

CANADA / JUDGMENT

R. v. Mastronardi

2006 BCSC 1681

COURT

Supreme Court of British Columbia

DECIDED

14 November 2006

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2006BCSC1681interne

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Mastronardi,

2006 BCSC 1681

Date: 20061114

Docket: X068927

Registry: New Westminster

Between:

Regina

And

Kolten Mastronardi

AN ORDER HAS BEEN MADE IN THIS CASE DIRECTING THAT THE IDENTITY OF THE
COMPLAINANTS AND ANY INFORMATION THAT COULD DISCLOSE THEIR IDENTITY SHOULD
NOT BE PUBLISHED IN ANY DOCUMENT OR BROADCAST IN ANY WAY PURSUANT TO SECTION
486(4) OF THE CRIMINAL CODE

Before: The Honourable Mr. Justice Josephson

Reasons for Judgment

Counsel for Crown

A. MacDonald

Counsel for Accused

G. Hubbard

Date and Place of Trial/Hearing:

October 16 - 20, 2006

October 23 - 27, 2006

October 30, 31, 2006

November 1, 2, 3, 6, 2006

New Westminster, B.C.

- [1] The 32 year old accused is charged with 12 counts in relation to six women complainants, including four counts of fraud contrary to s. 380(1) of the Code, four of sexual assault contrary to s. 271(1), one of sexual assault while using a weapon contrary to s. 272(2)(b), one of assault causing bodily harm contrary to s. 267(b), one of uttering threats contrary to s. 264.1(1) and one of extortion contrary to s. 346(1.1)(b).
- [2] He grew up in Ontario and did not complete his secondary education. In January of 2002, perhaps foreshadowing what was to follow, he legally changed his name from Gordon William Stanley to Kolten William Raiden Mastronardi. He moved to British Columbia and legally married Jeanette Fika in August 2004.
- [3] From February to August of 2005, he is alleged to have committed the offences. In each case, he met the complainants through an internet dating service. The resulting relationships often overlapped, with none of the complainants knowing of the existence of the other. In each case, he misrepresented himself as a single person. With small variations, he represented himself as:
- (a) coming from a large, powerful and wealthy Sicilian family;
 - (b) being a widower seeking a wife;
 - (c) being a medical doctor with a specialty in gynaecology;
 - (d) having hospital privileges and a clinic;
 - (e) being a kind, caring and considerate person with positive family and moral beliefs, conveyed in conversations that went on for hours on end;
 - (f) having elaborate and sometimes bizarre family and cultural traditions requiring highly submissive wives and amalgamation of finances to an account controlled by him;
 - (g) as time went on, being third in command in mafia like family organization;
 - (h) not wanting to date, but wanting to immediately enter into an intimate relationship, after which his culture and family regarded them as married;
 - (i) once so married, his family required him to follow family and cultural traditions.

- [4] Credibility is the issue. Some 11 witnesses were called by the Crown. No evidence was called on behalf of the defence. Following is a summary of the evidence of the complainants. This summary is more detailed than is usual in order to attempt to convey the manner in which, according to the complainants, the accused was able to draw them so quickly into his controlling fantasy world and how he made adjustments to his performances according to the vulnerability of each complainant.

Count 1: Fraud, N.J.

- [5] (N.J.) is 34 years old and works for Save-on Foods and lives with her mother and grandmother. She managed to save money through R.R.S.P.'s and had some income from her father's estate. She owned a black Dodge Ram diesel pickup, which comes into play in the evidence of complainant (D.E.).
- [6] She, like the other complainants, used an internet dating service in February. She was contacted by a man using the name "Nico", who she later learned was the accused. He presented himself as single, slightly older than her, and having the same life interests. She picked him up near his claimed residence. They agreed to meet and talk in a hotel and see what developed. They quickly developed a relationship lasting some six months and ending only upon his arrest.
- [7] At their first meeting, they talked for hours and then had sexual relations. During the discussions, he presented himself as:
- (a) being the 12th of 13 children;
 - (b) having been in one serious relationship lasting 8 years and ending with her death;
 - (c) having many relatives here and in Sicily;
 - (d) having a well-to-do family in Sicily;
 - (e) having a family tradition of couples getting tattoos;
 - (f) having a family tradition of men having two wives.
- [8] The evening ended when she drove him home. They resumed communications the next day. He informed her that, according to his Sicilian Catholic religion and culture, they were considered married once they had sexual relations. He said his family arrived at 5:30 a.m. to meet his new wife.
- [9] He then informed her that his parents had passed away and that he had stocks and bonds and money in trust. She informed him that her inheritance was coming due. When she asked when she could see him again, he replied that they could not meet until she paid a \$10,000 dowry, after which she would meet his family. He said he had aunts and uncles in the area, as well as his grandfather and grandmother, whom he called Nono and Nona respectively. His family would add to this dowry, after which it would be returned to the couple to do with as they pleased.

- [10] After a day, she informed him that she would pay the dowry. He then informed her that the dowry was \$20,000 and that he would pay \$5,000 and she should pay the balance. He explained that he couldn't transfer more than \$5,000 from his account and couldn't cash in his bonds quickly enough. He said the money would be placed in a joint account in both their names. She deposited the \$15,000 into his account. She learned that her name was not on that account and asked the accused about that. He stated that one of his cousins had gone to the bank to put her name on the account and he would get back to her. He said she would be receiving a bank card and would thus have access to the account. The money was to be held until the family approved of their relationship, after which the money would be returned to them.
- [11] After she deposited the money, they continued to see each other, with him telling her that this was approved by Nono.
- [12] The next day, the couple went shopping. The accused purchased several hundred dollars worth of power tools, stating that they were to be used to renovate his condo on Manchester Drive for them to reside in as a couple. She purchased the items on her credit card as he stated that they would pay off the card at the end of the month with the result that her credit rating would improve.
- [13] He did not allow her inside the condo on Manchester Drive, explaining that the fumes from the renovations might harm her.
- [14] They discussed plans for a formal wedding in some detail. He stated that his Nona back in Sicily would make her wedding dress. While she frequently drove him to residences he claimed belonged to members of his family, she never met any of them.
- [15] He told her he was a foreman for a construction company. She often picked him up from his Manchester Drive apartment and drove him to he said was his work location, and then return him in the afternoon.
- [16] They saw each other several times per week.
- [17] When he first told her of the family tradition of a man having two wives, he told her that it was for the first wife to decide. She said she was opposed. He told her several months into their relationship that the family was not happy with her decision in that regard, but she remained firm.
- [18] In May, he told her that he wanted to break up the relationship because there was a warrant out for his arrest for an assault charge. He told her an elaborate story about an arranged marriage in Sicily that did not go ahead. This person eventually came to Canada and had her friend falsely claim that she had been assaulted by him in order to have him arrested. While he professed to want to continue the relationship, he did not want to put her through the ordeal of legal proceedings. He gave her 24 hours to think it over. She decided to stay. But she rarely saw him after that. However, they communicated by text messaging, where he explained he was staying with different relatives to avoid arrest while his lawyer dealt with

the problem.

- [19] In the first week of their relationship, she had given him an additional \$4,000 because the family would not meet her until she had given up everything from her single days, including her bank account. That was supposed to go into their joint account, which never happened. At his suggestion, she also cashed in her R.R.S.P.'s for \$10,000 and gave him \$6,000 of that amount to pay his lawyer. He told her that when that was done, his own bank account would be unfrozen.
- [20] He claimed his bank accounts were frozen and he needed money to pay his lawyer. She borrowed \$3,500 from her mother and gave it to him.
- [21] He told her that the family had purchased a condo from them on Halifax Street in Burnaby. He showed her the building and the hallways.
- [22] They purchased many items for their future residence and more tools to renovate that residence. She paid for all but a stove. During the end of July and into August, she and her mother moved all her worldly good, with a few exceptions, to what was to be their condo. They left the items in the hall outside the unit as he didn't want her to breathe any of the fumes during renovations. This move took place slowly over two weeks, usually in the evening after work.
- [23] She agreed to set up the phone and cable in her name as he claimed that he would be found and arrested if he used his own name.
- [24] She never moved in as the accused claimed that the construction did not go well and the family did not want them to move in, but were looking for another suitable place.
- [25] She ran errands for him for a couple of weeks, while seeing him only briefly. In the middle of August, the accused again claimed he needed money for his lawyer. She had told him of a trust fund which could be accessed if the trustee consented. She obtained and gave him \$20,000. She was supposed to be able to access whatever what was not paid to the lawyer with a bank card, but that card never arrived. She was frequently driving him to various locations, without seeing anyone there. When she took him again to the condo in Langley, he was arrested.
- [26] She returned home and hoping to find a contact to notify his family, opened an envelope. One of the documents purported to be an anniversary card from his wife Jeanette. The accused had told her that his sister went by that name. She phoned the Halifax condo, which was answered by a woman by the name of (D.E.), another complainant in this Indictment. After their conversation, she and her mother went to police.
- [27] Credit card and banking business records appear to corroborate her evidence of her financial dealings with the accused. With the aid of a lawyer, she froze his bank account and has received about \$10,000 in return. As well, complainant (D.E.) returned most of the goods she shipped to the Halifax Street condo.

Counts 2 to 6: Sexual assault, using a weapon during a sexual assault, assault causing bodily harm, uttering threats and fraud, (C.D.).

[28] (C.D.) met the accused on an internet dating service as well. She described what appeared to be a perfect partner: a professional, wealthy and successful man who was loving, doting and considerate, while harbouring healthy family and moral values. By the end of their relationship, she frantically fled for her life from a sleeping accused to police at 5 a.m., thoroughly terrorized and believing she was about to be killed for not being a sufficiently passive wife.

[29] She met him on an internet dating site on or about March 15. The accused presented as a professional. They communicated for hours, speaking of many issues including life goals, morals, common interests, religion, a desire to have children, commitment and the role of the wife in a family.

