
CANADA / JUDGMENT

R. v. Hecimovic

2013 BCSC 1865

COURT

Supreme Court of British Columbia

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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Hecimovic,

2013 BCSC 1865

Date: 20130918

Docket: X76149-2

Registry: New Westminster

Regina

v.

Andelina Kristina Hecimovic

Before: The Honourable Madam Justice Gropper

Oral Reasons for Judgment

Counsel for the Crown:

W. Wakabayashi

M. Mann

Counsel for the Accused:

D. Kontou

Place and Date of Trial:

New Westminster, B.C.

September 9-13 and 16-17, 2013

Place and Date of Judgment:

New Westminster, B.C.

September 18, 2013

[1] THE COURT: A tragic event occurred on Lougheed Highway at Harris Road on October 19, 2010, just before midnight.

Introduction

- [2] A vehicle, a Toyota Paseo ("Toyota"), driven eastbound on Lougheed Highway by Ms. Hecimovic, who I will also refer to as the accused, went through a red light at Harris Road from a right turn only lane and then swerved to avoid the concrete pedestrian island located in the southeast corner of the intersection. The island extended halfway into the right lane if that lane were a through lane. Ms. Hecimovic steered to the left to avoid hitting the island and lost control of her vehicle.
- [3] According to Sergeant Dave Jewers, an accident reconstructionist with the RCMP, the Toyota had a speed loss of 67 kilometres per hour when it hit the curb of the median between the east and westbound lanes on Lougheed Highway. The vehicle vaulted upwards and horizontally. The Toyota struck a Suzuki Swift ("Suzuki"), which was stopped in the left turn lane westbound on Lougheed Highway. The force of the Toyota was sufficient to sheer off the roof of the Suzuki and then to slide or bound a further 20 metres eastward where it came to a stop.
- [4] The strike to the Suzuki caused fatal injuries to both of its passengers, John De Oliveira, age 21, and Rebecca Dyer, age 19.
- [5] The accused is charged with two counts of dangerous driving causing death, contrary to s. 249(4) of the Criminal Code, R.S.C. 1985, c. C-46. Section 249(1)(a) provides:
249. (1) Every one commits an offence who operates
- (a) a motor vehicle in a manner that is dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place...
- [6] Subsection (4) of s. 249 provides:
- (4) Every one who commits an offence under subsection (1) and thereby causes the death of any other person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

- [7] The nature of the offence of dangerous driving causing death is described by the Supreme Court of Canada in a recent decision referred to as *R. v. Roy*, 2012 SCC 26 at paras. 1-2:
- [1] Dangerous driving causing death is a serious criminal offence punishable by up to 14 years in prison. Like all criminal offences, it consists of two components: prohibited conduct - operating a motor vehicle in a dangerous manner resulting in death - and a required degree of fault - a marked departure from the standard of care that a reasonable person would observe in all the circumstances. The fault component is critical, as it ensures that criminal punishment is only imposed on those deserving the stigma of a criminal conviction. While a mere departure from the standard of care justifies imposing civil liability, only a marked departure justifies the fault requirement for this serious criminal offence.
- [2] Defining and applying this fault element is important, but also challenging, given the inherently dangerous nature of driving. Even simple carelessness may result in tragic consequences which may tempt judges and juries to unduly extend the reach of the criminal law to those responsible. Yet, as the Court put it in *R. v. Beatty*, 2008 SCC 5, [2008] 1 S.C.R. 49, at para. 34, "If every departure from the civil norm is to be criminalized, regardless of the degree, we risk casting the net too widely and branding as criminals persons who are in reality not morally blameworthy". Giving careful attention to the fault element of the offence is essential if we are to avoid making criminals out of the merely careless.
- [8] As in every criminal case, the Crown bears the onus of proving the elements of the offence: the actus reus, or the prohibited conduct, and the mens rea, or the degree of fault, beyond a reasonable doubt.

