

CANADA / JUDGMENT

R. v. Mattatall

2025 BCSC 2682

COURT

Supreme Court of British Columbia

DECIDED

5 December 2025

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2025 BCSC 2682 R. v. Mattatall

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Mattatall,

2025 BCSC 2682

Date: 20251205

Docket: 94076-2

Registry: Kelowna

Rex

v.

Christopher Le Mattatall

Before: The Honourable Justice B. Hardwick

Oral Reasons for Judgment

Counsel for the Crown:

M. Chiu

Counsel for the Accused:

J. Dosanjh

Place and Date of Trial/Hearing:

Kelowna, B.C.

December 1-4, 2025

Place and Date of Judgment:

Kelowna, B.C.

December 5, 2025

- [1] THE COURT: On Monday this week, the trial of the accused, Christopher Le Mattatall, commenced.
- [2] At the outset of the trial, the Crown entered a stay of proceedings in respect of Counts 3 and 7 of an eight-count indictment dated June 3, 2025 (the "Indictment"). Mr. Mattatall pled not guilty to the remaining six charges on the Indictment.
- [3] However, in the course of closing submissions, defence counsel conceded that the elements of the offence for Count 8 had been established on the evidence and a conviction must follow. For the record, Count 8 on the Indictment is that on the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, Mr. Mattatall did resist or wilfully obstruct a peace officer, Corporal Hare, in the execution of his duty, contrary to s. 129(a) of the Criminal Code [Code]. Mr. Mattatall is accordingly convicted of this offence.
- [4] The remaining five counts on the indictment which I must adjudicate upon are as follows:

Count 1: Christopher Le MATTATALL, on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did possess a prohibited firearm, restricted firearm, or non-restricted firearm, without being the holder of a licence under which he may possess the firearm, or without being the holder of a registration certificate for the firearm, contrary to Section 91(1) of the Criminal Code.

Count 2: Christopher Le MATTATALL, on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did without lawful excuse use, carry, handle, ship, transport or store a firearm, prohibited weapon, prohibited device, or ammunition, to wit: a loaded .22 firearm, in a careless manner or without reasonable precautions for the safety of other persons, contrary to Section 86(l) of the Criminal Code.

Count 4: Christopher Le MATTATALL, on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did unlawfully possess a controlled substance, to wit: Cocaine: for the purpose of trafficking, contrary to Section 5(2) of the Controlled Drugs and Substances Act [hereinafter "CDSA"].

Count 5: Christopher Le MATTATALL, on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did unlawfully possess a controlled substance, to wit: Methamphetamine, for the purpose of trafficking, contrary to Section 5(2) of the Controlled Drugs and Substances Act.

Count 6: Christopher Le MATTATALL, on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did have in his possession property, a Lexus, the property of Yang Jaio, of a value in excess of five thousand dollars (\$5,000.00) knowing that the said property was obtained by the commission in Canada of an offence punishable by indictment, contrary to Section 355(a) of the Criminal Code.

- [5] In respects of Counts 4 and 5, the defence concedes that Mr. Mattatall was in possession of 23.7 grams of methamphetamine and 14.8 grams of cocaine, broken down into four bags, as I will further detail, at the time of his arrest. While the defence position is that the Crown has not proven Mr. Mattatall's guilt for possession for the purposes of trafficking beyond a reasonable doubt, the defence invites the court to convict on the lesser included offence of "simple possession" of both controlled substances.

Overview of Crown's Case

- [6] The Crown called various police witnesses, most of whom are quite experienced members of the RCMP and work out of the Kelowna detachment. Those witnesses were Sergeant Kiehlbauch, Corporal Henderson, Corporal Tanguay, Constable Murphy, Constable Rodway, Constable Dawson and Constable Riley. With the exception of Constable Stewart Riley, all of the Crown witnesses testified as lay witnesses.
- [7] Corporal Henderson specifically did not give expert evidence regarding police dog tracking. Rather, Corporal Henderson exclusively gave evidence limited to his personal recollection about what he observed on December 18, 2024, when he and his police dog, Nestle, initially interacted with Mr. Mattatall and when they subsequently returned to the scene of the arrest to conduct a further search. I will address this point further.
- [8] Constable Riley was, however, qualified as an expert after a qualification voir dire. Specifically, Constable Riley was qualified as an expert witness in the following areas relating to both cocaine and methamphetamine: (a) methods of drug use; (b) methods of distribution; (c) the inferences that can be drawn from the presence or absence of certain drug paraphernalia; (d) the significance of weights and the values of drugs; and (e) packaging. Upon the objection by defence and concession by the Crown, Constable Riley was not qualified to give expert evidence as to rates of consumption.
- [9] As part of the Crown case, there were also certain admissions of fact made pursuant to s. 655 of the Code. These admitted facts can be summarized as follows:
- a) The substances seized by the police as part of the investigation were submitted to Health Canada for analysis and were confirmed to be cocaine and methamphetamine.
 - b) The amount of the methamphetamine was 23.8 grams. This is an accumulative amount as the bags were not weighed individually.

