

CANADA / JUDGMENT

R. v. Laroche

2024 BCSC 2394

COURT

Supreme Court of British Columbia

DECIDED

17 April 2024

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2024 BCSC 2394 R. v. Laroche IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Laroche, 2024 BCSC 2394 Date: 20240417 Docket: 89855-2 89855-5 Registry: Nanaimo Rex v. Paris Jayanne Laroche Corrected Judgment: The text of the judgment was corrected at paragraph 4 on January 9, 2025. Before: The Honourable Mr. Justice Baird Oral Ruling on Admissibility of Evidence of Dr. Amy Fitzgerald Counsel for the Crown: N. Barber Counsel for the Accused: G. Orris, K.C. R. Young Place and Date of Hearing: Vancouver, B.C. April 17, 2024 Place and Date of Judgment: Vancouver, B.C. April 17, 2024

- [1] This is a first-degree murder prosecution. The defence has called evidence from Dr. Amy Fitzgerald, who is a professor of Sociology at the University of Windsor, Ontario. She has testified to her background, education, qualifications, teaching and research experience in criminology and specifically, for the last 20 years or so, in the area of the coincidence of intimate partner violence and the mistreatment of domestic pets. I am satisfied on her evidence that she has done extensive research and has written or co-written multiple academic articles on this subject.
- [2] Dr. Fitzgerald was called by defence counsel as an expert with specialised knowledge and a person entitled to give opinion evidence about the manner in which domestic pets can sometimes become enmeshed in dysfunctional situations involving intimate partner violence. She prepared a report that I have read a number of times and which has now been filed as an exhibit on this trial. I have also heard her evidence from start to finish, including the reprisal and conclusion of her cross-examination today after an adjournment of approximately two months granted at the Crown's request for time to consider her report, her testimony, and its potential impact on this case. The Crown has argued that Dr. Fitzgerald's opinion evidence is not properly admissible and urges me to exclude it and disabuse my mind of it.
- [3] Dr. Fitzgerald testified that she examined Ms. Laroche's warned statements to Corporal Isenor and her unguarded interactions with undercover police officers, whose evidence about their dealings with her over a number of days has already been heard. Dr. Fitzgerald formed the impression, one that I share, that Ms. Laroche is very attached to her cats. For example, in her lengthy discussions with Corporal Isenor, she mentioned her cats

repeatedly, asked who was looking after them, how their needs were being met, how they were getting along, and so on. It was a notable preoccupation in circumstances where she had just been arrested for murder and was in police custody facing enormous jeopardy as a suspect in the investigation of a major crime.

- [4] Some of the things that Ms. Laroche said to these various police officers indicate that her relationship with the deceased, Sidney Mantee, could turn abusive. She claimed that she had been physically assaulted by Mr. Mantee, including an instance where he choked her to near unconsciousness. There was another occasion, she said, where Mr. Mantee attacked her with a shovel. She showed the undercover officers holes that she said Mr. Mantee had punched in the walls and doors of their apartment on Summerhill Place in Nanaimo, and these were confirmed by photographs presented in evidence at trial.
- [5] In addition to this, Ms. Laroche said that on at least one occasion Mr. Mantee also abused her cat, Nikita, by throwing her against the wall and breaking one of her fang teeth. Ms. Laroche also intimated in her statements to the undercover operators that the night before she killed Mr. Mantee, she had returned home to find her cat in obvious distress. The cat was cowering beneath Ms. Laroche's bed. She had urinated on the floor. She was hissing non-stop and refusing to feed her kittens. It seems clear from Ms. Laroche's statements that she thought her cat's behaviour was due to some kind of abuse or act of violence committed against it by Mr. Mantee.
- [6] Dr. Fitzgerald, as I have said, has made a sub-speciality of research into the coincidence or co-occurrence of intimate partner violence and the mistreatment of pets, both of which are suggested in the evidence about Ms. Laroche's home life adduced by the Crown. Dr. Fitzgerald says that her research shows that some abuse sufferers stay in relationships longer because they cannot bring themselves to abandon their pets; that abusers often victimise not only their partners, but also sometimes their domestic pets, all along the way to controlling and terrorizing and manipulating them. Dr. Fitzgerald's inquiries have led her to conclude that it is common in situations of intimate partner violence for abusers to isolate abused spouses from friends and family which can have the effect of strengthening the bond between the abused persons and their pets, whom they may come to see as their sole source of comfort, consolation, and support. There is some evidence of this sort of isolation contained in Ms. Laroche's narrative statements to the police. Dr. Fitzgerald added that the risk of severe intimate partner violence is particularly grave when the couple in question are in the midst of relationship disintegration, which the evidence would suggest was the case here.
- [7] As I was saying earlier, in considering the Crown's application to exclude Dr. Fitzgerald's evidence, I have been much influenced by the following statement in *R. v. J.J.*, 2000 SCC 51 at para. 29: The Court's gatekeeper function must afford the parties the opportunity to put forward the most complete evidentiary record consistent with the rules of evidence. As McLachlin J. [as she then was] noted in *R. v. Seaboyer*, [1991] 2 S.C.R. 577, at p. 611: Canadian courts, like courts in most common law jurisdictions, have been extremely cautious in