The Evidence

- [9] Lougheed Highway is a major thoroughfare connecting Vancouver to the Fraser Valley. Harris Road is a main artery to the Pitt Meadows commercial centre. The speed limit on Lougheed Highway is 80 kilometres per hour. All of the witnesses describe that part of the highway as flat and straight and say that vehicles often exceed the speed limit by as much as 40 to 50 kilometres per hour.
- [10] Lougheed Highway at Harris Road has three lanes eastbound as well as a left turn lane and a right turn lane. On the westbound side, there are two lanes and a left turn lane. Harris Road has four lanes on the north side of Lougheed Highway and five on the south side.
- [11] At the time of the collision, the Crown and the defence have admitted that the signage for eastbound traffic on the Lougheed Highway leading up to the collision site included:
- (a) One right turn arrow sign located approximately 58 metres west of the centre of the intersection of Lougheed Highway and Harris Road.
 - (b) One "Right lane must turn right" sign located approximately 50 metres west of the centre of the intersection of Lougheed Highway and Harris Road.

- (c) One overhead traffic advisory sign located west of the intersection of Lougheed Highway and Harris Road at approximately 125 metres west of the centre of the intersection; and
 - (d) One "Maximum 80 km/h" speed sign located approximately 579 metres west of the centre of the intersection of Lougheed Highway and Harris Road.
- [12] As mentioned, there is a raised cement island on the southeast corner which would cover part of the right lane if that lane were a through lane.
- [13] On October 19, 2010 at 11:44 p.m., the traffic at the intersection was light, the weather was cold and dry, it was obviously dark and there were streetlights and ambient lights at the intersection.
- [14] In the eastbound lanes of Lougheed Highway, Duncan Buss was in the lane adjacent to the right turn lane, slowing down to stop at a red light at Harris Road. Shannon Macdonald and her two passengers, Ashley Devries and Chelsea Storrings, were stopped in the lane either adjacent to Mr. Buss or in the next lane at the red light. They estimate they had been there for between two and five seconds. Sharon Bosse was stopped for the red light behind one or two other vehicles in the lane adjacent to the right turn lane or the one immediately to the left, that is, north of that lane.
- [15] All of these witnesses first observed a red car, the Toyota, in the right turn lane driving at the speed limit or higher go through the red light, cross the intersection, either hit or swerve to avoid the passenger island and then swerve several times, vaulting over the centre median and colliding with another vehicle, the Suzuki. None of the eastbound witnesses had observed the Toyota on the highway before the intersection at Harris Road.
- [16] Cole Prpich was in the westbound left turn lane on the north side of Lougheed Highway directly in front of Mr. Oliveira and Ms. Dyer's vehicle. The light had just turned green when he heard a loud screeching and impact sound. He says that he saw the collision through his rear view mirror. He estimated it to be three to four car lengths behind him. He says one car flipped upside down on the other and then he saw the car that had been on top roll off and onto its wheels, cross two lanes of traffic and then stop, partly on the shoulder and partly on the most northern westbound lane of traffic.
- [17] Harvey West, an accident reconstructionist called by the Crown, prepared a report addressing the speed of the Toyota at the onset of its loss of control, which was at or adjacent to the raised pedestrian island. He concluded that the range of speed was from 100 to 130 kilometres per hour with a probable speed of 110 kilometres per hour. As he provided a range and the accused is entitled to the benefit of any doubt, I consider that at best his report can be taken as opinion evidence of a speed of 100 kilometres per hour. This is similar to the speed estimated by the witnesses. As a result, it is unnecessary to place significant weight on Mr. West's opinion or to address whether Mr. West's calculations can be supported when the horizontal distance which the Toyota travelled after vaulting the centre meridian could not be accurately ascertained.