[30] He told her that:

- (a) he came from Sicily and has been in Canada for 7 months;
- (b) he comes from a prominent, large and wealthy family with considerable holdings in Sicily and Canada, displaying pictures of some of those holdings;
- (c) he held a prominent role in that family;
- (d) he had one previous relationship and that was with his wife of 7 years;
- (e) his wife died of cancer after years of his caring for her;
- (f) because of his prominence in the Sicilian community, he and his family feared that a future wife would marry him for the wrong motives;
- (g) he just wanted someone who would love him for who he is;
- (h) he practised medicine with a specialty in gynaecology.

[31] They agreed to meet and she picked him up from his condo on Manchester Drive in Burnaby. The accused gave her roses, appeared quiet and shy and engaged in much conversation. He held her hand and they cuddled in a movie theatre. He told her that, "This might sound really crazy, but I really feel a strong connection to you." She said she felt the same way.

[32] When she went home that night, she said to herself, "Oh my god, I'm going to marry this man." She couldn't believe how they had so much in common and so much to talk about.

[33] In communications the next day, the accused expanded in great detail about his family and culture, including:

- (a) his family's great wealth;

- (b) how he was the second youngest of his siblings;
 - (c) how he was 3rd in command in the family, with his grandfather, Nono, being first and his uncle 2nd;
 - (d) how two relatives have watched over him all his life;
 - (e) that in his culture, marriage is pre-arranged;
 - (f) how he had only been with two women;
 - (g) that his first marriage was annulled as he found on his wedding night that she was not a virgin;
 - (h) how very important marriage was in his culture, with divorce and separation not being an option;
- [34] Within a couple days, she picked him up again and brought him to her house. They talked for lengthy periods. The accused now told her that in his culture:
- (a) once you have sexual relations, you are considered married and that this was more important than a legal ceremony;
 - (b) that all married couples had tattoos;
 - (c) that many men have more than one wife, adding that it was up to the first wife whether there could be a second.
- [35] He then inserted a more ominous aspect of his culture. He related the details of how a wife of his cousin had been killed by the family for not following family traditions, adding that this was rare and would only happen if the wife ran away, talked to police or cheated.
- [36] When she expressed concerns about whether his family would accept her from such a common background, family dysfunctions and being overweight, he responded with kindness, love, acceptance and reassurances.
- [37] They engaged in sexual intercourse. She was panicking that if she didn't agree to that right away, she might miss out on something she really wanted. He told her his family was excited that he had found someone.
- [38] He then expressed his own concerns regarding the small size of his penis and she spent much time re-assuring him in that regard.
- [39] He told her that his family was excited because, as he didn't return home that night, they knew he was married. They stayed up and celebrated all night. They discussed details of their wedding, including rings and wedding dresses. He said his Aunt Zia would make the dress. They talked of selling her condo as Nono would be giving them a large piece of property on which their dream home would be built by the family. Subsequently, they drove to various areas in the lower mainland looking for suitable property.

- [40] They agreed on having children after he told her that he desperately wanted children as he was now 31 and had not been able to have children with his wife because of her illness. Their sex became conception oriented.
- [41] For the next six weeks they were together frequently as he stated that they were now married and the expectation was that they would live together. He insisted on calling her Mrs. Mastronardi, though she stated she would prefer to wait for their formal wedding. He stated that his family expected she would legally change her surname to his and were getting irate that it hadn't happened. She eventually did so as she wanted to maintain their relationship and also because she was becoming increasingly fearful of his family's response if she didn't do what they expected of her. He had told her several times what happens to wives who are not submissive and do not follow family traditions.
- [42] In regards to his medical practise, he stated that he practised at the Royal Columbian Hospital and had privileges at St. Paul's Hospital. He also had a walk in clinic and named the location. He spoke extensively of his work, the people he worked with, his patients, and of things that had gone wrong. He provided details of his good relationship with a colleague named Allan and details of his tumultuous relationship with his supervisor, Greg. He spoke of scrubbing up for deliveries, the many deliveries he undertook and related so many details that the complainant was left with no doubt he was who he said he was. Every morning, she drove him to his Manchester address, where he said members of his family would take him to and from work. She never saw him at work.
- [43] The complainant's job took her to Calgary for five days for a trade show. He was in frequent contact with her. He contacted her several times, saying that now that they are married, they shouldn't be apart. He related problems and chaos in the family. She declined to go out in evenings in order to talk to him. She also feared that members of his family might see her doing something inappropriate. He told her that she too would be followed by family members, for her protection.
- [44] He also told her that, in importing her contact list so that they would have only one Outlook, somehow all of her contact information in Outlook was forwarded to his family. This was followed by someone following him in the hallway, yelling at him, "Why are you with her? She's dirty slut and a whore." He told her that someone had hacked into her computer and found explicit messages with a former boyfriend that he forwarded to his proper Catholic family. He acted hurt, worried and concerned, adding that his family was not impressed, but he had managed to contain it so that only a few members of his family had read the explicit messages.
- [45] She was concerned that Nono might read the messages and feared what might happen to her with this breach of rules for family wives.

- [46] The accused was also very romantic, constantly telling her how much he loved her and calling her his beautiful bride, as reflected in emails and text messages that survived and were marked as exhibits. When she returned from the five day trade show, she found rose petals, balloons with romantic notes and speeches, concluding with his placing a ring on her finger. She cried with happiness.
- [47] He wanted her to resign her employment. Now stressed and nerve wracked, she did so happily.
- [48] There was much discussion of finances and amalgamating their assets. He told her that his family wanted this to happen quickly since that was required in his culture. They were to amalgamate bank accounts, after which he would pay off her debts, including her mortgage. While she offered to look after the finances, he said that in his tradition, the husbands do that.
- [49] The money she did have in her account was spent. Over \$1,000 was expended on Easter gifts for each other, as he stated that was done in his culture. He told her that her name was on his account and she was to receive a card to access their supposed joint account. That didn't happen. She panicked towards the end of April as accounts were due and payable out her now depleted account. He gave her close to \$2,000 to cover that.
- [50] There being a sense of urgency, from his reports of his family, for them to consolidate as a couple, she drew up a list of tasks, a time line for each and who was responsible for each. That list is Exhibit 3. There were many items, all designed to amalgamate them as a family. He said he would pay all her debts as his family didn't approve of debts. At his request, she added him to her Home Depot account. He purchased over \$2,000 worth of tools on that account.
- [51] He brought up the tradition of tattoos and now revealed that each spouse would have tattooed on their stomach in large letters "Property of " followed by their spouse's full name. It had to be done quickly and she couldn't meet his family until that was done. At his request, she found someone to do it. Two and a half weeks after they met, after a four hour procedure, she ended up with her whole stomach covered with this large letter tattoo. The accused had an appointment to have his tattoo done the next day. He cancelled it, saying that he had a rare blood disorder and would bleed to death if he had the tattoo. While he said that medication for a week would solve this problem, he found new excuses every time and never did get the tattoo.
- [52] The complainant testified that after she "escaped" she undertook expensive laser treatments every 12 weeks in an attempt to remove the tattoo. So far, the tattoo has hardly faded. Another year or two is required and there is no assurance that it will be successful.

- [53] The accused then increased the pressure for a second wife, with long stories about how it worked in his culture and long stories about how his family was becoming increasingly angry that this hadn't happened. They were threatening to strip him of his title, abandon him and take all his money. Seeing how upset she was, he offered to run away with her as he claimed to love her so much. Knowing that his family meant everything to him, she finally agreed though she was emotionally devastated at the prospect.
- [54] He then reported that the family was happy and relieved. He then related long and detailed stories of choosing a second wife from one of five connected families in Sicily, having interviewed candidates and eventually of how his family chose "Jeanetta", who was a pregnant widow of a cousin named "Kolton". He said Jeanetta had the same tattoo as her, but with the name "Kolton".
- [55] The rules and traditions as expounded by the accused evolved with time and new rules were added. She had to seek permission with respect to the clothes she would wear. She was not allowed to see or contact friends nor use the phone or email without his permission. She could not have a bath or clean herself without his permission. He instructed her on how to address his family with courtesy and how to touch or hug her family. He insisted on modest conservative clothing with no cleavage. He threw out most of her clothing for not conforming to those standards. He also took anything associated with her past relationships. He took a platinum engagement ring with five diamonds, saying that his Aunt Zia would give it to a couple who couldn't afford one.
- [56] He measured her ring size and then claimed to have purchased her wedding ring. She did not see it, as he claimed a cousin was carrying it to Sicily to be blessed by a priest.
- [57] There were more discussions of the passivity that is expected of wives in his culture and family. Cheating wives ended up dead. His family required him to enforce the rules even if he didn't want to.
- [58] While she never met any members of his family, he had numerous conversations in her presence with cousins, brothers, sisters and aunts. She received an email purportedly from his uncle and aunt congratulating them. There was much talk of a formal dinner to introduce her to his medical colleagues, but these were always cancelled due to unforeseen developments.
- [59] He purported to conduct several gynaecological exams. Believing him to be a gynaecologist, she consented. They appeared to be identical to similar exams conducted by her doctor. He shaved her pubic hair, stating that's how he preferred it. He claimed in one exam that there was evidence of her being raped and molested as an infant in both the vagina and anus.
- [60] He asked her about her sexual preferences. She stated that she found anal sex painful and did not want to engage in that again. He agreed, but later became angry, stating that as a passive wife, she should engage in anal sex if he preferred that. She then consented, but asked him not to go back and forth between anus and vagina to avoid an infection. He

replied that he was a gynaecologist and knew that to be a myth, that it wouldn't happen and that, if it did, he would buy her a diamond worth a Porsche. He then proceeded to do exactly what she asked him not to do. A few days later she developed an itch in that area. She asked about it. He gave her another exam. The itch persisted.

