

CANADA / JUDGMENT

R. v. Gladue

2025 BCSC 1038

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2025 BCSC 1038 R. v. Gladue

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Gladue,

2025 BCSC 1038

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Registry: Vancouver

Rex

v.

Gerald Gladue

On appeal from: An order of the Provincial Court of British Columbia

dated April 3, 2024 (R. v. Gladue, 2024 BCPC 54, Vancouver Docket 263372)

Before: The Honourable Justice Elwood

Reasons for Judgment

Counsel for the Crown:

D. Meagher

Counsel for the Respondent:

C. Hiebert

Place and Date of Hearing:

Vancouver, B.C.

February 5, 2025

Place and Date of Judgment:

Vancouver, B.C.

June 5, 2025

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I. INTRODUCTION

- [1] The Crown appeals an acquittal in Provincial Court on two charges of assaulting a police officer. The Crown says that the appeal comes down to a single legal issue in two parts:
- a) Can a police officer rely on the consent of a resident of a shared home to enter the common areas of the living space to arrest another resident without a warrant?
 - b) If so, is explicit consent required or is an implied consent sufficient?
- [2] The Crown argues that the trial judge erred by finding that, as a matter of law, one resident cannot authorize the police to enter into a shared space for the purpose of arresting another resident. The Crown submits that if this were a correct statement of the law, the effect of the decision under appeal would be sweeping and would undermine law enforcement and public safety in a number of contexts including family violence.

II. BACKGROUND

- [3] In the early morning hours of August 22, 2021, three RCMP officers responded to a dispatch about uttered threats. The dispatch included information that the suspect and the complainant were housemates living in a shared basement suite of a detached home.

- [4] Constables Abraham and Hutchins were the first officers to arrive on the scene. The complainant, Riley Gardner, was waiting outside and flagged them down several hundred feet away from the subject address. Mr. Gardner provided the officers with his name and gave them directions to the basement suite.
- [5] Constable Baji arrived next. Mr. Gardner told Cst. Baji that he had left the suite because his housemate, Gerald Gladue, had threatened to kill him. Constables Abraham and Hutchins began walking toward the property. After they left, Mr. Gardner told Cst. Baji that he wanted his housemate removed from the suite.
- [6] Constable Abraham testified that he determined he had grounds to arrest Mr. Gladue for uttering threats as he approached the front door of the suite.
- [7] Constables Abraham and Hutchins knocked on the door of the suite. A man who was partially dressed opened the door. The officers explained to him that they were investigating a threat complaint, and asked if his name was Gladue. The man either did not respond or gave a non-response. He left the front door open, and walked back into the suite.
- [8] Both officers followed him into the suite. The occupant did not respond to their questions. He moved towards a bedroom, appeared to change his mind and went into the bathroom to urinate. He then walked towards the front door and called out to Mr. Gardner by name. Constable Abraham testified that these actions confirmed for the officers their belief that the man was the housemate, Mr. Gladue.
- [9] The officers moved to arrest Mr. Gladue for the uttering threats offence. He resisted arrest, and a physical altercation ensued in which Mr. Gladue bit Cst. Abraham on the hand, and put Cst. Hutchins in a headlock. Cst. Abraham subsequently used a taser to subdue Mr. Gladue, and the officers completed the arrest.
- [10] Mr. Gladue was charged with uttering a threat to cause death or serious bodily harm to Mr. Gardner, contrary to s. 264.1(1) of the Criminal Code, R.S.C. 1985, c. C-46 [Code]. He was also charged with assaulting Constables Abraham and Hutchins, peace officers engaged in the execution of their duties, contrary to s. 270(1)(a) of the Code.
- [11] Mr. Gardner did not attend to testify at the trial. The Crown directed a stay on the uttering threats count at the commencement of the trial.
- [12] Following a two-day trial, the Provincial Court judge issued reasons for judgement (the "RFJ") in which she acquitted Mr. Gladue on the charge of assaulting the police officers.

III. REASONS FOR JUDGMENT

- [13] The trial judge began with a brief background and the essential elements of the offence of assaulting a police officer in the execution of their duties:
 - a) there was an assault;

- b) the person alleging the assault was a peace officer to the knowledge of the accused; and
- c) at the time of the alleged assault, that peace officer was in the execution of his or her duty.