- [18] Ms. Hecimovic gave evidence. She explained that she was heading east on Lougheed Highway to her boyfriend's home on Meadow Gardens Way, which is to the left at the next intersection after Harris Road.
- [19] Ms. Hecimovic had completed an eight-hour shift as a nurse in the emergency department at Eagle Ridge Hospital. The day had been particularly trying. She cared for a young man who had ingested a bottle of pills and a bottle of liquor. His parents were with him at the hospital. She went off shift at 11:15 p.m. and decided to drive to her boyfriend's house. She decided to take the shortest route, which is east on Lougheed Highway to the Meadow Gardens Way intersection.
- [20] As she drove to the intersection, Ms. Hecimovic says she saw a lane "open up", which I take it to mean there were no cars in that lane, so she moved her vehicle into that lane. She said she believed it was a through lane. She says that just at that point she became overwhelmed with the events at work that day and began to cry. She says she did not speed up or slow down in that open lane and was travelling, she thinks, at about 80 kilometres per hour or perhaps 90 or possibly 100 kilometres per hour; she did not check her speedometer.
- [21] She did not observe the traffic advisory sign, which is the yellow rectangular sign above with flashing yellow lights ahead of the intersection to warn of a red light ahead, nor did she observe the right turn only sign to the right of the right lane. She says she only noticed the light was red when she was at or in the intersection. Before that she said she felt that the light was green. She says she then noticed the raised pedestrian island and swerved to avoid it. She lost control of her vehicle and the collision followed.
- [22] Ms. Hecimovic was asked about her familiarity with the intersection of Lougheed Highway and Harris Road. She has been at and through the intersection many times over an almost two year period before October 19, 2010. Her boyfriend moved to Meadow Gardens Way in late 2008. Ms. Hecimovic says that most of the time she has been a passenger in her boyfriend's car or on the bus and has not paid attention to the configuration of the lanes, the signs at the intersection, or the raised pedestrian island. Generally, she says, as a driver she avoided the intersection, preferring a route on Old Dewdney Trunk Road that was minutes longer, but as she describes, more comfortable. She says she enjoyed that drive. She had driven through the intersection at Lougheed Highway and Harris Road once or twice before October 19, 2010.

Position of the Parties

The Defence

- [23] The defence submits that the Crown has not proven the essential elements of the offence. While the *actus reus* is established, that is, that the accused went through a red light, she proceeded through the intersection in a right turn lane and travelled at the speed limit or higher, the Crown has not proven the *mens rea*, the subjective intent to establish that the accused is guilty of the offence beyond a reasonable doubt.
- [24] In regard to Ms. Hecimovic's evidence, the defence asserts that I must apply the test stated in the Supreme Court of Canada decision of *R. v. W. (D.)*, [1991] 1 S.C.R. 742, which I will refer to later in these reasons.

The Crown

- [25] The Crown argues that the offence is established by three deliberate decisions the accused made: to run a red light, to go through an intersection in a right turn only lane, and to travel at an excessive speed. The Crown says she attempted to jump the line of traffic to get to her boyfriend's house faster. All of these features, the Crown argues, satisfy the *actus reus* of the offence.
- [26] The Crown says that the accused's evidence should not be believed. She downplayed her familiarity with the intersection, she ignored signs that were there to be seen regarding the right lane being a turn lane only, and she entered the intersection on a red light because she felt it was green.
- [27] The Crown submits that Ms. Hecimovic was, according to the witnesses, going very fast, yet only allowed that she was going the speed limit or perhaps ten kilometres above that or possibly 100 kilometres per hour.
- [28] The accused did not, the Crown asserts, experience a momentary lapse or make a simple misjudgment. It was not one single error the Crown says; Ms. Hecimovic made a series of deliberate decisions, albeit in a short timeframe.

The Case Authorities

- [29] I will review the Roy decision extensively as it represents the law as established by the Supreme Court of Canada that I must apply in this case. At para. 28 of Roy, the Court describes the decision which the Supreme Court of Canada made in Beatty:
- [28] In Beatty, the majority of the Court spoke through the reasons of Charron J. which of course are the authoritative statement of the relevant principles. In brief, the Court decided as follows. The *actus reus* of the offence is driving in a manner dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle was being operated and the amount of traffic that at the time was or might reasonably have been expected to be at that place (s. 249(1)(a) of the Criminal Code). The *mens rea* is that the degree of care exercised by the accused was a marked departure

from the standard of care that a reasonable person would observe in the accused's circumstances (Beatty, at para. 43). The care exhibited by the accused is assessed against the standard of care expected of a reasonably prudent driver in the circumstances. The offence will only be made out if the care exhibited by the accused constitutes a marked departure from that norm. While the distinction between a mere departure from the standard of care, which would justify civil liability, and a marked departure justifying criminal punishment is a matter of degree, the lack of care must be serious enough to merit punishment (para. 48).

[29] It will be helpful to reiterate the main elements of the majority reasons in Beatty.

