifle held by Ms. Dittmer on August 29, 2021. She was convicted by a jury of the lesser included offence of manslaughter under s. 232 of the Criminal Code, R.S.C., 1985, c. C-46 after a four-week trial on October 13, 2023. On February 16, 2024, she was sentenced to the statutory minimum of four years' imprisonment.
- [2] The judge's instructions to the jury described the elements of the offence of manslaughter; in this case, causing death by means of an unlawful act, the careless use of a firearm. The Crown was required to prove:
- a) the item Ms. Dittmer carried, handled, or used was a firearm;
 - b) she used, carried, or handled the firearm in a careless manner or without reasonable precautions for the safety of other persons;
 - c) her conduct was a marked departure from the standard of care of a reasonable person in all the circumstances of the case; and
 - d) she had no lawful excuse for her use of the firearm.
- [3] Ms. Dittmer appeals her conviction on the ground the jury was improperly instructed on the third element of the offence, in relation to the definition of the applicable standard of care.

Evidence

- [4] At the time of the offence, Mr. McPhee and his partner were living in the downstairs suite in Ms. Dittmer's home. He had been through a difficult separation from his ex-wife that had resulted in violent confrontations between him and his former partner's family. Mr. McPhee had been assaulted and suffered a spinal injury and a possible head injury. As a result, he took steps to protect himself, including buying several firearms and storing guns, and ammunition, throughout the house. He stored a rifle under Ms. Dittmer's bed.
- [5] Ms. Dittmer was very concerned about her son's deteriorating mental health. She considered his behaviour to be erratic, unpredictable, and sometimes violent. He had been violent toward her and, by her account, was never sober. She was experiencing significant stress in the days leading up to the offence. She had high blood pressure and daily panic attacks.
- [6] Ms. Dittmer testified that on August 29, 2021, she was feeling sad and asked Mr. McPhee for a hug. He squeezed her very hard and suggested that he should just "put her out of her misery". Ms. Dittmer was upset by this comment and left the house. When she returned later in the day, she took the rifle from under her bed and descended to Mr. McPhee's suite, with the intention of returning it to him, asking him to put it away properly and telling him she wanted nothing more to do with it.

- [7] It was her evidence that as she walked into the suite, she saw Mr. McPhee standing, looking away from her, seeming preoccupied or lost in thought. She thought this was a good opportunity to put the gun down and leave. Suddenly, Mr. McPhee ran at her and knocked her backwards, and the rifle discharged as the muzzle was pressing against his chest. She claimed to be unaware the rifle was loaded and denied any intention to fire the rifle. A moment after the shot was fired, Mr. McPhee's partner entered the room and found Ms. Dittmer holding the gun.
- [8] Ms. Dittmer admitted she had some familiarity with firearms. She had been around firearms since she was a child and had taken a hunter's education program as a teen that included a firearms safety component. She had been taught to treat every firearm as if it were loaded. She admitted she had not checked if the rifle was loaded because, she claimed, Mr. McPhee had assured her it was unloaded. She was unfamiliar with the rifle's safety mechanism and was not aware the safety was not on.

Trial and judgment

- [9] In the course of pre-charge discussions, the trial judge considered submissions with respect to a written draft of the jury charge, including on the applicable standard of care in a manslaughter case founded upon an allegation of death caused by careless use of firearms. Counsel expressly addressed the way the jury should be instructed on consideration of the circumstances in which the appellant found herself on August 29, 2021. Defence counsel referred the trial judge to the discussion of the elements of unlawful act manslaughter in *R. v. Creighton*, [1993] 3 S.C.R. 3, 1993 CanLII 61. The Crown's position was that the jury should be instructed that they should consider all of the circumstances Ms. Dittmer was in at the time of the shooting, including the level of knowledge or information she possessed. Counsel specifically identified one question that required attention: how to deal with Ms. Dittmer's belief the rifle was not loaded. This was treated by both counsel as a problem distinguishing between what information was available to the appellant and what she subjectively believed.
- [10] In her instructions to the jury, the judge elaborated on the Crown's obligation to prove the appellant's conduct was a marked departure from the standard of care of a reasonable person in all the circumstances of the case, as follows:

The third essential element of careless use of a firearm requires you to be satisfied beyond a reasonable doubt that Ms. Dittmer's conduct was a marked departure from the standard of care of a reasonable person in all of the circumstances of this case.