- c) The amount of cocaine was 14.8 grams. This was contained in four separate packages as follows: 11.8 grams in an individual bag; 1.2 grams in an individual bag; 0.9 grams in an individual bag; and 0.9 grams in an individual bag.
 - d) Mr. Mattatall did not possess a possession and acquisition licence or a restricted possession and acquisition licence on December 18, 2024.
 - e) On December 31, 2024, Corporal Jimmy Chau, a member of the Forensic Identification Service of the RCMP, conducted an examination for fingerprints on two magazines, entered as court Exhibit 5, and a firearm, entered as court Exhibit 4; processed these exhibits using forensic methods that reveal fingerprint impressions.
 - f) No fingerprint impressions were obtained from either Exhibit 4 or Exhibit 5 during this process.
 - g) Constable Chau also took swabs from the two magazines entered as Exhibit 5 and the firearm marked as Exhibit 4 for DNA. These swabs were sent to the RCMP's Forensic Science and Identification Laboratory for analysis. The RCMP forensic specialist conducted an examination and did not obtain a DNA match.
 - h) There was no DNA or forensic testing done on any other items seized.
- [10] Also entered into evidence was a Certificate of Analysis which confirms that Exhibit 4 is a firearm within the meaning of s. 2 of the Code, is a handgun within the meaning of s. 84(1) of the Code, and is a restricted firearm within the meaning of s. 84(1) of the Code (collectively, the "Firearm").
- [11] Finally, as I will return to, the Crown called a civilian witness, a Mr. Jaio.

Defence Case

- [12] As is his constitutionally protected right under the Charter, Mr. Mattatall elected not to call any evidence in defence and did not personally testify. The defence case rests upon the skilled counsel work of Mr. Dosanjh in cross-examination of the various police witnesses and in confining the scope of their admissible testimony.

The Events of December 18, 2024

- [13] As will likely be apparent from my above overview of the outstanding charges on the Indictment, all of the offences are alleged to have occurred on December 18, 2024. In fact, they are all alleged to have occurred within a matter of mere minutes on the evening of December 18, 2024.
- [14] Moving back very slightly in the chronology, Mr. Mattatall happened to come to the attention of the RCMP on December 13, 2024, when they were conducting unrelated surveillance on a known problem residence in the downtown core of Kelowna, specifically a residence located in the 700 block of Cawston Avenue. A male individual, now identified to

be Mr. Mattatall, happened to park a Lexus sedan, (the "Lexus"), in very close proximity, namely mere inches, to an unmarked police car where Sergeant Kiehlbauch was conducting surveillance.