(2) The Importance of the Fault Requirement for Dangerous Driving

[30] A fundamental point in Beatty is that dangerous driving is a serious criminal offence. It is, therefore, critically important to ensure that the fault requirement for dangerous driving has been established. Failing to do so unduly extends the reach of the criminal law and wrongly brands as criminals those who are not morally blameworthy. The distinction between a mere departure, which may support civil liability, and the marked departure required for criminal fault is a matter of degree. The trier of fact must identify how and in what way the departure from the standard goes markedly beyond mere carelessness...

[32] Beatty consolidated and clarified this line of jurisprudence. The Court was unanimous with respect to the importance of insisting on a significant fault element in order to distinguish between negligence for the purposes of imposing civil liability and that necessary for the imposition of criminal punishment. As Charron J. put it on behalf of the majority, at paras. 34-35:

If every departure from the civil norm is to be criminalized, regardless of the degree, we risk casting the net too widely and branding as criminals persons who are in reality not morally blameworthy. Such an approach risks violating the principle of fundamental justice that the morally innocent not be deprived of liberty.

In a civil setting, it does not matter how far the driver fell short of the standard of reasonable care required by law. The extent of the driver's liability depends not on the degree of negligence, but on the amount of damage done. Also, the mental state (or lack thereof) of the tortfeasor is immaterial, except in respect of punitive damages. In a criminal setting, the driver's mental state does matter because the punishment of an innocent person is contrary to fundamental principles of criminal justice. The degree of negligence is the determinative question because criminal fault must be based on conduct that merits punishment. [Emphasis added in Roy.]

(3) The Actus Reus

- [33] Beatty held that the actus reus for dangerous driving is as set out in s. 249(1)(a) of the Code, that is, driving "in a manner that was 'dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place'" (para. 43).
- [34] In considering whether the actus reus has been established, the question is whether the driving, viewed objectively, was dangerous to the public in all of the circumstances. The focus of this inquiry must be on the risks created by the accused's manner of driving, not the consequences, such as an accident in which he or she was involved. As Charron J. put it, at para. 46 of Beatty, "The court must not leap to its conclusion about the manner of driving based on the consequence. There must be a meaningful inquiry into the manner of driving" [emphasis added in Roy]. A manner of driving can rightly be qualified as dangerous when it endangers the public. It is the risk of damage or injury created by the manner of driving that is relevant, not the consequences of a subsequent accident. In conducting this inquiry into the manner of driving, it must be borne in mind that driving is an inherently dangerous activity, but one that is both legal and of social value (Beatty, at paras. 31 and 34). Accidents caused by these inherent risks materializing should generally not result in criminal convictions.
- [35] To summarize, the focus of the analysis in relation to the actus reus of the offence is the manner of operation of the motor vehicle. The trier of fact must not simply leap from the consequences of the driving to a conclusion about dangerousness. There must be a meaningful inquiry into the manner of driving.
- (4) The Mens Rea
- [36] The focus of the mens rea analysis is on whether the dangerous manner of driving was the result of a marked departure from the standard of care which a reasonable person would have exercised in the same circumstances (Beatty, at para. 48). It is helpful to approach the issue by asking two questions. The first is whether, in light of all the relevant evidence, a reasonable person would have foreseen the risk and taken steps to avoid it if possible. If so, the second question is whether the accused's failure to foresee the risk and take steps to avoid it, if possible, was a marked departure from the standard of care expected of a reasonable person in the accused's circumstances...
- [38] The marked departure from the standard expected of a reasonable person in the same circumstances - a modified objective standard - is the minimum fault requirement. The modified objective standard means that, while the reasonable person is placed in the accused's circumstances, evidence of the accused's personal attributes (such as age, experience and education) is irrelevant unless it goes to the accused's incapacity to appreciate or to avoid the risk (para. 40). Of course, proof of subjective mens rea - that is, deliberately dangerous driving - would support a conviction for dangerous driving, but proof of that is not required (Charron J., at para. 47; see also McLachlin C.J., at paras. 74-75, and

Fish J., at para. 86).