- [61] In another such exam, he claimed that she was riddled with genital warts. Using a mirror, he purported to demonstrate that by pointing out what she later discovered to be normal hymenal tags.
- [62] She was devastated, particularly as he had her believe that she had transmitted that disease to her.
- [63] He then told her that she had given him syphilis, claiming that he had taken swab from himself after having sex. She again was devastated and puzzled because she was given a clean bill of health a month before they met. He purported to be angry at her doctor and asked to have all medical records transferred to him. He told her she would have died with insanity and death from syphilis, were it not for him. There was much talk of treatment of her and his second wife, though none was given.
- [64] The accused continued with unprotected sex. Wishing to avoid infection in the anus, she asked him not to engage in anal sex, but he continued with unprotected anal sex as well, saying that he could burn them off. Soon after she "escaped", a medical exam gave her a clean bill of health.
- [65] He also said he would have to decide whether he wanted to continue the relationship. If he decided not to keep her, then it highly likely that she and her family would be killed. He related a story of a wife who had been killed for that very reason.
- [66] She described being constantly educated by him into his culture and what was acceptable, what was not, and the repercussions of falling short. Her level of fear sharply increased.
- [67] Most of their frequent communications were by text messaging as that was preferred by him.
- [68] Eventually, he purported to leave to consummate his relationship with Jeanetta, leaving the complainant completely distraught. The next day, he text messaged her suggesting that she had been with another man. She replied that, until he learned to trust her, he should stay away.
- [69] When they met shortly afterwards, the accused was very angry. Over several hours, he conveyed that he was fed up and requires an extremely passive woman at his side that he couldn't handle it any longer and wanted to separate. He stated that he was going to discuss the matter with Grandfather Nono and inform him that she had given him a sexually transmitted disease, all in the hopes that Nono would give him permission to leave the marriage. But he also told her several times that divorce or separation was not allowed. He also told her again of a wife who was killed for having given her husband a sexually

transmitted disease.

- [70] The complainant begged him not to tell Nono. The accused said he had arranged a meeting with Nono at 2 p.m. After that time, via email, the accused told her that Nono was very angry and said she was a bad wife and deserved to be beaten. Nono also said that she was to get a job, look after the accused and put his name on title.
- [71] The accused then said that he couldn't believe that he has to beat her, but that is the only way he could have her as the rules were so important.
- [72] The complainant, fearing that she and her family would be killed if they separate, attempted to buy some time by begging him to come beat her. She picked him up. In the vehicle, he told her that he was instructed to strike her 20 times while she was stripped naked and tied down. There would be two blows to the head and 18 to the body. He was to make two large cuts to her face and shove a knife up her anus and vagina; he was to cut off her clitoris and then rape her vaginally and anally. She was to be left in that condition for two days.
- [73] He drove her to Canadian Tire between 6 and 8 p.m. in order to purchase the knife. She retained the receipt which was marked as Exhibit 5. This was April 20, 2005.
- [74] In her apartment, they talked at length, discussing his orders and possible ways of avoiding them or minimizing the hurt and damage. He kept repeating that he couldn't believe he was ordered to do this as it was not normal in his culture. He said he loved her so much that he couldn't carry out his orders and would leave. Fearing that would result in death for her and her family, she begged him not leave and begged him to carry out his orders.
- [75] Much time went by. The accused received continual purported text messages which he read asking, for example, "Why haven't you beaten her yet, she deserves to be beaten like a dog." The accused said he would use an alias and run, but that they would catch him. He cried, saying he didn't think he could bring himself to beat her.
- [76] They went to the bedroom at 11 p.m. She removed her clothes, sat on the floor and begged him to go ahead. He said he wasn't sure he could do it. Then he knelt by her and asked what she wanted first. She said he might as well get the punches to the head over with first. He told her to close her eyes and he would punch her in the cheek, making sure not to break her nose. He punched her. She fell to the floor bleeding extensively on the floor, which caused him to become angry. He took her to the bathroom. Her nose was broken. The blood eventually slowed and she asked permission for a bath. He said she could, but it had to be a cool bath as he was trying to get her pregnant and hot water might harm a fetus.
- [77] He then asked what she wanted next. She replied that he might as well continue with the beating. She kneeled down. He told her to shut her eyes. He then tapped her lightly on the cheek, and then lightly 18 times on the shoulder. She worried that she wouldn't appear beaten enough to his family.

- [78] Then there was much discussion of cuts to the face. He said there had to be two visible gashes on her face. She said that if she was his beautiful bride, "Why would you want to do that?" They decided to cut along the wrinkles of her forehead to minimize the scars visibility. He asked her to close her eyes believing he was about to gouge her face. Instead, he gently touched the skin with the knife without cutting her. She was thankful that he was so benevolent and so clever to find a way around his orders.
- [79] He asked what she wanted next. She lay on the bed naked and spread her legs. He asked where he should start. She said he might as well start with her "bum". She prayed out loud. He asked her to close her eyes. She felt something enter her anus, but believed it was the handle of the knife, not the blade. He did the same with her vagina. She felt a poke on her clitoris.
- [80] After that, he had vaginal and anal sex until he ejaculated. He then stood her before a window, saying his cousin and brother were waiting for proof that he had beaten her. He claimed that he had seen a flash of light which meant they had seen them. She saw nothing.
- [81] At her request, he adjusted her broken nose on several occasions.
- [82] He had informed her at one point that his orders were to leave hickeys all over her body. In the days following the beating, she indicated that she was worried that the family would see that he hadn't complied with that direction. He placed a single hickey on the side of her neck.
- [83] She now, to use her words, was "so anxious and freaked out" and frightened. She tried her best to be the most submissive and compliant wife possible until she could figure a way out of her situation. She sought permission for everything. She had no contact with anyone and could go nowhere. She lived in fear of making another mistake.
- [84] Her face was swollen and one eye blackened and swollen almost shut.
- [85] Some days later, her brother left a message saying that he was going to drop by and see her while dropping off their niece for soccer. At the time, the accused was going through everything she owned so he would be more comfortable and feel more at home. He was discarding items. Her brother knocked on the door. She said she couldn't ignore her brother. The accused said no and then changed his mind. By then her brother had departed. The accused said he would go after him and then ran down the hall. She ran outside, caught her brother and gave him a big hug. She explained away her injured face. They went back to her apartment. The accused was nowhere to be seen. She called him, but he didn't answer his phone.
- [86] After her brother left, she text messaged him to inform him of that fact and invited him to return. He returned before she sent the message. He was very angry and upset. He said that his cousin and brother, who watch over her, had been in the bushes outside and filmed her hugging her brother. They were very angry that they had touched inappropriately and didn't hug in the manner instructed. She also held his hand and that was not allowed. His family

considered that to be cheating. He engaged in much text messaging, purportedly with members of his family. This occurred over a period of six hours. He claimed he was getting messages to the effect, "Why aren't you killing her she's a slut .let us kill her now "

- [87] He told her that people were outside her brother's house, waiting for the lights to go out, after which his family would kidnap her brother, his wife and children and bring them to her apartment. They would make her brother "fuck" her in front of his family. If she didn't cooperate, she would have to watch his children die. He repeated how brutal his family could be. They would torture her brother and then brutally murder them all. She would be shot in the heart so she would die more slowly and so that she could watch her family being murdered. She begged him to kill her quickly.
- [88] As time passed, he stated that somehow now had the choice whether she would live or die. He explained that Nono had suffered a heart attack. For some reason the uncle, who was number 2, couldn't take on his duties, so the accused was in charge.
- [89] He said he didn't trust her anymore and didn't know if she would be the submissive wife she needs to be. This whole episode went on for six hours.
- [90] Then he said he was tired, needed to think, and would decide in the morning. He sent some text messages and told her that he sent everybody home for the night.
- [91] The complainant was completely distraught and feeling entirely hopeless.
- [92] He went to bed. She asked if she could lie on the bed or did he want her to sleep on the floor as she did when he called her a bad wife. He gave his permission.
- [93] She eventually decided to commit suicide hoping that it might prevent the murder of her brother and family. After taking some tranquillizers, she went to the kitchen and tried to suffocate herself by tying a plastic bag around her head. She then panicked and ripped it off. She repeated the effort, but this time tying her hands together in the hopes that she couldn't remove the bag when she panicked. It didn't work and she ripped the bag off again. She picked up a knife, but found she couldn't cut herself.
- [94] At about 5 a.m., she fled in her vehicle. Believing members of the family of the accused were following her, she ran red lights and "freaked out". She called 911 and told them to have someone at the door for her. She met two police officers who appeared to regard her as mentally unbalanced. They had her wait an hour for the next shift to arrive.
- [95] The accused then attempted to contact her some 200 times that day in various manners. When police declined to gather evidence of voice mail, email and text messages, she took steps to record those herself and provide them to police. They were all directed at securing her return by soothing her with messages of love and stating that he and Nono love her. He told her how she is a good and thoughtful wife. He promised that no one would hurt her or her family. He forgave her for what occurred the night before. He said he would bend for her and would tell his family to leave her alone. He asked to have her brother call him. He said

he was scared, and much more.

- [96] (C.D.) saved some of her emails received from the accused during the relationship. During their relationship, he admonished her for the manner in which she spoke to him. She sought permission to have a bath; he told her that when he tells her to jump she must comply without asking why or how high.
- [97] A message of April 20 stated "was it good for you". This was a reference to her contact with her brother that led to her beating. A message stating "you have damaged me for the last time, I have balls, you need me to hit you, but its too late for that". That meant that she must die. On April 25, a message says "you can answer it hon". That was response to her request to respond to call from her girl friend.
- [98] A photograph taken by police of the complainant on the day she arrived at the detachment, some 10 days after the beating, reveals swelling and discoloration of her eye and a nose still slightly off centre. A mark is revealed on the side of her neck consistent with the hickey she described. He did not allow her any medical attention in those 10 days.
- [99] A photograph of her apartment revealed spots on a carpet apparently consistent with a blood stain. She had attempted to remove these spots but was not completely successful.
- [100] Before this trial, she had neither met nor heard of the other complainants.

Count 7: Extortion, (W.L.).