- [15] After the driver exited the vehicle, Sergeant Kiehlbauch made the decision to run the plates on the Lexus as well as take photos of both the driver and the vehicle. There were no other "red flags" with Sergeant Kiehlbauch that he identified apart from the manner of parking as the driver of the Lexus was not seen to enter the problem residence subject to surveillance or seen to be interacting with any other individuals. However, the search conducted by Sergeant Kiehlbauch came back to reveal that the licence plate was "unattached to the vehicle". Said in plainer language, the licence plate displayed on the Lexus did not match the Lexus. Also of note, an effort was made by another member to inspect the vehicle identification number, also known as a VIN, of the Lexus but it was obscured, or at least partially obscured, by an object later identified to be a hotel key card.
- [16] The photo taken by Sergeant Kiehlbauch of the individual departing the Lexus is of Mr. Mattatall. In identifying Mr. Mattatall during court and trial, I do recognize that defence counsel fairly pointed out that Sergeant Kiehlbauch, who was the first witness called, did so at a time when Mr. Mattatall was the only person in the courtroom who was not either a lawyer or a member of the court staff. However, the defence did not press on this issue further. It is also quite obvious to me that the individual photographed by Sergeant Kiehlbauch is Mr. Mattatall.
- [17] There was a brief effort to maintain surveillance on Mr. Mattatall after the Lexus drove away from where it was parked on Cawston Avenue on December 13, 2024, but contact was lost shortly thereafter. There were accordingly no observations of the Lexus or the driver of the Lexus interacting with any persons on that date or engaging in any other suspicious activity.
- [18] A concerted plan was thereafter put into place, however, to surveil the Lexus as, through further investigative efforts, it had been determined that the driver, Mr. Mattatall, was associated with a residential complex located at 880 Saucier Avenue in the City of Kelowna. Saucier Avenue, which runs east/west, is situated just on the north side of Highway 97, also known as Harvey Avenue, which I accept effectively demarcates the commonly recognized boundary of the downtown core of the City of Kelowna. Saucier is a cross street to Ethel Street, which is a busy thoroughfare running north and south which provides access to and from the downtown area of the City of Kelowna. Slightly offset from Saucier Avenue, but also on the north side of Harvey Avenue, and running east/west, is Laurier Avenue.
- [19] On the afternoon of December 18, 2024, as part of the above plan, the Lexus was surveilled by various RCMP members after departing the Saucier Avenue residential complex. This included placing a tracking device on the Lexus. The Lexus drove around Kelowna and West Kelowna for several hours, which included a stop at what I will refer to the Carrington Apartments in West Kelowna. Nothing of real significance was observed during the surveillance other than Constable Murphy's observation that while in Kelowna the Lexus

was making a lot of turns and, in his personal view, was driving "somewhat weird".

- [20] Apart from noting the stop at an unspecified address in Kelowna and the stop at Carrington Apartments, where any interaction with any person was unable to be observed by the surveilling officers, there were no interactions with any persons or other conduct consistent with drug trafficking during the surveillance.
- [21] The decision was made by the officers involved in the surveillance to arrest the driver of the Lexus for possession of stolen property when he returned to the residential complex at 880 Saucier Avenue. It was further determined that Constable Hare would be the RCMP member to effect the arrest.
- [22] When the Lexus parked at the residential complex at 880 Saucier Avenue at approximately at 7:30 p.m., the driver, now identified as Mr. Mattatall, remained in the vehicle for a short period of time but there were no specific or suspicious behaviours noted by any of the officers present. Upon observing the driver of the Lexus exiting the vehicle, Constable Hare approached. He was in plain clothes but in a marked police vest and tactical gear. Constable Hare was approximately 15 to 20 feet away from the driver, when he made his presence known. After informing Mr. Mattatall that he was "police" and that Mr. Mattatall was "under arrest", Mr. Mattatall immediately fled the scene of 880 Saucier Avenue. A foot pursuit was engaged by Constable Hare and then joined in by other involved RCMP members.
- [23] A Google map created by Constable Hare was entered as Exhibit 2 at the trial and it depicts the relatively short distance that the pursuit lasted between Saucier Avenue, crossing Ethel Street, entering a laneway, and ultimately ending up at the point of arrest at a residence situated at 914 Laurier Avenue. The foot pursuit was, to use my own language, somewhat frenetic. Constable Hare, the individual who first engaged the pursuit, slipped and fell, as a result of the somewhat wintry, snowy conditions. Constable Rodway attempted to make a tactical strike by trying to use his leg to trip or otherwise interfere with Mr. Mattatall but was not entirely successful.
- [24] However, almost immediately thereafter, Mr. Mattatall made contact with Corporal Tanguay's police vehicle, which was not yet parked but moving at a very slow speed in anticipation thereof. Based on their differing viewpoints, the officers who testified gave somewhat varied recollections of whether Mr. Mattatall actually fell to the ground briefly or simply bounced off the front of Corporal Tanguay's police vehicle. This is not a material inconsistency as it is clear that whether or not Mr. Mattatall fully contacted the ground, he immediately continued running away from the various pursuing officers. Mr. Mattatall was not observed to either intentionally discard any items during this portion of the pursuit or accidentally lose any items upon making contact with Corporal Tanguay's police vehicle.
- [25] At this point, Corporal Henderson, who is a trained police handler and who has been participating in the surveillance of the Lexus in a shadow capacity given the recognizability of his police vehicle, became formally engaged. Specifically, Corporal Henderson exited his now parked police vehicle, or as he called it a "dog wagon", with his police dog Nestle, who

was on a 30-foot leash. After Corporal Henderson and Nestle became engaged, the other officers involved in the pursuit dropped back and followed him in accordance with the protocol when a police dog is involved in an active pursuit so as to avoid interfering with the police dog's activities.