(5) Proof of the "Marked Departure" Fault Element

- [39] Determining whether the required objective fault element has been proved will generally be a matter of drawing inferences from all of the circumstances. As Charron J. put it, the trier of fact must examine all of the evidence, including any evidence about the accused's actual state of mind (para. 43).
- [40] Generally, the existence of the required objective mens rea may be inferred from the fact that the accused drove in a manner that constituted a marked departure from the norm. However, even where the manner of driving is a marked departure from normal driving, the trier of fact must examine all of the circumstances to determine whether it is appropriate to draw the inference of fault from the manner of driving. ... The underlying premise for finding fault based on objectively dangerous conduct that constitutes a marked departure from the norm is that a reasonable person in the position of the accused would have been aware of the risk posed by the manner of driving and would not have undertaken the activity: Beatty, at para. 37.
- [41] In other words, the question is whether the manner of driving which is a marked departure from the norm viewed in all of the circumstances, supports the inference that the driving was the result of a marked departure from the standard of care that a reasonable person in the same circumstances would have exhibited.
- [42] Driving which, objectively viewed, is simply dangerous, will not on its own support the inference that the accused departed markedly from the standard of care of a reasonable person in the circumstances (Charron J., at para. 49; see also McLachlin C.J., at para. 66, and Fish J., at para. 88). In other words, proof of the actus reus of the offence, without more, does not support a reasonable inference that the required fault element was present. Only driving that constitutes a marked departure from the norm may reasonably support that inference.

Burden of Proof of Credibility

- [30] In any charge under the Code the Crown must prove the elements of the case and disprove any available defence beyond a reasonable doubt.
- [31] Reasonable doubt was defined by the Supreme Court of Canada in *R. v. Lifchus*, [1997] 3 S.C.R. 320 at para. 36, where the Court provided a summary of how the definition of reasonable doubt should be explained:
- the standard of proof beyond a reasonable doubt is inextricably intertwined with that principle fundamental to all criminal trials, the presumption of innocence;
 - the burden of proof rests on the prosecution throughout the trial and never shifts to the accused;

- a reasonable doubt is not a doubt based upon sympathy or prejudice;
- rather, it is based upon reason and common sense;
- it is logically connected to the evidence or absence of evidence;
- it does not involve proof to an absolute certainty; it is not proof beyond any doubt nor is it an imaginary or frivolous doubt; and
- more is required than proof that the accused is probably guilty - a [judge or] jury which concludes only that the accused is probably guilty must acquit.

[32] When the accused testifies the Court must consider R. v. W. (D.). The instruction in that case is:

1. If I believe the accused, I must acquit.
2. If I do not believe the testimony of the accused but I am left with a reasonable doubt, I must acquit.
3. Even if I am not left in doubt by the evidence of the accused, I must ask myself whether on a balance of evidence I do accept I am convinced beyond a reasonable doubt by the evidence of the guilt of the accused.

[33] In R. v. C.W.H., (1991), 68 C.C.C. (3d) 146 at 155, Wood, J.A. proposed an addition to the three point model suggested in W.(D.):

4. After careful consideration of all the evidence I am unable to decide on whom to believe, I must acquit.

Analysis

[34] The Crown's theory is that Ms. Hecimovic wanted to get ahead of a line of traffic stopped on Lougheed Highway at the red light at Harris Road and get to the other side of the intersection before those other vehicles. The Crown suggests that Ms. Hecimovic was in a hurry to get to her boyfriend's house and she wanted to get ahead because after the intersection she would have to get to the far left lane to turn left at the next intersection.

[35] Ms. Hecimovic denies the theory. She says she was not in a hurry but had, at the moment she went through the red light, lost her focus and began to cry.

[36] None of the witnesses observed Ms. Hecimovic's Toyota before the intersection, although they had all travelled at least three kilometres from the Pitt River Bridge to this intersection. No witness described a Toyota in a hurry, driving fast or changing lanes to get ahead in that portion of the highway. In that regard, the evidence does not support the Crown's theory.

[37] I believe the accused when she says she was not in a hurry. She had almost arrived at her destination and jumping the line by going through the red light would accomplish little in terms of time saving.