- [101] 27 year old (W.L.) is from Singapore and was in Canada attending Simon Fraser University on a student visa. She devoted her life to her studies. She came from a close knit family with conservative values. She lived with her parents until she came to Canada for her studies. Because of the significant sacrifice they made to fund her studies, she was determined to be successful and complete her studies as quickly as possible. She obtained her degree in June of 2005.
- [102] Due to her devotion to her studies, she had little social life. In order to meet some new Canadian friends, she went on Lavalife website, but visited infrequently because of her busy schedule. On or about March 15, 2005, the accused sent her a message and they exchanged a few emails. He presented himself as doctor who spent most of his weekends with his big family, that he was from Italy, that he moved back and forth every few months between there and Canada, and that he had been in Canada for 6 or 7 months.
- [103] They met for coffee some two weeks after their first contact. He told her he was a gynaecologist, owned a private clinic on Broadway and worked in hospital. She had a month left of school before her degree. She wanted to return home to work on a paper, but he suggested a movie in Langley, explaining that he didn't want to go to a nearby theatre for fear of being seen by patients. She drove him to Langley, but there was no movie scheduled to begin, so they returned and she dropped him off at the SkyTrain area of Lougheed before returning home.

- [104] That evening, he contacted her on MSN. He asked why she pushed him away when he tried to hold her hand walking into the theatre. She replied that she wasn't aware he was trying to hold her hand and that she just wanted to be friends. He said he was looking for an intimate relationship and gets attached easily, preferring to do that right away and develop a friendship from there. She told him that she can never be close to a stranger, that it was not possible as she was conservative by nature in her culture. He suggested that they end their communications as they have different goals. She agreed, but added that she was willing to be friends.
- [105] A few hours later he contacted her claiming to have lost his doctor's identification card in her car. She looked, found nothing and told him so.
- [106] They continued with some communication. He gave his name as Nicolo.
- [107] They met again on April 13th after chatting on MSN. They had lost touch for some time. He told her that he went back to Italy for his grandfather's funeral and again at the time of the Pope's death. She agreed to coffee, although she was very busy with school and short of sleep from studying. He suggested they meet in a motel. She said that was not possible. He replied that he didn't want the distraction of waitresses or patients. She did not agree.
- [108] She ignored a couple of additional messages from him. She finished her paper on April 13th and was home with a friend. He sent a message asking what she wanted from the relationship and again asking to meet at a motel. She, tired of the suggestion, asked why not a movie? She was sleep deprived and agreed when he said he preferred to find a neutral location where they would not be disturbed. At his request, she drove to a hotel in Richmond. He turned on a movie and ordered some food. She sat upright on the bed in which he was lying.
- [109] He patted her back with his hand, and had his hand on her back throughout the movie. After the movie, he told her how he was a pampered child from a large rich, influential family in Italy and Vancouver, saying he inherited money when his parents died in a car accident.
- [110] He then got physical and started to kiss her. He said that what he was going to do was because he loved her and that he wouldn't hurt her. He removed her clothing and then his own. He had her lay on her back and touched her with one hand while touching himself with the other, all the time reassuring her. When he moved forward, she feared what was about to happen and told him to stop, but he didn't. She turned herself around and got out of bed.
- [111] He began asking why she did that. She remained quiet. He then said that she wasn't a virgin anymore. He persisted. He told her that not everyone would have been as nice to her as he was and anything could happen with two people in a hotel room. She drove him home.

- [112] She decided that she would not meet with him further because, as she testified, "I fear he does not mean what he says." He had made her promise that they wouldn't communicate anymore as they had different goals in the relationship and asked her not to contact him any more.
- [113] The next day, he messaged her asking if she was all right. She replied that she was and could take care of herself. He said that if they had managed to make love, things would be fine. She said she didn't want to talk about it. He told her how he cares for her and hoped she might have thought things through and maybe they could get together and make love. She said she didn't want to talk about it.
- [114] He contacted her again and asked what she would do if she were pregnant as she might be pregnant by now. She was never taught sexual education and was quite ignorant about the subject. Even though there was no sexual intercourse, she went to a private clinic and took a "morning after" pill.
- [115] He tried to phone her, but she didn't answer. On or about April 16th, he sent an email saying he couldn't believe what she had done to him and that he would be having a talk with Immigration Authorities. He kept up this insistence, later saying that he was meeting with those authorities on Monday and wanted to meet with her first. She remained confused about what he was talking about as she knew she was lawfully in Canada on a visa that would not expire for some time.
- [116] He insisted on meeting face to face to explain. They met at Red Robin at the Lougheed Mall. He said he was upset about what had happened on the 13th and had called Immigration. He said that they told him that she had broken the law. He said he never suspected she was breaking the law when he called. The Immigration Officer was going to prepare papers for him to come in and sign, after which they could pick her for questioning. They would have the papers ready on Wednesday.
- [117] During this conversation, his phone rang. He said, "Yes, she's with me now, we're trying to settle it. I will call you later." He explained that he was speaking to the Immigration Officer and that if they settled the matter, they would not have to lay any charges against her.
- [118] She asked about the charges and he said that the offence was that she had sexually teased him, touched him and did not have sex in the end. The complainant was shocked and asked why. He explained, "Don't you know we have lots of human rights laws in Canada?"
- [119] Coming from a strict country with a multitude of regulations, she thought this might be true.
- [120] He told her that after her interview with Immigration Authorities, they would deport her and call her parents.
- [121] When she asked if he was trying to threaten her with the law, he got angry and stood up as if to leave. Shocked and distressed, she asked him not to.

- [122] She asked if there was no other solution. He suggested a lawyer, but she had no money. He explained that when a thief is caught, but returns the stolen goods, he is not breaking the law in the end. She asked what he was trying to say and he replied that if they finished what they had started, she would not be breaking the law.
- [123] She felt confused and pressured. She was as upset at the prospect of disgrace before her parents as she was about Immigration. They had worked very hard to support her and she worked hard so as not to disappoint them. She had promised she would do them proud. Feeling she had no other option, she agreed to have sexual intercourse with him.
- [124] At his suggestion, she drove him to the same hotel. He took her to Room 800. She had no part in the movie and food he ordered. After the movie, he undressed her and began kissing and touching her. She did not respond or touch him as she was afraid she might be breaking the sexual teasing law again. He removed his clothes and laid her on the bed, again kneeling before her and touching her vaginal area with one hand and himself with the other. He again told her that he would not hurt her and that one day she would have to trust someone in her life.
- [125] She told him to use a condom. He told her firmly that he wouldn't and that because they were of different races, she needn't be concerned about pregnancy. She took no part in the sexual act that followed. He told her that entering her felt like pushing through a piece of paper.
- [126] She drove him home. Later he called her on the cell and stated that he had called the Immigration Officer and told him to cancel all the charges. He said was going to retrieve the papers that had been prepared.
- [127] Emotionally distraught, she met a fellow student and friend who persuaded her to go to hospital, where she was given another "morning after pill". Police were called.
- [128] The accused later sent numerous emails and phone messages saying that he loved her, missed her and wanted to see her again. Some messages from the 18th were saved.
- [129] Email messages were preserved and entered as Exhibit 7. Those of the 15th of April, the day after their first hotel encounter, are entirely consistent with her evidence. He professed his love, pressured her for more intimate contact, says he feels responsible for taking her virginity, asks what she will do if she is pregnant even though he acknowledges he did not ejaculate and says she is probably pregnant. She says she did not want to talk of that anymore. The next day, he sends her a message saying, "I'm going to have a chat with Immigration about you. I can't believe you are doing this to me." Later he says that he's sure Immigration will want to chat with her on Monday.
- [130] After the second visit to the hotel, he sent messages professing his love for her and calling her "sweetheart".

Counts 7 and 8: Fraud, Sexual Assault, (I.M.) and (I.Ma.).

[131] (I.Ma.) is a 33 year old single mother with three children living in a house with her parents and brother, (I.M.). Through an internet dating service, she met a Nico, short for Nicolo towards the end of April. It was the accused.

[132] Over considerable communications over weeks, he represented to her that:

- (a) He is 31 years of age;
- (b) His name is Nicolo Colosanti;
- (c) He is from Italy;
- (d) He qualified for paediatrics and gynaecology in Italy;
- (e) He has been in Canada for 9 months;
- (f) He qualified in gynaecology in Ontario since then;
- (g) His parents died in a car accident;
- (h) He obtained a large cash settlement as a result;
- (i) He is financially stable, with acreage and farmlands in Sicily and a large cottage in Whistler;
- (j) He has 13 siblings;
- (k) Many of his sisters were pregnant and he provided gynaecological care;
- (l) He had been married but his wife annulled the marriage when she discovered she had breast cancer, after which she died from the disease;
- (m) He was looking for a long term relationship that would lead to marriage and it didn't matter if she had children;
- (n) In his tradition, when you meet and talk, if you like each other, you become intimate right away;
- (o) Once you have sexual relations, you are considered married in his culture.

[133] Three weeks later, she agreed to meet him. She picked him up and brought him to her home to meet her family on May 8, 2005. They talked for hours, after which he took a cab home. He talked of himself, his family and being a doctor. The next day, he said it would be nice to see her once more before her scheduled nasal surgery and asked her to pick him up at the home of his pregnant sister. She brought him home and they spent time with her family. After the children went to bed, they talked until 11:30 p.m., after which she drove him home.

[134] She revealed her past relationships. He emphasized that it was important that they should be intimate for it to be a true relationship and marriage. Despite her significant reservations, his reassurances caused her to consent to sexual relations. In the morning, he left, claiming he had to attend day surgery.