A marked departure means something more than simple inadvertence, thoughtlessness, or a simple error in judgment, and more than mere carelessness.

The standard of care means the level of behaviour that is needed in order to engage in a particular activity, here the use, carrying, or handling of a firearm safely.

The question is what a reasonable person, in the same circumstances that Ms. Dittmer found herself in at the time she dealt with the firearm, would have done, and whether what she actually did or did not do was a marked departure from the standard of care that a reasonable person would have met.

In answering this question, you do not consider what Ms. Dittmer herself thought or intended, or her own personal characteristics. The focus, instead, is on what should have been in her mind. However, you do consider all of the circumstances that she was in at the time, including the level of knowledge or information she possessed about those circumstances.

So, if you believe or have a reasonable doubt, based on Ms. Dittmer's evidence, that Mr. McPhee told her the Rifle was unloaded, or she did not know the Rifle was equipped with a safety, you must ask yourself whether, in light of that perception, even though it was/may have been a mistaken impression, her actions were a marked departure from the standard of care that a reasonable person would have engaged in if that reasonable person held that perception.

If you believe or have a reasonable doubt, based [on] Ms. Dittmer's evidence, that she never touched the trigger and the Rifle discharged accidentally in some way -- in some other way when Ms. -- Mr. McPhee charged or ran at her, you must still go on to consider whether all of her other actions and inactions were a marked departure from the standard of care that a reasonable person would have engaged in, in all the circumstances. In other words, the Crown does not have to prove beyond a reasonable doubt that Ms. Dittmer discharged the Rifle accidentally in order for you to be satisfied that her actions were a marked departure from the standard of care that a reasonable person would have engaged in, in all the circumstances.

In determining whether the Crown has proved beyond a reasonable doubt that Ms. Dittmer's actions were a marked departure from the standard of care that a reasonable person would have engaged in, in all the circumstances, you must consider the evidence related to all of Ms. Dittmer's actions involved in handling/carrying/using the Rifle and the evidence of all the circumstances, including the storage of the Rifle under her bed, and all of Mr. McPhee's circumstances, including his behaviour and emotional state prior to and on that day, his consumption of alcohol and state of sobriety or intoxication before Ms. Dittmer brought the Rifle into the main floor suite and the presence of other firearms and ammunition there.

More generally, when you are deciding on the standard of care of a reasonable person in Ms. Dittmer's circumstances, it is open to you, if you accept it, to consider Reserve Constable Hurley's opinion evidence regarding firearm safety.

[Emphasis added.]

[11] She added, in summary, that if they were satisfied Ms. Dittmer committed the unlawful act of careless use of a firearm, the jury should consider whether the third element of manslaughter was satisfied, namely: "whether when--when Ms. Dittmer committed careless use of a firearm, it was objectively foreseeable, that is, a reasonable person would have foreseen that there was a risk of bodily harm that was more than trivial or transitory being caused by it".

[12] During deliberations, the jury asked the following question:

Regarding the reasonable person test can or how can we consider a dysfunctional or co-depend or abusive family relationship?

[13] The judge responded as follows:

You must consider what a reasonable person would have done in all the circumstances in determining whether the Crown has proven the included offence of manslaughter based on the unlawful act of careless use of a firearm beyond a reasonable doubt in two ways. One, whether the third essential element for careless use of a firearm, Ms. Dittmer's conduct, was a marked departure from the standard of care of a reasonable person in all the circumstances of the case has been proven beyond a reasonable doubt.