[14] The trial judge noted that the first two elements were not in dispute: the issue was whether the Crown had established the third element beyond a reasonable doubt (RFJ at para. 22).

[15] The trial judge further noted that, because the police entered the basement unit in which Mr. Gladue lived without a warrant, the Crown was required to establish the legality of their entry, because "'a police officer unlawfully on premises is not acting in the course of their duty' and a person lawfully in possession may resist the trespass." (RFJ at para. 23, citing *R. v. D.L.M.*, 2018 BCSC 1247 at para. 57).

[16] The trial judge reviewed a number of authorities dealing with entry by the police and whether a co-resident can consent to entry into a shared dwelling space, including *R. v. Feeney*, [1997] 2 S.C.R. 13, and *R. v. Reeves*, 2018 SCC 56. From these cases, the trial judge distilled four principles.:

1. A Feeney warrant is presumptively required for police to arrest a person in a dwelling house.
2. Police may enter a dwelling house without prior legal authorization in order to make an arrest if in hot pursuit or if exigent circumstances exist.
3. A further exception is that police may lawfully enter a dwelling house if they have first obtained the informed and revocable consent of a resident who has a privacy interest in the premises. After obtaining such consent police may enter the dwelling for the limited purpose of furthering an investigation.
4. On a validly obtained third party consent entry, police may not go beyond the common areas of a jointly shared dwelling in conducting their investigation.

[RFJ at para. 57]

[17] The trial judge then summarized her findings of fact. The Crown does not take issue with these findings of fact. I will quote them in their entirety because they were stated very clearly and succinctly by the trial judge. I will emphasize the findings that were in my view crucial to the acquittal:

1. Each of the Burnaby RCMP officers who responded to a dispatch call about an allegation of uttering threats was a "peace officer" as defined in s. 2 of the Criminal Code.
2. The complainant, Riley Gardner, shared the basement suite of a detached residence with the accused Gerald Gladue. Each had their own bedroom within the suite and shared a common living room, kitchen and dining area.

3. The complainant's interaction with the two officers who went to speak with his housemate was limited to identifying and giving directions to his residence. There was no discussion between Mr. Gardner, the complainant and co-resident, and the police about whether Mr. Gardner consented to police entering the jointly shared basement suite.
4. Police understood that Mr. Gardner did not feel safe because his housemate had pushed and threatened to kill him. Police took Mr. Gardner's guiding them to the location of his residence to be an implied invitation to go to speak with the occupant, and to defuse the situation.
5. After speaking with Mr. Gardner, police officers had a reasonable basis to enter onto the yard of the shared residence for an investigatory purpose linked to Mr. Gardner's allegation of uttering threats. Their movement onto the subject property, specifically from the street to the front door of the basement residence, was permissible under the implied licence doctrine
6. The intention of each police officer in moving to the door of the unit was to speak with the housemate and, in Cst. Abrahams' mind, to arrest him.
7. The police had a reasonable basis to believe the person who answered the door to their knocking was the complainant's housemate, Gerald Gladue. They knew from Mr. Gardner that Mr. Gladue was the only person in the unit, and they had been directed to the specific residence by Mr. Gardner.
8. Police asked the male at the unit door to identify himself by name but he did not do so, refusing or being non-responsive. The male was Mr. Gladue, his identity being confirmed upon his arrest. Mr. Gladue was in his underwear when he answered to door, and clearly a resident in occupation of the unit.
9. On seeing a semi-dressed male inside the residence who turned away from the police, police had reasonable grounds to believe the male was the complainant's housemate, and had reasonable and probable grounds to effect an arrest
10. I find that the police did not discuss with the complainant, Mr. Gardner, whether he specifically consented to police going into the basement suite he shared with the suspect. Mr. Gardner did not give them his express consent to enter, although police may have inferred that he would not object if they did so.
11. There were no exigent circumstances requiring the police to enter the residence to effect Mr. Gladue's arrest. Police officers conceded that when they arrived at the subject residence, the complainant, Mr. Gardner, was several hundred feet away from the residence and under no obvious or immediate risk of harm from his housemate. Police had no reason to believe there was anyone else in jeopardy in the basement suite, given that the only other person inside was said to be the suspect.