- [135] She had her own nasal surgery that day and returned home in pain. He sent her a message her that something "really bad" had happened. He then phoned and said that he was in the news under the name Mastronardi. He didn't know where they got that name from. A woman he had rejected was out to get his money as he was a doctor.
- [136] She saw the news item about him. The accused was described as being dangerous and having committed sexual assault and uttering threats. She sent him a message asking, "Who the hell are you?" He replied that it was all lies, his lawyer was working on it, and that she shouldn't believe it. The next day, he was no longer on the news. He claimed it was because his lawyer had called the media and told them to end that news item as it was all nonsense.
- [137] He asked to stay with her until the matter was cleared up. She agreed. He was brought to her home by a woman, who he claimed was his sister, in a loud black truck.
- [138] He was very attentive and caring to the complainant. He changed the dressing on her bandages, reminding her that he was a doctor. He built a relationship with her and her family. They began sleeping together.
- [139] He told her more of his family, including:
- (a) A man has two wives, which is quite normal in his family
 - (b) Those wives have a good relationship and nurse each other's children
 - (c) Men are in charge in a family
 - (d) Women are to be very passive and do what they are told regardless of what it relates to, whether intimacy or household chores. A wife is not allowed to say "No".
 - (e) In the family order of things, his grandfather was first and was like a god father
 - (f) His uncle was second in line
 - (g) He was third
 - (h) His aunt Zia in Sicily is a seamstress and would create her wedding dress
 - (i) The family has a private jet
 - (j) Some members of his family lived in Sicily and some here
 - (k) It was a family tradition for the bride's parents to be taken care of financially
 - (l) The family would purchase property in Langley and build them a home;
 - (m) This was a mafia like family;
 - (n) Some members of his family were always in trouble with the law and were "bad asses";
 - (o) Giovanni was a 6 foot 6 inch relative here for his safety and protection;

- (p) If the accused was hurt emotionally or physically, members of his family would break down the door and kill anyone who stood in their way.
- [140] The references to two wives horrified her and the reference to violence frightened her.
- [141] He reassured her that his lawyer was about to resolve the outstanding warrant problem. He later told her that this didn't happen as his lawyer was on holidays in Vegas. After that, there other excuses. They only went out when it was for a short drive and it was dark.
- [142] He spoke a great deal of his medical practice, his clinic on Broadway that he shared with Craig or Greg, and how everything was on hold until the legal issue was resolved.
- [143] He was constantly cleaning her house and doing the laundry, despite telling her earlier that in his family, the man never cleans or cooks.
- [144] She purchased the groceries he requested with money he gave her. He always carried a large bundle of cash. She was on Employment Insurance benefits and had no money. Once, he claimed he was low on cash and asked for her brother's assistance to the tune of \$200 to \$300, to be repaid shortly in cash. Packages began arrived which the accused attempted to conceal. When the complainant discovered that these were unauthorized uses of her brother's card, she shut it down and returned as many items as she could. A gross loss of \$740 was reduced to a net loss of \$203.61.
- [145] The accused had her brother purchase \$1,000 worth of clothing for him, but this is not the subject of any charges as the complainant, as described below, was able to extract that in cash from the accused and repay her brother.
- [146] In June, they planned a traditional wedding for Whistler for August 5th or 6th, 2006. He created a huge guest list, with some 1000 from his family alone, with some being flown in from Sicily by private jet. His sister from the States would be her maid of honour. He said that he had rented an entire hotel for a wedding party.
- [147] All was not entirely well. The complainant is not a passive person by nature and this led to many arguments. The accused would get extremely angry and was constantly telling her to do exactly what he tells her to do.
- [148] Towards the end of May, there was a night when he wanted intimacy. She declined as she was not feeling well. He became irate, saying that, as her husband, he would know if she were not feeling well and she was never allowed to say no. At 3:30 a.m., he packed and left. Within moments, he was sending her messages her in apologetic notes and asking to work it out.

- [149] She described a pattern of dreading the clock showing 11:30 p.m. each day as that was when he demanded intimacy. Afterwards, they would go outside for a cigarette and he would lecture her for hours, until 5 or 5:30 a.m., on the need for her to be passive. He also brought up the second wife issue. He said he was preparing her to meet his family as all the women had that kind of relationship. She had to get up with her children and was becoming exhausted.
- [150] One night after intimacy, he said he had to tell her something. He told her she had HPV, or genital warts and that it must be from a former boyfriend or husband. He used a mirror to point out what he claimed were signs of that illness. He said she gave the illness to him, but that he still loved her. He took her to the internet, which spoke of the prognosis, including possible death. She was left crying hysterically. He forbade her from telling anyone or seeing another doctor.
- [151] He never allowed her to be alone with her parents. The complainant used a ruse to allow herself and her mother to leave on a supposed shopping trip. With her mother's encouragement, she made an appointment with her doctor. When the accused heard of this, he became very angry and threatened to leave her. He kept this up until he left at 3 a.m.
- [152] The accused kept sending text messages taunting her. She completely broke down, but saw her doctor, who told her she had no sexually transmitted disease. When she told this to the accused, he replied that he was very happy to hear that, that this is why doctors should never treat family members as patients, and he was very sorry he misdiagnosed her.
- [153] He was sending constant messages, apologizing, saying that he missed her and the children and how he wanted to return to her. Eventually, she agreed and he returned at the end of May or early June.
- [154] They began planning their wedding again. It became mandatory to have sex at every possible moment to better ensure she became pregnant. She eventually did.
- [155] In early June, the accused performed a gynaecological exam to determine whether she was pregnant. That occurred in her room and was performed in a nearly identical fashion that she had experienced with her own doctor.
- [156] He brought up the tattoo issue again, saying that prior to their marriage she needed a large tattoo across her stomach saying that she was his property. As it was so painful, he generously agreed to the word "Nico" rather than his full name "Nicolo". She kept up excuses to avoid this occurring.
- [157] Their sexual relationship took a turn one night in June. Without discussing the issue or seeking her consent, he unexpectedly began painful anal intercourse without lubrication. She cried out in pain and loudly begged and pleaded with him to stop, while telling him how painful it was. He ignored her and continued to ejaculation.

- [158] The next day, she informed him that she was bleeding anally, how painful it had been and how she never wanted that to happen again. He told her not to worry about it, that she would get used to it. He claimed it was something important to him and he couldn't do without it.
- [159] Another night, when engaged in vaginal intercourse, he repeated an attempt of anal intercourse without notice or consent. She again loudly complained of the pain and begged him stop. He finally did, but was very angry. He yelled at her that she is never allowed to say no, and how dare she stop him. He packed his bags and left at 3 a.m. after a long argument.
- [160] He returned with promises that it wouldn't happen again. But he brought up the subject again in one of their long evening conversations. She firmly rejected the notion. He left again, this time at 5 a.m. He again returned.
- [161] Their relationship ended on June 26. She saw his credit card in the name of Mastronardi and accused him of lying. He had explanations but, because of the suspicious manner of his actions, she did not believe him. Over a long day, she tricked him into producing a wad of cash from his pocket and she obtained the \$1,000 the accused owed her brother. He packed 4 or 5 large heavy bags and called his sister to pick them up. A woman arrived in a large and loud black diesel truck and loaded them without assistance. He arranged to join her elsewhere as he feared detection from a nearby police station. The complainant's brother drove him to a rendezvous point.
- [162] She doesn't know and hasn't heard of the other complainants in this indictment.

Counts 10 and 11, (D.E.), Sexual Assault and Fraud

- [163] (D.E.) is a 29 year old registered massage therapist and research assistant. She has had her own business since she was 19 and works 60 hours a week. She trains others though out the province. She is outgoing and energetic.
- [164] She sporadically used an internet dating service. In early July, a "Ricardo" contacted her, later telling her that his surname was Colosanti. They spent most of a day chatting. He told her that:
- (a) he was a doctor, specializing in obstetrics and gynaecology;
 - (b) he was born and raised in Sicily;
 - (c) he had 13 brothers and sisters;
 - (d) his father was a general surgeon;
 - (e) his mother was a teacher of women's etiquette;
 - (f) all of his siblings have children or are having children;
 - (g) he grew up on a large farm;

- (h) his family is wealthy;
- (i) his father arranged a marriage for him with his father's karate instructor's daughter;
- (j) they were married for 7 years, with him caring for her when she became ill with leukemia;
- (k) his wife died two years ago in Sicily;
- (l) she was the only woman he had been with his entire life;
- (m) in his family, when you have sex, you are considered married;
- (n) they are traditional Catholics;
- (o) they stick strictly to old family values;
- (p) he has a medical clinic in New Westminster;
- (q) he worked with two other doctors;
- (r) he badly wanted children;
- (s) he is not interested in dating;
- (t) he wanted to establish a relationship;
- (u) two years after his marriage, his parents died in a high speed car accident in Sicily;
- (v) every day, he had to drive by the scene of that crash on his way to work;
- (w) that was so emotionally difficult for him, he moved to Canada where he re-qualified and moved to British Columbia;
- (x) he speaks with no accent because his mother was born in Canada and taught him to speak in that fashion;
- (y) he has a house in Sicily (and sent pictures of that house);
- (z) he has a cabin in Whistler (and sent pictures of him and his family there);
- (aa) he owns an apartment on Manchester in Burnaby which he purchased with cash;
- (bb) his Uncle Zio was second in command in the family, he had two aunts here that acted like parents to him, he had several brothers and sisters here with the names Nicky, Yvonna, Jimmy and Giovanvi;
- (cc) his family is one of five that own most of Sicily;
- (dd) everyone in the family is ranked from oldest to youngest;
- (ee) she would have to meet grandparents, Nono and Nona, before meeting other members of the family.

- [165] He enquired of her financial status, saying that, if they were going to marry, it would be his responsibly to take care of her debts. She revealed her financial status.
- [166] Eventually, they agreed to meet. She picked him up and returned him to her home. She continued to see him until his arrest. She had a broken foot at the time. He was very doting and attentive. They talked all night, reinforcing such things as how having sex means they are married. He told her that his uncle and aunt had picked out a site on which a house would be built for them.
- [167] They had sexual relations that night. He confirmed that by his culture and family standards, they were married. He said there would be an engagement party and a formal wedding ceremony later. He wanted children right away. He said birth control pills increase the risk of cancer and condoms were completely ineffective to prevent spreading of disease.
- [168] When asked for her reaction to all of this, she testified, "He was so awesome". He cooked, cleaned, did the laundry and helped her pack for a move. He insisted that she should not bring things from the past into their relationship. He tossed out 110 of her teddy bears and much of her kitchen goods, saying that he had much better quality items.
- [169] He met her friends, sat by her and rubbed her back, laughing with everyone else. He showed her house plans for their future home.
- [170] He was exchanging messages with his family, informing her that they were very happy. He said the woman driving the noisy black truck who escorted him was his sister, Nicky.
- [171] She was moving to another address, but he persuaded her to move to his condo on Halifax St. in Langley, as the one on Manchester Drive was toxic with renovations.
- [172] She described the move; the things that went wrong with the move; her reluctance to sign the lease on her own; how she eventually relented when he told her that his family was very angry and crying; how she had to decide within 24 hours whether she wanted a relationship with him; how a woman he called his sister in a black truck picked up the goods to be moved in the middle of the night; and how he wanted her to wear baggy clothing and nothing provocative or red in color, as women in Sicily who wear red are women who have cheated on their husbands.
- [173] He called her "Mrs. Colosanti" and himself her "hubby". His Aunt Zia would be making her wedding dress. His cousin Giovanni was a kind of enforcer. He described the roles of others in his family.
- [174] He explained that he was the treasurer for his family and third in command, with Nono being first and Uncle Zio being second. He explained that the availability of his sister in the black truck at all hours by saying that those of a lower rank do what he asks when he asks, right away and without questions.