And two, if you are satisfied beyond a reasonable doubt that Ms. Dittmer committed the unlawful act of careless use of a firearm as part of the third essential element for manslaughter, you must also be satisfied beyond a reasonable doubt that a reasonable person in the same circumstances as Ms. Dittmer would likely have realized that they were exposing someone else to a risk of bodily harm if they used the rifle in the same careless manner.

In deciding what a reasonable person would have done in all the circumstances for both one and two, as I said to you in my final instructions, you must not consider what Ms. Dittmer herself thought or intended or her personal characteristics while she was engaged in handling or using the rifle. The reasonable person whose actions you are measuring Ms. Dittmer's conduct against must be placed in all the same circumstances that she faced from the point that she assumed control of the rifle to the time that it discharged.

Those circumstances would include the nature of the relationship between Ms. Dittmer and Mr. McPhee to the extent you find it formed part of the circumstances that a reasonable person would have faced in that situation.

The standard of care does not vary because of what Ms. Dittmer thought or intended, including what she thought or intended because of her relationship with Mr. McPhee. In other words, you can consider the nature of the relationship insofar as it would have affected how a reasonable person, not Ms. Dittmer, would have acted when handling the rifle, or in foreseeing a risk of bodily harm.

I remind you it is how a reasonable person would have acted, not Ms. Dittmer, when handling the rifle and what they would have foreseen in those circumstances that must govern your decision.

[Emphasis added.]

Issues on appeal

[14] Ms. Dittmer argues:

- a) The reasonable person test as it applies to determining whether an act is unlawful because it is a marked departure from the standard of care demanded of the accused should be modified.
- b) It should be modified so as to allow for a blended subjective/objective reasonable person test, allowing consideration of what a reasonable person with the relevant characteristics and experiences (including trauma/dysfunction) would perceive.
- c) In the alternative, the trial judge's response to the jury's question on the reasonable person test amounted to an error of law as it failed to clarify how the jurors could consider the prior relationship between Ms. Dittmer and the deceased.

[15] In response, the Crown says:

- a) It is not necessary to modify the reasonable person test for negligence-based offences. It is already sufficiently contextualized to include circumstances such as an abusive or dysfunctional relationship. The judge told the jury to consider, as one relevant circumstance, the relationship between the appellant and Mr. McPhee.
- b) If the appellant is suggesting the reasonable person test should be broadened to include the personal attributes of the accused, that notion has been expressly rejected by the Supreme Court of Canada.
- c) The judge's response to the jury's question about the reasonable person test was consistent with settled law and made it clear that the jury could consider the relationship between the appellant and Mr. McPhee.
- d) Alternatively, if this Court finds that the judge's response was confusing or insufficient, the curative proviso should apply because any consideration of the relationship would have been detrimental to the appellant's case.

Discussion and analysis

Reconsideration of the standard

[16] Counsel for the appellant says it is time to reject what Chief Justice Lamer described as reference to the "monolithic" reasonable person when defining the standard of care, in the following passage of his dissenting judgment in Creighton at 25:

An accused can only be held to the standard of a reasonable person if the accused was capable, in the circumstances of the offence, of attaining that standard. Consequently, in determining whether a reasonable person in the circumstances of the accused would have foreseen the risk of death arising from the unlawful act, the trier of fact must pay particular attention to any human

frailties which might have rendered the accused incapable of having foreseen what the reasonable person would have foreseen. If the criminal law were to judge every accused by the inflexible standard of the monolithic "reasonable person", even where the accused could not possibly have attained that standard, the result, as Stuart notes, would be "absolute responsibility" for such persons: *Canadian Criminal Law: A Treatise* (2nd ed. 1987), at p. 192. H. L. A. Hart advanced a similar argument in "Negligence, Mens Rea and Criminal Responsibility" in *Punishment and Responsibility* (1968), at p. 154:

- [17] She says the current standard was defined by the majority in *Creighton* in 1993, at a time when the effects of trauma were poorly appreciated and the standard is not "trauma informed". In applying the existing standard in unlawful act manslaughter cases, she contends, the courts will capture conduct of insufficient gravity to deserve the significant moral opprobrium reflected by a manslaughter conviction and the mandatory minimum sentence that conviction entails.
- [18] In response, the Crown says the standard of care, as described in *Creighton* and subsequently, is sufficient to take into account all relevant circumstances of the offence, including trauma, short of adopting a purely subjective standard. The Supreme Court of Canada has clearly and repeatedly rejected the position that a blended subjective/objective reasonable person test—one that would permit consideration of what a reasonable person with the accused's general characteristics and experiences, including trauma or dysfunction, would perceive in the circumstances—should be adopted.
- [19] Crown counsel says there is no reason to revisit the question settled in *Creighton*, a question Justice McLachlin (as she was), writing for the majority, considered to be unresolved in *R. v. Hundal*, [1993] 1 S.C.R. 867, 1993 CanLII 120: the extent to which personal mental or psychological frailties of the accused should be weighed when examining the mens rea of offences founded in negligent conduct.
- [20] Justice McLachlin answered that question as follows, at 61-64:

[The] principle that the criminal law will not convict the morally innocent does not, in my view, require consideration of personal factors short of incapacity. The criminal law, while requiring mental fault as an element of a conviction, has steadfastly rejected the idea that a person's personal characteristics can (short of incapacity) excuse the person from meeting the standard of conduct imposed by the law.

In summary, I can find no support in criminal theory for the conclusion that protection of the morally innocent requires a general consideration of individual excusing conditions. The principle comes into play only at the point where the person is shown to lack the capacity to appreciate the nature and quality or the consequences of his or her acts. Apart from this, we are all, rich and poor, wise and naive, held to the minimum standards of conduct prescribed by the criminal law. This conclusion is dictated by a fundamental proposition of social organization. As Justice Oliver Wendell Holmes wrote in *The Common Law* (1881), at p. 108: "when men live in society, a certain average of conduct, a sacrifice of individual peculiarities going beyond a certain

point, is necessary to the general welfare."

What then is the situation for crimes of inadvertence? Here actual intention or knowledge is not a factor; hence personal characteristics are not admissible on that ground. Nor, in my view, can a case be made for considering them on any other basis, except in so far as they may show that the accused lacked the capacity to appreciate the risk. This appears to be the settled policy of the law, applied for centuries to offences involving manslaughter or penal negligence based on objectively assessed fault. Here, as in crimes of subjective intent, the courts have rejected the contention that the standard prescribed by the law should take into account the individual peculiarities of the accused, short of incapacity.

[21] The purpose of negligence-based cases is to set minimum standards of care in relation to dangerous activities like handling of firearms--a certain average of conduct necessary to the general welfare. The modified objective test described in *Creighton* has been repeatedly confirmed.

[22] The nature of "contextualization" permitted by this standard was elaborated upon in *R. v. Beatty*, 2008 SCC 5. Discussing *Creighton* in that case the Court held:

[40] Short of incapacity to appreciate the risk or incapacity to avoid creating it, personal attributes such as age, experience and education are not relevant. The standard against which the conduct must be measured is always the same -- it is the conduct expected of the reasonably prudent person in the circumstances. The reasonable person, however, must be put in the circumstances the accused found himself in when the events occurred in order to assess the reasonableness of the conduct. To reiterate the example used above, the reasonable person becomes the one who "without prior warning, suffers a totally unexpected heart attack, epileptic seizure or detached retina" or becomes the one who "in the absence of any warning or knowledge of its possible effects, takes a prescribed medication which suddenly and unexpectedly" causes him to drive in a manner that is dangerous to the public. By so placing the reasonable person, the test is not personalized and the standard remains that of a reasonably prudent driver, but it is appropriately contextualized.

[Emphasis in original.]