restricting the power of the accused to call evidence in his or her defence, a reluctance founded in the fundamental tenet of our judicial system that an innocent person must not be convicted.

- [8] I would also refer to *R. v. Lavalee*, [1990] 1 S.C.R. 852 para. 60, in which the court summarised the principles upon which, if I could put it this way in more modern language, expert evidence may be properly admitted in a case where there is an air of reality to an accused person's claim to have been the victim of intimate partner violence, including to assist the fact-finder in drawing inferences in areas where the expert has relevant knowledge or experience beyond that of the lay person, and to educate the fact-finder about intimate partner violence. Of particular importance in such cases is the need to dispel myths that abused spouses should react in a specific way, for example by leaving the relationship at the first opportunity, which would prejudice a rational and fair evaluation an accused person's claim, in a case in which the issue is plausibly raised, to have acted reasonably in self-defence in inflicting violence upon the alleged abuser.
- [9] In the record before the court, there is some evidence of intimate partner violence of the sort that Dr. Fitzgerald has studied and researched - that the deceased could act violently and threateningly not only against Ms. Laroche, but also against her cat. I am prepared to consider her opinion that abusive partners in intimate relationships employ various means of controlling and terrorizing their partners. I accept as logical and uncontroversial Dr. Fitzgerald's research suggesting that some people come to view their pets as an extension of themselves, such that they perceive violence or the threat of it against their pets as violence or the threat of it against themselves, and that abuse victims may perceive that, if their pets are at risk of harm or death, then they may be next.
- [10] It is only to this extent that I am prepared to admit the evidence of Dr. Fitzgerald, and it marks the limit to which I would have permitted her to testify before a jury. Her evidence crosses the threshold of admissible opinion evidence only to this extent. Whether or not, as a matter of fact, there was or might have been domestic abuse in this case, or mistreatment by Mr. Mantee of Ms. Laroche's cat on any occasion, and what rationale inferences, if any, might be drawn from either of those possibilities in evaluating the evidence as a whole is, of course, a matter for the court to decide.
- [11] As I was saying this morning, it is my role entirely and exclusively to consider, weigh, and evaluate whether or not there was any relationship or connection between the abuse alleged by Ms. Laroche against herself and her cat and the reasonableness of her reaction to it in brutally killing Mr. Mantee. Whether or not anything that happened the night before the killing could be characterised as a "precipitating event", as theorized by Dr. Fitzgerald in her report, is nothing to do with the opinion of any expert, but falls exclusively for me to determine as the ultimate trier of fact in this case.

[12] In short, I am prepared to rule that Dr. Fitzgerald's evidence about the coincidence, generally speaking, of intimate partner violence and the mistreatment of animals is threshold admissible. It may assist me in the evaluation of the Crown's evidence, particularly in weighing and considering aspects of it suggesting that the dynamics of intimate partner violence, including the mistreatment of animals, were present in this case. But what is to be made of the evidence in its totality, including that of Dr. Fitzgerald, or what inferences might rationally be drawn from it, is entirely up to me and I look forward to the benefit of closing arguments from both sides about all of it. "Baird J."

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