- [175] He told her that it was the choice of the first wife whether to have a second in the relationship. She said no and he said he respected that. He explained the passive homemaker roles of women in his family, but that he was fine with her continuing her career, saying that his sisters will help care for their children. He showed her a picture of a woman with large words tattooed on her stomach saying "Property of" and then the name of her husband. He said that if she didn't want the tattoo, that was fine with him. He added that he would be getting one with her name in any event and that he would be bringing a tattooist from Sicily to do it.
- [176] The complainant began to suspect that persons appearing during her other normal activities might be members of his the family watching her. She began to fear she was being followed, that her apartment was bugged and that her phone was tapped.
- [177] He said he loved children and wanted to have them right away. He became upset when she said she wasn't ready yet.
- [178] He engaged in apparent phone and text conversations with members of his family both here and in Sicily regarding his new wife and their plans.
- [179] Regarding finances, he said that his family was very wealthy, but that it was important to amalgamate their finances into a joint account. She overheard him on the phone, supposedly to his bank, telling them to add her name to his account. She was not comfortable giving up her account as she did her business through that account. He asked to have his name added to her account, but she refused. He pressured her to apply for a joint Visa account and she told him to apply and put her name on it. He pressured her to obtain a Brick account and she declined. He pressured her to transfer her R.R.S.P's to him, stating that he was a good investor and that it would be put into the child's name once she was pregnant.
- [180] One day, she overheard him in a phone conversation, supposedly with the landlord of the building in which his medical clinic was located. He claimed there had been a breach on his account, it was frozen and his rent cheque had bounced. After a lengthy story, she agreed to lend him \$6,500 on July 12, 2005, to be repaid when his account was unfrozen.
- [181] He continued the pressure for her to transfer her account to him, saying that his family doesn't allow otherwise, that Zia was doing the dress, that the family was paying for the wedding, and that they were building and paying for their house. She eventually relented by transferring \$5,000 to a supposed joint account, retaining \$3,000 for her own purposes. That was the joint account she believed he had added her name to. He obtained from her another \$400 and then \$1,000 with stories of temporary family needs while his account was frozen.

- [182] She worried over the dramatic drop in her account and shut down her on-line banking to protect what remained. She decreased her credit limits on her bank account and her credit card. He was upset at her lack of trust. He claimed he had been able to get information about her credit card and credit limits from the bank without her authorization, which upset her. He admonished her for not being a good wife.
- [183] He never returned any of the money she gave him, nor did she receive that bank card to his account.
- [184] He spent much time planning the engagement party and the wedding. They were supposed to exchange gifts of jewellery. He claimed that his family was disgraced that this hadn't occurred. She gave him the cheapest ring she could find.
- [185] She described other incidents where he offered excuses for never following through on his promises and for other seeming anomalies in his story. Much furniture was delivered to their Halifax Street residence. She was not allowed to meet his sister Nicky and her mother who were delivering the furniture because she first had to meet Nono and Nona. He did point them out through the peep hole in the door. She heard what she believed to be the same loud black truck.
- [186] While she eventually agreed to sign the lease, she declined to sign up for phone and hydro services. That was done in the name of Nicky Jennish, which name he claimed was an alias for his sister Nicky.
- [187] From the beginning, he insisted that he not wear condoms as, being a doctor, he knew they didn't work. He charted her ovulations in order to improve the odds of her becoming pregnant.
- [188] He performed three gynaecological exams on her in a manner consistent with those performed by her own doctor. He also shaved her legs and pubic hair. During one such exam, he stood up, began pacing and said, "I can't believe this, you have genital warts, HPV". He added that no doubt she had given them to him. The complainant was upset and cried. He pointed out her supposed warts. He called her own doctor incompetent for having given her a clean bill of health. A few days later he confirmed that he had genital warts as well.
- [189] He told her not to go to another doctor for treatment as it would be very embarrassing for him in the medical community. He added that he loved her and would care for her. After the arrest of the accused, genital warts did develop and she was treated successfully. She is at increased risk for cervical cancer as a result.
- [190] He brought to their apartment a new looking Hewlett Packard computer with the name "(C.D.)" on it. He said that was his sister. He acted suspiciously at times to prevent her from seeing what he was doing on the computer.

- [191] She consented to his taking some digital pictures of her. The situation escalated to the point that he took suggestive and nude photos as well. The strong outgoing, complainant broke down and sobbed in the witness box when relating her fear that he will use those photos in future to cause her humiliation with friends, work colleagues and with the elementary schools where she works.
- [192] The accused was very loving and caring the whole time. She resisted his increasing pressure to transfer her R.R.S.P's, even though he claimed it would be used for their child. Similarly, she resisted his pressure to buy a new vehicle.
- [193] She suspected he was behind an attempt by someone to cash a cheque on her sister's account. He adamantly denied it, but her suspicions were growing.
- [194] As time went on, they saw less and less of each other. She was working 60 hours per week and he was gone many evenings. She asked him why he was not working. He replied that he had to shut his practise down as a crazy patient had made allegations of threats and sexual assault that would go away with cash, but which the College was investigating. He relayed a story of how he was examining the patient when the nurse left to answer the phone. The patient alleged that the incidents occurred then. He claimed he had a lawyer and offered to let her meet with him. She accepted and then he said the lawyer was doing a criminal trial at the time but he would arrange it. He added more details, including his lawyer's advice not to turn himself in.
- [195] The complainant then searched the internet and found his warrant under the name Coulton Mastronardi with a warning not to approach this person. He laughed and said they couldn't even get his name right. His family used aliases, with his sister Nicky going by the surname (N.J.), thus explaining why that name was on their cable and phone bills.
- [196] After his arrest, she was left with a \$3,000 penalty for the phone and Blackberry penalties.
- [197] On August 22, she received a phone call from a woman, later identifying herself as Nicky, claiming to be the wife of the accused stating that the police had picked him up. Thinking that the accused belonged to a mafia family, she moved out and planned to go into hiding.
- [198] The only other complainant she knows is (D.G.). They became friends.
- [199] Marked as exhibits are copies of bank documents confirming the financial transactions with the accused that she had described in evidence. A small percentage of their email communications survived and were marked as Exhibit 10. They confirm the romantic nature of their communications, including his reference to their being married after they were intimate. They confirm his reference to the condo on Manchester Drive being toxic from renovations, that he wouldn't forget the chance she took in jumping cultures, how he had come half way around the world to find his soul mate and how he wouldn't flirt with the nurses anymore as that is disrespectful when married in his culture.

Count 12: Sexual Assault, (D.G.)

- [200] 31 year old (D.G.) works in a managerial position. She used Lavalife and Match.com web sites to meet people. In early July, the accused contacted her, saying he was a gynaecologist by the name of Ricardo. A couple of planned meetings were cancelled for what he claimed was work related.
- [201] She invited him over after he was done his duties at the hospital. A black diesel truck dropped him off at 12:30 a.m. They talked until 5:30 a.m. He contacted someone who he claimed to be his sister and was picked up by the same black diesel.
- [202] They communicated the next day. He told her that his family tradition is that people don't date, they decide if they're going to be with each other and then spend the rest of their life getting to know one another. He said they must commit to each other now or that would be the end of it. She accepted that, knowing that she could end the relationship whenever she wanted. He told her his name was Ricardo Colosanti.
- [203] They met again and ended up engaging in sexual relations. He told her that his family tradition is that they were now considered married. He was picked up at 2:30 a.m. by the same black truck.
- [204] She was to join him at his cabin in Whistler, but she could not contact him all day. Someone claiming to be his uncle logged in on MSN and, in broken English text, told her that the accused was in a car accident with his sister last evening, with the sister having lost her life. He claimed the accused was in hospital, but was about to be released. He said the accused would be picking up rings as they are now considered married. He added that the family was happy about that.
- [205] The uncle gave her a phone number to call, which she did. While the person answering sounded like the accused, he claimed to be Jimmy, the brother of the accused. The complainant was sceptical, saying she had heard nothing of a fatal motor vehicle accident in the news. When the accused next saw her, he revealed a bruise and bump on his head from the accident.
- [206] He said that his family would buy their family home. He agreed with her suggestion that they live in Kamloops. He was adamant that she could not meet any members of his family until she met the elders, Nono and Nona, his grandparents.
- [207] He said that the family takes care of its own. If anything happened to him, another male from the family would take care of her. There was a family bank account from which to borrow money. If anyone crossed the family, that person "would be taken care of".
- [208] At some time, he informed her of another family tradition, where each spouse obtained a tattoo saying "Property of" followed by the spouse's name. She said she would not do it and he accepted that, but said he would be getting such a tattoo himself.