- [38] I find that the Crown's theory is not supported by the evidence. However, that is not the end of the analysis. The theory is just that; it is a theory. It does not address the elements of the offence.
- [39] The Crown's theory however, supports its position about what it says is the deliberateness of the totality of the accused's actions, which included moving into the right turn only lane, jumping the red light and travelling at a high rate of speed. I agree with the Crown that I must ultimately consider the totality of the evidence, but I must first break down each act and assess whether each represents a marked departure from the standard expected of a reasonable person placed in the accused's circumstances. Addressing first the move to the right lane, there is no doubt that the accused moved into that lane and did so deliberately, but was that a marked departure from the norm? I accept that the accused was unfamiliar as a driver with that intersection. I accept that at the point where the right lane opens, 300 metres from the intersection, there is no marking that it ends or that it is a right turn only lane. I accept the accused's evidence that she believed it was a through lane. The accused did not see the signs indicating that the right lane must turn right. The accused first appreciated that the right lane ended when she observed the raised pedestrian island on the opposite side of the intersection, which was too late. The move to the right turn only lane was dangerous, but I cannot find it was a marked departure from the norm. It was an error, but not a deliberate attempt to get ahead of the other traffic.
- [40] Next, I will turn to the accused travelling through a red light.
- [41] While the accused went through the red light, I cannot find that she -- in the Crown's words -- "jumped the light" or "ran the red". There is no evidence that she sped up to do so. Going through a red light is dangerous, but it happens. People misperceive lights; it is not a marked departure from the norm. I accept the accused's evidence that she did not observe the light to be red until she was just at or in the intersection.
- [42] I will now move to the speed.
- [43] The accused said that she thought she was going at the speed limit of 80 kilometres an hour, but perhaps 90 or possibly 100 kilometres per hour. I accept that evidence. It is not contradicted by the witnesses who were stopped at the red light at Harris Road, who had varying estimates of speed, or by the expert evidence of Sergeant Jewers or Harvey West, but moving to the point I find that it is not a marked departure from the norm. People drive faster than the speed limit on that flat and straight part of the Lougheed Highway that was lightly travelled that night.
- [44] The Crown argues that I must look at the totality of the evidence, the combination of travelling in the right turn only lane, going through a red light and excessive speed in order to consider whether it has established the elements of the offence, particularly the mens rea, beyond a reasonable doubt.

- [45] It is a combination of the three acts of dangerous driving, the Crown says, which demonstrates the deliberateness or mental elements of the accused's decision making and which shows that it was not misjudgment or mere inattention on the accused's part.
- [46] The Crown points out that the other cases to which it and the defence have referred address one feature of dangerous driving, as in Roy or Beatty. In other cases where the Court has referred to a combination of acts of dangerous driving the Courts have concluded that that combination is a marked departure from the norm and that the charge has been proven beyond a reasonable doubt. Indeed, at para. 55 of the Roy decision, the Court states:
- [55] ... In my view, the appellant's decision to pull onto the highway is consistent with simple misjudgment of speed and distance in difficult conditions and poor visibility. The record here discloses a single and momentary error in judgment with tragic consequences.

[emphasis added]

- [47] I disagree with the Crown that whether there was one act of dangerous driving or more is the test to apply. The Court in Roy takes many paragraphs, as I have reviewed, to explain the test to be applied, but it does not suggest that more than one act of dangerous driving meets the mens rea element. That is a simple theory that is easy to express and it would not require the Supreme Court of Canada to consider complex legal concepts at all. The finding of the Court in Roy at para. 55 in respect to a single and momentary error in judgment describe the facts in that case but do not define a principle that more than a single act of dangerous driving demonstrates that the mens rea component has been met.
- [48] Here, there were a series of acts and each compounded the other, but I have not found that any of the acts separately constituted a marked departure from the norm. When considered together, I find that they do not establish the mens rea element of the defence. These three acts were part of a momentary error and even together they do not show a marked departure from the norm or something other than simple carelessness.
- [49] The Crown has not met the heavy onus required. I am not convinced beyond a reasonable doubt that the accused's driving at 11:44 p.m. on October 19, 2010 at the intersection of Lougheed Highway and Harris Road constitutes the offence of dangerous driving causing death. I find the accused not guilty of both counts.
- [50] Let me end where I began. A tragic event occurred at that time and place. Two young adults died of the injuries they sustained. Ms. Hecimovic must live with the fact that she is responsible for this terrible tragedy but she has not committed these serious criminal offences.

"Gropper J."

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