12. Mr. Gladue left the door of his residence open, with police standing at the threshold. Police did not seek Mr. Gladue's consent to enter and Mr. Gladue did not expressly and voluntarily invite the police into the unit.
13. After entry, police were in the area of the living room and hallway. They remained long enough to watch Mr. Gladue move towards his bedroom and then turn back to urinate in the bathroom. Mr. Gladue's actions to this point did not raise concerns about police safety.
14. Police attempted to arrest Mr. Gladue in the living room area of his home. Mr. Gladue resisted being arrested, and fought with police. Police sustained minor but painful injuries, and Mr. Gladue sustained two episodes of electric shock incapacitation and blows to his body on being subdued for purposes of arrest.

[RFJ at para. 62; citations omitted; emphasis added].

[18] The trial judge next applied the law to the facts, as follows, in three pivotal paragraphs of the RFJ:

[67] On the facts I have found, police in the case at bar did not expressly seek Mr. Gardner's prior consent to enter the basement unit. I accept that Mr. Gardner told police of Mr. Gladue's presence in the dwelling house, and police likely understood he wanted the man gone from the home. At best, police assumed they had the implied consent of the complainant to enter the residence.

[68] I conclude police did not have a valid consent to enter the basement suite and their entry was without legal authorization.

[69] Even assuming a fully informed consent, I have determined the complainant as co-resident could not authorize or grant consent to police to enter a jointly occupied dwelling house, if entry was for the sole or primary purpose arresting the other co-resident inside the dwelling house.

[RFJ at paras. 67–69; emphasis added].

[19] The trial judge concluded that the officers engaged in an unlawful, warrantless entry into a home in which Mr. Gladue lived, and as a result, the Crown had failed to prove an essential element of assaulting a police officer in the execution of their duty (RFJ at para. 78).

IV. ISSUES ON APPEAL

[20] The Crown argues that the trial judge erred in law by finding that a valid consent by one resident of a shared living space does not authorize the police to enter into the common areas for the purpose of arresting a co-resident, as distinct from furthering an investigation.

[21] The Crown further argues that the trial judge erred by finding that, to the extent the police may enter into a shared living space with the consent of a resident, that consent must be express and not implied.

V. ANALYSIS

A. Standard of Review

- [22] On a summary conviction appeal, the Crown's right of appeal from an acquittal may be based on errors of fact, mixed fact or law alone: *R. v. Labadie*, 2011 ONCA 227 at para. 50; s. 813(b)(i) of the Code.
- [23] On a question of law, or the application of the law to assess whether a legal standard is met, the standard of review is correctness: *R. v. Le*, 2019 SCC 34 at para. 23.
- [24] To overturn an acquittal, it is not enough for the Crown to show that the trial judge erred in law. The Crown must also show to a reasonable degree of certainty that the verdict would not necessarily have been the same if the legal error had not been made or, stated positively, that the verdict might have been different had the error not been made: *R. v. A.B.A.*, 2019 ONCA 124 at para. 14.

B. The Implied Consent Issue

- [25] I will begin with the second error alleged by the Crown because in my view the trial judge made a finding that the police did not obtain Mr. Gardner's consent, express or implied, to enter the basement suite which, on the governing standard of review, is dispositive of the appeal.
- [26] The trial judge proceeded from her review of the case law on the understanding that the police may lawfully enter a dwelling house if they have first obtained the valid consent of a resident who has a privacy interest in the premises. Neither the Crown nor the respondent takes issue with this statement of the law.
- [27] The Crown argues that the trial judge fell into error when she said at para. 53 of the RFJ that, to be valid, the consent of a resident must be "express and not implicit":
- [53] The consent of a co-resident for police to enter a dwelling house must be express and not implicit. It must be informed, voluntary and revocable. In *R. v. D.C.R.*, 2017 BCPC 80 the court noted:
- [136] An invitation to a police officer to enter a home to arrest one of its owners requires more than mere acquiescence or compliance: *R. v. Atkinson*, 2012 ONCA 380 (CanLII). In *R. v. Borden*, 1994 CanLII 63, the Supreme Court of Canada held that valid consent must be an informed consent. Constable Baird did not tell Ms. H. why he was at her home. He simply directed her to go and get Mr. R. He never told her she could refuse him entry. It is difficult to see how such conduct could provide Ms. H. with an adequate informational basis upon which she could relinquish her right to privacy: see *R. v. Puyenbroek*, 2007 ONCA 824 (CanLII), para.39.