- [209] He spoke a great deal of his work as a doctor. Still somewhat sceptical, she asked a medical question on a subject she believed familiar to few. He had the right answer. She believed he was a doctor as he claimed.
- [210] He said that he would be her doctor. Saying that he was upset she hadn't had a physical in such a long time, he offered to perform a gynaecological examination and she agreed. The examination was physically intrusive in the vaginal area. He also purported to conduct a breast examination.
- [211] He later called her and asked for a serious talk. He revealed that she had genital warts and that she had passed that on to him. She was again sceptical as she had detected nothing unusual. He emphasized that no other doctor should treat her, for fear of word getting out and damaging his reputation. He told her how lucky she was to have him in her life and that he would not leave her over this issue.
- [212] She was properly tested after the arrest of the accused. She did not have genital warts.
- [213] They saw each other infrequently for the next few weeks as, he claimed, he was in a period of mourning and arranging to send his sister's body back to Sicily for burial. Thereafter, they were together almost daily until his arrest, frequently over night.
- [214] Regarding finances, he told her that now that they were considered married, he would take care of all the finances. He would pay off all her debts, including her mortgage. They spent the evening going through her financial situation.
- [215] He asked her to cash out a \$23,000 bank account and another RRSP account worth over \$5,000. He said he would pay off the lease on her vehicle, with the balance going to the family account that his entire family used. He controlled that account.
- [216] He said he would put her name on that account. She took steps to determine how to accomplish what he requested, but her scepticism kept her from transferring the money.
- [217] He was aware of her \$11,000 line of credit. It had had a zero balance for two years. He asked for her password. The next day, around August 17th or 18th, the bank called to enquire whether she had authorized an \$11,000 draw on her line of credit. When she denied that she had, the transaction was reversed. She asked the accused if that had been done by him. He acknowledged it had, claiming that he had intended to withdraw the money and then redeposit it to prove she could trust him. He was angry at the bank's fraud department and wanted her to call them to say it was a mistake.
- [218] She in turn was very angry at him as he had agreed to get her consent before touching her account. Her scepticism mounted. She cancelled her line of credit. There was little money in her account.

- [219] He cancelled another planned trip to Whistler. He did agree to take her to Kamloops to look for land suitable on which to build their family home. They found suitable property, gathered information and had discussions with the Realtor. The accused told the Realtor he would be paying in cash.
- [220] They arrived returned from Kamloops on the 18th or 19th of August. During that trip, he informed her of a warrant for his arrest on a charge of sexual assault and assault and battery. While examining a patient in his clinic, his nurse had to leave the room to answer the phone. The patient claimed the offences took place then. His lawyer advised him not to turn himself in as the charges would go away for lack of evidence. While he shut down his practice, his patients were very close to him. He joined them "unofficially" during procedures in hospital because the doctors and nurses there knew him and permitted it.
- [221] She soon learned that the arrest warrant for him was in another name. He was soon arrested. He made attempts to call her from the pre-trial centre, but she refused the calls.
- [222] She became friends with (D.E.), but did not know the other complainants. She and (D.E.) did discuss some aspects of the case, but stopped quickly when told they should not do so.

Conclusion

- [223] The primary issue in this trial is credibility. By all measures, I found the evidence of all six complainants to be honest and accurate recollections of the events they described. That is so even when each complainant is examined in isolation from the others.
- [224] Most carry significant corroborative evidence. None were shaken in cross examination. In saying that, I am not being at all critical of the cross examiner. No significant inconsistencies were uncovered between their evidence at trial and their statements to police or their evidence at the preliminary hearing. Their evidence was internally consistent and consistent with other evidence.
- [225] Courts have long referred to the "manner and demeanour" of a witness in coming to conclusions on credibility. This factor weighs heavily in favour of all six witnesses. Each was of different personality. Cold transcripts do not convey what was apparent in the court room: the humiliation and embarrassment when each complainant described certain incidents, the tears at appropriate times and the prompt and curt responses to certain offensive suggestions, as some examples. There were no hints of a lack of recall of significant events and not the slightest hint of prevarication. These were significant and highly usual events in the lives of each complainant.
- [226] While a motivation to lie need not be exposed, none was.
- [227] Thus, there is no need to resort to the similar fact rule, even though it would be appropriate to do so for most counts. If that rule were to be applied, the Crown's case moves far beyond the requisite standard of proof beyond a reasonable doubt.

[228] Everything about the accused, as he presented himself to the complainants, was a lie. He wove a fantastic and, at times, bizarre fantasy world into which he gradually but quickly submersed the complainants. He was able to measure the degree of vulnerability of each and make appropriate adjustments to keep the relationships alive. He acted in a fashion with each that reveals a complete inability to empathize. His goal was to obtain frequent unprotected sex with the complainants, to impregnate them, and to dominate and control them both personally and financially.

[229] With those general findings, I turn briefly to consider each count.

Count 1

[230] The Crown must prove deprivation and deceit.

[231] Having drawn (N.J.) into his fantasy world, this is the only complainant to whom he did not claim to be a gynaecologist. Believing his extravagant lies as outlined in the summary of her evidence, she complied with his request for payments and credit totalling some \$55,000. She was not challenged on her evidence in that regard. She received very little benefit in return. Business records corroborate her evidence. Her mother corroborates the \$4,000 portion of that deprivation. Were it necessary to resort to similar fact evidence, there is evidence from the other complainants of a similar web of lies leading to the requirement in his family tradition and culture that the male is responsible for all matters of finance, of an amalgamation of finances into his account, of promises of access to that account by the complainants which never materializes, and the promises of significant benefits to the complainant.

[232] The deceit ingredient is readily apparent. He induced her to transfer to him these significant amounts of cash and credit with an elaborate story of love, marriage and wealth in return, all of which she would lose if she did not comply with his family and cultural rules. He extracted additional funds from her with lies about requiring the funds to retain a lawyer. Nothing in the representations was true but his legal name. All was masterminded and calculated to strip her of her financial resources by fraudulent means.

[233] I find him guilty.

Counts 2 to 6, (C.D.)

[234] Count 2 relates to the gynaecological exams performed on the complainant by the accused. The Crown must prove that this constituted a touching in a sexual manner without her consent.

- [235] She described these intrusive intimate examinations in some detail. She was entirely believable and was not challenged in cross-examination as to their having occurred, only as to whether they were a part of their sexual contact to which she would have consented in any event. She firmly rejected that suggestion, affirming that she only consented because of her belief of his repeated representations that he was a gynaecologist.
- [236] The defence submission tracks the dissent judgment in *R. v. Maurantonio*, [1968] 1 O.R. 145 (Ont. C.A.), leave to Supreme Court of Canada refused: (1967), 2 C.R.N.S. 375. There, the accused falsely held himself out to the public to be a licensed doctor. The complainants in that case consented to an intimate exam only because they believed that representation. The issue there, as here, was whether the consent was obtained by "false and fraudulent representations as to the nature and quality of the act" within the meaning of s. 141(2) of the Code. The majority of the court answered that question in the affirmative, holding that the question is not whether the accused was duly qualified and licensed, but rather an issue of fact as to whether or not the physical touching was a necessary part of a bona fide medical examination as it was to that alone that consent was given. While, strictly speaking, that decision is not binding on me, I accept and apply the reasoning in the majority decision.
- [237] I have also considered *R. v. Chen*, 2003 BCSC 1363. In this case, the accused held himself out to be a doctor of Traditional Chinese Medicine when he knew he was not so designated, then he obtained consent of the complainants to touch them in the course of examinations by fraud. The accused described in detail how he touched either the breasts, the hui yin acupoint, located in the perineum area between the anus and lower extremity of the outer labia, or the meridians near the labia for the purpose of treatment. E.R.A. Edwards J. stated at ¶77 that:

On the basis of the authorities just cited, touching those areas of the female body when consent to do so had been obtained by fraud as to the accused's credentials constituted sexual assault.

That case is distinguishable from the one before me in that the accused in that case did have some training in Chinese medicine and, thus, the Crown did not base its entire theory on the above analysis. The accused was found guilty of seven counts of sexual assault on other grounds.

- [238] The circumstances here weigh more heavily in favour of the Crown than was the case in *R. v. Maurantonio*, *supra*, and *R. v. Chen*, *supra*. Here the examinations were part of an overall plan of sexual control and domination and not restricted to a purported doctor patient relationship.
- [239] Counts 3 and 4 allege use of a weapon in committing a sexual assault and assault causing bodily harm during the incident of April 20, 2005, as described in the summary of her evidence.

- [240] This constituted the assertion of complete control and domination of the complainant by the accused in every aspect of her life, including the sexual aspect. Her evidence describing this bizarre and dehumanizing incident is set out in the summary of her evidence. Her evidence was detailed, consistent and unshaken on cross-examination.
- [241] She wore corroboration on her stomach, in the form of the grotesque "Property of " tattoo, as depicted in photograph 8 of Exhibit 6. She wore corroboration on her face, as seen by police some ten days later, with the bruise below her left eye, the swelling, the still slightly misshapen nose and the hickey on her neck, also depicted in photographs in the same exhibit. While not as strong, there is some corroboration in the finding of a stain in the carpet in the area she was struck consistent with being a blood stain.
- [242] As well, the emails to her from the accused corroborate her evidence as to his complete domination and control of her. His text message at 12:03 a.m. April 20th, 2005, stating, "Sorry you have damaged me for the last time I have balls its time to use them you have done so much you need to be hit but its too late" corroborates her evidence, as do his emails chastising her for being too outspoken and aggressive, and speaking of his need for "an extreme passive woman". His messages to her after her "escape" corroborate her evidence in that they purport to withdraw the threat to her and her family. His dozens and dozens of messages that follow begging her to call and declaring his undying love are consistent with a fear that she will go to police. For once, he misjudged his victim and the degree to which he could assert degrading dominance and control.
- [243] I accept her evidence that the incident on April 20th, 2005, occurred as she described, including his insertion of the butt end of a knife into her vagina and anus. If additional corroboration were needed, she retained the receipt for the purchase of that knife on the same day.
- [244] Regarding the uttering threats charge alleged in Count 5, the complainant described an increasing level of threats to her and then to her family as well. I have already found that the incident of April 20, 2005, occurred as she described. There, the threats to her life from the accused were such that she begged him to carry out the degrading and painful punishment to avoid death.
- [245] I also find that the events of April 29, 2005, occurred as she described in her evidence as summarized earlier. Her evidence in this regard was consistent, forthright and not successfully challenged on cross-examination. It was an escalation to an extreme level of the need of the accused to have complete control of and domination over the complainant, including her having to seek his permission to do anything, including using the bathroom or talking to family or friends. This evidence is corroborated in his emails to her.
- [246] It is corroborated by her frenzied and fearful demeanour in her "escape" to police at 5 a.m. that day. It is corroborated by their email exchange of April 28, 2005, when he tells her she will not have a "swimming accident" as she is just learning everything and has apologized.