[23] In *R. v. Javanmardi*, 2019 SCC 54, Justice Abella, for the majority, applied the modified objective test described in *Creighton*, while holding that the examination of context permits consideration of the accused's activity-specific knowledge and training:

[38] *Creighton's* activity-sensitive approach to the modified objective standard has been applied in a variety of contexts, including in cases involving driving, hunting and parenting (*Beatty*, at para. 40; *R. v. Gendreau*, 2015 QCCA 1910, at para. 30 (CanLII); J.F., at paras. 8-9). These decisions confirm that while the standard is not determined by the accused's personal characteristics, it is informed by the activity. In this case, the activity is administering an intravenous injection, and the standard to be applied is that of the reasonably prudent

naturopath in the circumstances.

- [39] In measuring Ms. Javanmardi's conduct against this standard, Villemure J. was not only entitled, she was obliged to consider her prior training, experience and qualifications as a naturopath. Where the Crown's theory is, as it is in this case, that the accused engaged in an activity without the requisite training and knowledge, the accused's activity-specific knowledge and experience are clearly relevant to determining whether the applicable standard of care was met. An accused's training and experience may, for example, be used to rebut an allegation of being unqualified to engage in an activity. Evidence of training and experience may also be used to show how a reasonable person would have performed the activity in the circumstances.

[Emphasis added.]

- [24] In *R. v. Zora*, 2020 SCC 14, the Court held that the offence in question, breaching bail conditions under s. 145(3) of the Code, required proof of subjective fault but noted that the objective fault required for other offences was that defined in *Creighton*, observing (at para. 30): "[o]bjective fault is premised on uniform societal standards of behavior and therefore does not permit consideration of the inexperience, lack of education, youth, cultural experience, or any other circumstance of the accused, short of an incapacity or virtual inability to comply".
- [25] In *R. v. Goforth*, 2022 SCC 25, Justice Côté affirmed the test in *Creighton* and the appropriate consideration of context, as described in *Javanmardi*:
- [41] The law is clear that personal characteristics of an accused, short of incapacity, are irrelevant in assessing objective mens rea (*Creighton*, at p. 61). In *Creighton*, the majority of this Court rejected the view that "individual excusing conditions" (p. 63) such as educational, experiential, and "habitual" characteristics of an accused may be taken into account (p. 61). Consideration of personal characteristics, short of incapacity, injects subjectivity into the objective test, which undermines the purpose of having a single and uniform minimum legal standard of care (pp. 61 and 70). This is not to say that the reasonable person is placed in a factual vacuum. "While the legal duty of the accused is not particularized by his or her personal characteristics short of incapacity, it is particularized in application by the nature of the activity and the circumstances surrounding the accused's failure to take the requisite care" (p. 71; see also *R. v. Javanmardi*, 2019 SCC 54, [2019] 4 S.C.R. 3, at paras. 36-38). The reasonable person is therefore placed in the relevant circumstances of the accused. These circumstances "do not personalize the objective standard; they contextualize it" (D. M. Paciocco, "Subjective and Objective Standards of Fault for Offences and Defences" (1995), 59 Sask. L. Rev. 271, at p. 285).

[Emphasis added.]

- [26] Most recently, in *R. v. Hodgson*, 2024 SCC 25, the Court noted:

- [47] The objective mens rea of manslaughter is not concerned with what the accused intended or knew; rather, "the mental fault lies in failure to direct the mind to a risk which the reasonable person would have appreciated" (Creighton, at p. 58).
- [27] In my opinion, the Crown is right to say that, while the objective fault component of the offence of manslaughter is premised on uniform societal standards of behavior and does not permit consideration of subjective intent or knowledge, it is sufficiently contextualized to permit consideration of all factors that might have informed or affected the care exercised by a reasonable person. That being the case, I see no incentive to revisit the Supreme Court of Canada's description of the intent necessary to support a conviction.