[28] The Crown cites *R. v. Wills*, (1992) 7 O.R. (3d) 337, 1992 CanLII 2780 (O.N.C.A.), for the six requirements which must be satisfied on a balance of probabilities to prove valid consent:

- (i) there was a consent, express or implied;
- (ii) the giver of the consent had the authority to give the consent in question;
- (iii) the consent was voluntary in the sense that that word is used in *Goldman*, supra, and was not the product of police oppression, coercion or other external conduct which negated the freedom to choose whether or not to allow the police to pursue the course of conduct requested;
- (iv) the giver of the consent was aware of the nature of the police conduct to which he or she was being asked to consent;
- (v) the giver of the consent was aware of his or her right to refuse to permit the police to engage in the conduct requested; and,
- (vi) the giver of the consent was aware of the potential consequences of giving the consent.

[Emphasis added.]

[29] Standing alone, para. 53 of the RFJ would seem to suggest that the trial judge instructed herself that valid consent must be express and cannot be implied. However, considering the RFJ pragmatically and as a whole, as this Court must, I don't think that is what she was saying. Elsewhere in the RFJ, the trial judge specifically considered whether Mr. Gardner's consent could be implied, and decided that it could not.

[30] At para. 66 of the RFJ, after noting the lack of exigent or extenuating circumstances that could justify a warrantless arrest, the trial judge said: "This leaves for consideration the issue of the apparent or implied consent of Mr. Gladue's co-resident, Mr. Gardner for police to enter the residence." (emphasis added).

[31] At para. 67 of the RFJ, after referring to the evidence of the brief interaction between Mr. Gardner and the officers who arrested Mr. Gladue, the trial judge said: "At best, police assumed they had the implied consent of the complainant to enter the residence" (emphasis added).

[32] At para. 68, the trial judge concluded " police did not have a valid consent to enter the basement suite " (emphasis added).

[33] My reading of these passages is that the trial judge found that the police had neither the express nor the implied consent of Mr. Gardner to enter the basement suite. The judge's use of the word "implicit" in para. 53 quoted above is potentially confusing; I don't think she used it as a synonym for "implied". Rather, she used "implicit" to rule out consent that is mere acquiescence or compliance. In other words, the trial judge instructed herself, correctly in my view, that consent may be implied from the circumstances known to the police and the resident, but it must be informed and meaningful; consent cannot simply be assumed by the police.

- [34] The evidence from which Mr. Gardner's consent could be implied was that he flagged down the police car, identified himself to the police officers, and provided directions to the basement suite. Mr. Gardner may have also said in the presence of the two officers who entered the suite and arrested Mr. Gladue that he (Mr. Gardner) had left the suite because he feared for his safety.
- [35] Notably, the two officers who entered the suite and arrested Mr. Gladue were not present when Mr. Gardner gave a fuller statement to Cst. Baji. It is not clear to me whether they heard Mr. Gardner say he had left the suite because he feared for his safety. However, it is clear they did not hear Mr. Gardner say that he wanted Mr. Gladue removed from the suite.
- [36] There was no evidence that the officers who arrested Mr. Gladue confirmed Mr. Gardner's authority to consent to their entering the suite. They did not confirm Mr. Gardner's identity or his home address.
- [37] There was also no evidence that they discussed their purpose in entering the suite with Mr. Gardner. The two officers may have understood that Mr. Gardner wanted them to investigate further and diffuse the situation; however, there was no evidence that Mr. Gardner was aware that they intended to enter the residence for the purpose of arresting Mr. Gladue.
- [38] Mr. Gardner did not testify to confirm the nature or scope of his consent. His out-of-court statements to the officers were admissible only as evidence of the officers' states of mind.
- [39] In my view, it was open to the trial judge on the limited evidence in this case to find that the Crown had failed to prove that Mr. Gardner provided a valid informed consent, express or implied. In my view she did just that, and the appeal can be dismissed on this basis alone.
- [40] Even assuming an error by the trial judge on the primary issue raised by the Crown--whether one resident of a shared living space can consent to police entering the common areas to arrest another resident--the verdict would be the same had the alleged error not been made. The Crown failed to prove that Mr. Gardner provided a valid consent for the police to enter the suite. The entry without a warrant was therefore unlawful, regardless of whether Mr. Gardner could authorize the police to enter for the purposes of effecting an arrest.