- [247] Additional corroboration is found in his messages to her after her "escape" in which he asks her to have her brother call him when trying to persuade her that the threat is at an end. The Crown has proved that the threatening words were uttered. Viewed objectively, they convey a threat to her and her family.
- [248] Count 6 alleges that the accused, by deceit, falsehood or other fraudulent means, defrauded the complainant of money and property. The Crown must prove deprivation and deceit.
- [249] There is no issue as to deprivation. Business records corroborate her evidence as to his depriving her of the following:
- (a) \$2,014 for tools on her Home Depot credit card;
 - (b) \$311.16 on her Future Shop credit card;
 - (c) \$948.46 on her Sears card;
 - (d) \$900 from her last pay cheque;
 - (e) a platinum ring with five diamonds;
 - (f) \$2,700, being the value of her Hewlett Packard laptop computer and accessories.
- [250] As in Count 1, deceit has been proven as well. He created a fantasy world promising marriage, wealth, love and devotion. He was already married. He had no intention of giving her access to the "family account", let alone discharging her debts or carrying out any other of his many representations. Everything he represented, but his name, was part of an elaborate and complex web of lies, calculated to strip her of her assets.
- [251] I find the accused guilty of Counts 2 through to and including Count 6.

Count 7, (W.L.), Extortion

- [252] The Crown must prove that the accused had sexual intercourse with the complainant by threatening, accusing or menacing her. Why he was not charged with sexual assault itself was not made clear to me. I have summarized her evidence to the effect that she consented to have sexual intercourse with the accused only because she believed his representations that:
- (a) she had committed an offence by sexually teasing him;
 - (b) he had gone to Immigration;
 - (c) they would be interviewing her;
 - (d) they would be deporting her;
 - (e) they would be informing her parents;

(f) she could avoid all these consequences by having sex with him.

[253] The shame, fear and humiliation were all apparent in the manner and demeanour of the complainant. She is intelligent, has a good command of the English language, was consistent, and was unshaken in cross-examination.

[254] Her evidence is strongly corroborated by the email exchanges outlined in the summary of her evidence and marked as Exhibit 7. Those exchanges corroborate her sexual naivety and the willingness of the accused to exploit any weakness in a vulnerable victim. It is also corroborated by the description of her emotional condition when she returned from the sexual encounter with the accused. The power of the threat over her was corroborated by her reluctance to accept the assurances of a police officer that sexual teasing is not an offence.

[255] Accepting the complainant's evidence as I do describing how the incident occurred, there is no air of reality to the defence of honest but mistaken belief as to consent.

[256] The defence submitted that the words of the accused did not constitute a "threat" as Immigration Authorities are an independent body over which the accused has no control. I reject that submission. The accused lied to the complainant about having gone to Immigration, lied to her about what he was told, lied to her about the consequences of her having sexually teased her, and lied to her in stating that those consequences would only be avoided if she had sex with him. The whole scenario was in his control. His threat was that, unless she had sex with him, he would not call off Immigration and she would be deported.

[257] Discerning and exploiting every vulnerability, he also informed her that Immigration Authorities would notify her parents, a prospect she feared as much as deportation.

[258] In *R. v. Deneault*, 2002 BCCA 178, the court quoted with approval at ¶24 a decision of the Ontario Court of Appeal in *R. v. Ross* (1986), 26 C.C.C. (3rd) 413 which adopted the Shorter Oxford English Dictionary definition of "threat" as follows:

A denunciation to a person of ill to befall him: exp. A declaration of hostile determination or of loss, pain, punishment, or damage to be inflicted in retribution of or conditionally upon some course; a menace

[259] The conduct and utterances of the accused clearly fall within the scope of that definition. Holding a gun to her head could not have been more effective in extorting her consent to have sexual relations.

[260] I find the accused guilty of Count 7.

Counts 8 and 9, (I.Ma.) (I.M.), Sexual Assault and Fraud

- [261] The Crown alleges that the accused committed the offence of sexual assault firstly, in conducting gynaecological examinations while misrepresenting himself to be a gynaecologist and secondly, in having anal sexual intercourse without her consent.
- [262] The complainant described in detail the nature and extent of the gynaecological examinations. Her evidence brought with it all the hallmarks of honesty and reliability. In addition to her manner and demeanour being consistent with that, her evidence was clear, consistent, forthright and not challenged in cross-examination. When it was suggested to her that the examination purportedly revealing HPV was not a purported medical examination, she strongly disagreed.
- [263] For reasons earlier outlined, I find the intrusive intimate examinations constituted a sexual assault.
- [264] For the same reasons, I accept her evidence regarding the incident of non-consensual anal intercourse. It was not suggested in cross-examination that anal intercourse had not occurred; only that she may not have made her refusals sufficiently clear. She could hardly have been more adamant in rejecting that suggestion. She immediately and loudly begged and pleaded with him to stop, complaining of the pain as well. As she stated, "He would have to be deaf and blind not to have heard me".
- [265] I find the accused guilty of Count 8.
- [266] Count 9 alleges that the accused obtained money and property from the complainant and her brother (I.M.) by deceit, falsehood or other fraudulent means.
- [267] It is alleged that the accused was allowed to use the credit card of (I.M.) for a limited purpose for a limited amount. He was to obtain approval of the complainant before using it and was to limit the amount charged. Contrary to his agreement in that regard, he ran up purchases of some \$750. The complainant was able to reduce the loss to \$200 by intercepting and returning many items.
- [268] The deprivation has been proved on the evidence of the complainant and (I.M.).
- [269] The deceit is that described in other fraud counts. Further, he agreed to certain limiting conditions on the use of the card and used the card contrary to those conditions.
- [270] The charge as it relates to the complainant is founded on her evidence that certain items were found missing after he left, such a jacket, ear rings and underwear. However, there is not sufficient evidence to prove that those items were removed by the accused.
- [271] I find the accused guilty of Count 9, but only in relation to the complainant (I.M.).

Count 10 and 11, (D.E.), Sexual Assault and Fraud

- [272] The charge of sexual assault relates to three gynaecological examinations performed on the complainant by the accused who was representing himself as a gynaecologist.
- [273] The complainant described three such examinations. She described the intrusive intimate examinations in detail. Her manner and demeanour was consistent with an honest and reliable witness, her evidence was consistent and unchallenged in cross examination. His communications with her, Exhibit 10, corroborates her evidence as to the nature of his representations, including his undying love and that he was her "hubby" and she his wife. That exhibit also confirms his efforts to obtain personal information such as her S.I.N. number and Care Card number. It was suggested to her that the touching in these examinations was a normal part of sexual contact that she would have agreed to in any event. She strongly disagreed, stating that she firmly believed him to be a gynaecologist and she would not have consented had she known otherwise.
- [274] I accept her evidence. Again, this touching in the purported examination and informing her she had HPV was a part of the effort of the accused to gain sexual and other control over his victim. For reasons given earlier, I find there was no consent.
- [275] Count 11 relates to evidence of the complainant having transferred money to the accused as follows:
- (a) \$6500 on July 12, supposedly for his medical clinic rent;
 - (b) \$5000 on July 18 for deposit into their joint account to which she was supposed to have access;
 - (c) \$1,000 internet transfer and \$400 on her credit card.
- [276] While Crown alleges fraud in relation to her having paid rent for their apartment in the amount of \$1,125, a further rent payment of \$562 and a damage deposit of \$254, I find that not proven as she resided in that apartment and received some resulting benefit.
- [277] Her evidence in that regard is corroborated by business records and not challenged by the defence.
- [278] The deceit is the same as that described in other counts of fraud. His elaborate and complex scheme promised love, marriage and wealth. For that to happen, his family tradition and culture required amalgamation of finances into an account to which she would have access. All was a lie in order to defraud her of her money.
- [279] I find the accused guilty on Counts 10 and 11.

Count 12, (D.G.), Sexual Assault

- [280] This count relates to the gynaecological examinations performed on the complainant by the accused while representing himself as a gynaecologist.
- [281] This complainant had a manner and demeanour strongly consistent with an honest witness relating painful memories. She described these intrusive intimate examinations in detail and consistently. She was not challenged in cross examination except to suggest that the touching was a part of normal sexual contact to which she would have consented in any event. It was also put to her that she knew the accused was not a doctor. Both suggestions she strongly and convincingly rejected. Her scepticism in that regard was swept away when she gave him a skill testing question and he gave the correct answer, an answer that she believed would only be known to a doctor.
- [282] As with the others, the examination, with his "diagnosis" of HPV, was part of an elaborate plan of the accused to gain control over the complainant sexually, physically and financially.
- [283] She, like the other complainants, testified that she would not have given her consent if they knew the accused was not a doctor. For reasons stated earlier relating to *R. v. Maurantonio*, supra, there was no consent.
- [284] I find the accused guilty of Count 12.

Similar Fact Evidence

- [285] Had it been necessary to resort to the similar fact rule, the test set out in *R. v. Handy*, 2002 SCC 56, is easily met, with the exception of Count 7 and (W.L.). The analysis required by that case requires a consideration of the following factors:
- (a) proximity in time of the similar acts;
 - (b) the extent to which the other acts are similar in detail;
 - (c) the number of occurrences of similar acts;
 - (d) the circumstances surrounding or relating to the similar acts;
 - (e) any distinctive features unifying the incidents;
 - (f) any intervening events;
 - (g) any other factor which would tend to support or rebut the underlying unity of the similar acts.

[286] It is readily apparent that a consideration of these factors would strongly favour application of the rule. The prejudicial effect is low: the probative value high. There was no possibility for collusion except as between (D.E.) and (D.G.). Their brief discussions about the case ended quickly. There were no suggestions of collusion put to them. While (N.J.) and (D.E.) exchanged words and some items, they were mostly unpleasant exchanges and there has been no suggestion of collusion.

Summary

[287] I find the accused guilty on all counts in the Indictment

"I.B. Josephson, J."

The Honourable Mr. Justice I.B. Josephson"

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