Adoption of a different test does not assist the appellant

- [28] Whatever merit the appellant's argument with respect to subjective mens rea may have, it is difficult to see how on the facts of this case, the adoption of a different standard would have assisted her. Her counsel at trial did not seek to have the court adopt a different test from that described in Creighton--for good reason. At trial she faced a murder charge. The question of her intent in discharging the firearm that killed her son was left to the jury. There was no suggestion on her part that she acted in self-defence or that there was provocation. It was clearly not in her interest in relation to that charge to suggest that animus or intention, such as may have been a result of violence directed at her by Mr. McPhee played any part in the shooting.
- [29] Even in relation to the lesser included offence of manslaughter, it is unclear to me how a history of violence or trauma could have militated against a finding that her conduct in approaching the victim with a loaded rifle without engaging the safety was not a marked departure from the standard of care demanded of her. Mental distress might have been relevant if incapacity had been in question, but it was not. In my view, the Crown rightly asserts that the history of trauma and the victim's violence and unpredictable behaviour demanded that the appellant take greater care, rather than affording her a defence. Even if the jury had been instructed to consider the appellant's relationship of codependency with Mr. McPhee and the trauma it is said she suffered at his hands, that evidence would not have assisted her.

Application of the test

- [30] In the alternative, the appellant contends the trial judge erred in law in the manner in which she described the modified objective test to the jury or responded to their question. She says the conventional modified test does not ignore the actual mental state of the accused. The jury should have been told to consider the totality of the accused's circumstances. She says the test is appropriately described in Beatty and the trial judge in this case should have modeled the instruction on the judgment in that case.

- [31] I would not accede to that argument. In Beatty, as we have seen, the Court concluded personal attributes such as age, experience and education are not relevant. The standard against which the conduct must be measured is the conduct expected of the reasonably prudent person in the circumstances. However, the appellant places some weight upon the cautionary note sounded by Justice Charron in the following terms:
- [43] In making the objective assessment, the trier of fact should be satisfied on the basis of all the evidence, including evidence about the accused's actual state of mind, if any, that the conduct amounted to a marked departure from the standard of care that a reasonable person would observe in the accused's circumstances. Moreover, if an explanation is offered by the accused, then in order to convict, the trier of fact must be satisfied that a reasonable person in similar circumstances ought to have been aware of the risk and of the danger involved in the conduct manifested by the accused.

[Emphasis added.]

- [32] The appellant says rather than instructing the jury that they should not consider what Ms. Dittmer herself thought or intended, or her own personal characteristics, the judge should have instructed the jury to consider all of the circumstances that she was in at the time, including evidence about her actual state of mind. In my view, the test described in the judge's instruction in the case at bar was not materially different from that described in Beatty. As I have noted, she instructed the jury to consider all of the circumstances that Ms. Dittmer was in at the time, including the level of knowledge or information she possessed about those circumstances and to consider whether, in light of her perception, even though it was/may have been a mistaken impression, her actions were a marked departure from the standard of care that a reasonable person would have engaged in if that reasonable person held that perception.
- [33] In my view, there was no error in the instruction or in the judge's response to the jury's question, which also closely mirrored the descriptions of the requisite mens rea in the jurisprudence. When asked by the jury how they might consider a dysfunctional, co-dependent or abusive family relationship, the judge responded by telling them they could consider those circumstances insofar as they would have affected how a reasonable person, not Ms. Dittmer, would have acted when handling the rifle, or in foreseeing a risk of bodily harm. In my view, that was an adequate and not erroneous direction. The answer was crafted in discussion with defence counsel and was neither confusing nor inaccurate.

Curative proviso

- [34] Having reached those conclusions it is unnecessary to address the Crown's submission that any error in the charge might be addressed by resort to the curative proviso in s. 686(1)(b) (iv) of the Criminal Code.

Conclusion

[35] I would dismiss the appeal.

"The Honourable Mr. Justice Willcock"

I AGREE:

"The Honourable Chief Justice Marchand"

I AGREE:

"The Honourable Justice Riley"

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