C. Entry with Consent for the Purposes of Arrest

- [41] The trial judge took from her review of the case law that police may lawfully enter a dwelling house with the informed consent of a resident "for the limited purposes of furthering an investigation" (RFJ at para. 57(3)).
- [42] "Left unclear" from this case law, the trial judge said, is "whether or under what circumstances police have authority to arrest a person within the dwelling house after a consent entry is granted by one resident" (RFJ at para. 58).

- [43] The trial judge analysed the issue further and concluded that police cannot rely on a cohabitant's consent to make a warrantless entry if that entry was "for the sole or primary purpose of arresting the other co-resident inside the dwelling house" (RFJ at paras. 69 and 75–77).
- [44] The Crown argues that a distinction for the purposes of whether police may lawfully enter a shared living space with the consent of a resident, as between investigation and arrest, is "arbitrary and unworkable". The Crown argues that the line between furthering an investigation or effecting an arrest is not always clear. A police officer dealing with a dynamic situation should always be furthering their investigation and looking for evidence to decide whether to make an arrest or not. The Crown argues that a more straightforward test is required, based largely on Justice Côté's concurring reasons in Reeves.
- [45] The facts in Reeves were very different from this case. Mr. Reeves shared a home and a computer with his common-law spouse, Ms. Gravelle. Following an incident of family violence, Mr. Reeves was barred from the family home by a protection order. While Mr. Reeves was out of the home, Ms. Gravelle informed the police that she had found child pornography on the computer. A police officer entered the home and, with Ms. Gravelle's consent, removed the computer without a search warrant. Eventually, the police created a warrant application (which the trial judge later found to be deficient) and searched the computer. The search yielded evidence of child pornography, leading to charges against Mr. Reeves.
- [46] Mr. Reeves argued that the police obtained the evidence in violation of his s. 8 Charter rights, in two ways. first, the entry into the shared home; and second, the seizure of the shared computer.
- [47] There are three sets of reasons from the Supreme Court of Canada in Reeves. Justice Karakatsanis gave the decision of the majority and grounded her decision in the seizure and search of the computer. In doing so, Karakatsanis J. declined to decide whether the police entry into the shared home was lawful, recognizing that the question raised a myriad of important and complex issues:
- [24] Of course, the law has long recognized the prime importance of privacy within our homes. However, if a resident cannot consent to police entry to a shared home without the consent of all the other residents, it could undermine the dignity and autonomy of that resident -- especially for a victim of a crime.
- [25] Several provincial appellate courts have concluded that a resident has the right to permit police entry into common areas of the home without the consent of all other residents. However, without deciding the issue, police entry into a shared home with the consent of only one resident raises a number of important questions. Would police also be authorized to search common areas of the home? Should the privacy interests of other residents affect the authority to seize evidence, even if in plain view? Could another resident who is present object to the police entry? What if the officers seek entry for the specific purpose of

investigating one of the other residents?

[26] In short, the issue of whether police entry into a shared home with the consent of one resident violates the Charter raises complex questions that require a considered response. They are best answered in a case that directly turns on this issue, with the benefit of full submissions.

[Citations omitted; emphasis added.]

[48] Justice Côté addressed the issue directly. She found that police can and should be entitled to enter a shared residence, without a warrant, based on the consent of one party alone:

[105] In my view, one cohabitant can validly consent to a police entry into common areas of a shared residence, obviating the need for a warrant. The alternative rule -- that the police may enter the common areas of a shared home only if they obtain consent from each and every person who lives there -- is entirely unworkable. It also has no basis in our existing s. 8 jurisprudence as it pertains to physical spaces.

[49] Justice Côté explained her reasoning in terms of overlapping privacy interests and the rights of co-residents to invite third parties, including police, into the common spaces:

[112] I would reject the argument that the entry was invalid because Ms. Gravelle could not waive Mr. Reeves' Charter rights. That is beside the point. Properly understood, Ms. Gravelle did not waive anyone's rights except her own. But in the context of a shared home, Mr. Reeves' reasonable expectation of privacy was not sufficiently capacious to afford constitutional protection against a cohabitant's decision to give the police access to common areas.

[Emphasis added.]

[50] In *R. v. Clarke*, 2017 BCCA 453, the Court of Appeal held that consent from a primary resident was effective for police entry to search shared areas of a home in which she had an overlapping privacy interest with the accused. However, the Court found that her consent did not authorize the seizure in that case because the firearms were found under a tarp in a pile of items belonging to the accused. The Court of Appeal expressed their view of the law in a manner that would be consistent with Côté J.'s subsequent reasons in *Reeves*:

[62] ...[A] third party cannot, by consent or otherwise, waive a constitutional right held by another. However, third-party consent can nonetheless be relevant to whether the police have lawful authority to enter a common space shared by a third party and another person.

[51] Both *Reeves* and *Clarke* concerned search and seizure. Neither decision offers clear guidance on how overlapping privacy interests might interact with the principle in *Feeney* that, except in exigent circumstances or in cases of hot pursuit, police require a warrant to enter a private dwelling to make an arrest.

- [52] The Crown argues that Feeney turned on the privacy interest of the accused, and that the privacy interest was implicated, not by the arrest itself, but rather by the entry into the home without a warrant.
- [53] The Crown argues that, applying Côté J.'s approach in *Reeves*, Mr. Gardner had the right to invite the police into the common areas of the shared home, and Mr. Gladue's reasonable expectation of privacy was not "sufficiently capacious" to afford constitutional protection against an arrest once his housemate decided to give the police access to the common areas.
- [54] There is some support for the Crown's position in decisions from other jurisdictions pre-dating *Reeves*.
- [55] In *Tymkin v. Ewatski et al.*, 2014 MBCA 4, the Manitoba Court of Appeal held that a warrant may not be necessary if police are given "consent to enter the premises for a valid investigatory purpose, rather than for the purpose of arresting an occupant, and obtain reasonable grounds to arrest the occupant during the in-house investigation". The Court held that entry in such circumstances will be legal if a "sufficiently informed consent" was obtained from a person having a privacy interest in the dwelling house: paras. 73–78.
- [56] *R. v. Thrasher*, 2019 NWTSC 44, concerned a summary conviction appeal from a conviction that included a charge of resisting a peace officer engaged in the execution of his duty. The appellant's sister, the sole tenant of an apartment, had given the appellant permission to stay with her after becoming his surety. The appellant had a set of keys to the unit and his own bedroom, and contributed to the rent. Police attended at the door of the apartment after a neighbour's complaint of a curfew breach. The sister consented to police entering into the apartment, over the objections of the appellant, to arrest him. Justice Smallwood found that there was no breach of the appellant's rights because his sister as the primary resident gave an informed consent to allow police entry into the common areas of the apartment.
- [57] Neither *Tymkin* nor *Thrasher* was binding on the trial judge. Moreover, both decisions were based on evidence of clear and informed consent of a primary resident, which was lacking in this case.
- [58] In my view, the distinction between investigation and arrest that the trial judge drew for the purposes of determining whether the police entered the basement suite lawfully was not necessary to resolve the issue in this case. As discussed above, the decision in this case turned on the trial judge's finding that the Crown failed to prove that Mr. Gardner provided a valid consent. The point of law that causes the Crown concern was therefore obiter dicta and not binding on other trial judges: *Neale Engineering Ltd. v. Ross Land Mushroom Farm Ltd.*, 2023 BCCA 429.
- [59] In any event, I am not persuaded that the privacy interest that was recognized in *Feeney* was limited to the initial entry into the home, such that a co-resident could waive that interest and authorize an entry for the purposes of arresting someone else in their home.

[60] As the majority in Reeves noted, police entry into a shared home with the consent of only one resident raises a number of important questions. Those questions are only compounded when the entry is for the sole or primary purpose of arresting another resident inside the home. Should the authority of the police be limited to the purposes actually discussed with the consenting resident? Should the police be required to satisfy themselves that the consenting resident has reasonable grounds to ask the police to investigate and/or arrest another resident? Should the police be required to satisfy themselves of the motives of the consenting resident? Could another resident who is present object to the arrest? What if the officers seek entry for the purpose of investigating one resident, and arrest a different resident?

[61] In my view, the issue of whether police can enter a shared home with the consent of one resident to arrest another resident without a warrant raises complex questions that require a considered response by an appellate court. Those questions are better answered in a case that directly turns on this issue, with the benefit of evidence of a full and informed consent.

VI. CONCLUSION

[62] The Crown's appeal from the acquittal of Mr. Gladue is dismissed.

"Elwood J."

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