[26] Mr. Mattatall was arrested on what I would describe, using my description of the photo entered as Exhibit 6, as the front stoop of 914 Laurier Avenue, quite shortly after Nestle was engaged. Nestle did bite Mr. Mattatall's hand immediately prior to his subsequent arrest by Corporal Henderson.

[27] By virtue of the length of the leash upon which Nestle is controlled by, there was, however, a brief period when Mr. Mattatall was not in the immediate sight of Corporal Henderson or the other police officers who were trailing slightly behind as per the above-noted protocol after entering the property located at 914 Laurier Avenue. Corporal Henderson testified that this loss of visual was for less than a minute.

[28] The natural lighting conditions at the scene of Mr. Mattatall's arrest were, I accept, dim. There was also a quite large green hedge present in the photographs bordering the yard of 914 Laurier Avenue which obscures a black chain-link fence, as well as a fairly large accumulation of fall leaves which I would describe as typical with that time of year in Kelowna. At the time of his arrest, Mr. Mattatall did self-identify to the police and provide his correct date of birth. This allowed officers to confirm that Mr. Mattatall was wanted as of that date on five outstanding warrants.

[29] Constable Murphy was tasked with performing the initial search incidental to arrest. Constable Murphy found:

- a black RBK zippered pouch in the front pocket of the red hoodie sweatshirt that Mr. Mattatall was wearing. Located in the RBK pouch were substances suspected to be controlled substances, later to be confirmed to be cocaine and methamphetamine in accordance with the expert analysis and admitted facts. The values of these substances varies depending upon how they are sold, but even taking the most favourable view of the evidence in this regard for the defence the methamphetamine seized had a value of \$300 and the cocaine had a value of \$500.

- a folding knife;

- lighters;

- cash of \$1,075 in the following denominations: five x \$100 bills; three x \$50 bills; 11 x \$20 bills; and one x \$5 bill;

- a cellular phone, which quite importantly no officer gave evidence was operational.

[30] Not located in the RBK pouch or on Mr. Mattatall's person were scoresheets or other similar records of drug sales or drug-packaging materials.

- [31] After Mr. Mattatall had been placed in the rear seat of the police cruiser, a second search incidental to arrest was performed by Constable Dawson for the specific purpose of locating, if possible, a key or key FOB to the Lexus. A fob was, in fact, located in Mr. Mattatall's pant pocket.
- [32] Upon obtaining access to the Lexus using the key fob obtained from Mr. Mattatall's pant pocket, the following was located:
- a knife in a sheath in the centre console of the Lexus, photographed at Exhibit 7, Tab 5, page 2;
 - a CO2 gun, namely a replica firearm, found in a bag in the trunk, photographed at Exhibit 7, Tab 3, page 3. There was no identification or other items connected with Mr. Mattatall in this bag; and
 - the original licence plates attached to the Lexus which were found in the trunk under matting or carpeting, thus not immediately observable but not otherwise specifically hidden. This is photographed at Exhibit 7, Tab 3, page 4.
- [33] After Mr. Mattatall was transported to the Kelowna RCMP detachment for processing, it was noted that Mr. Mattatall's clothes were significantly wet as a result of a combination of the foot pursuit, winter weather conditions and the arrest by the police dog Nestle. Mr. Mattatall was offered dry clothing by Constable Murphy, and initially only accepted a dry top and declined dry pants. Mr. Mattatall further declined an offer of dry pants even when he was told by Constable Murphy that the drawstring of his existing wet pants would need to be cut. This raised reasonable suspicion and a third search incidental to arrest was conducted. In the course of this search, an empty gun holster was located on Mr. Mattatall's ankle. Further, found concealed in some fashion, in the ankle hem area of Mr. Mattatall's pants, were two magazines loaded with live ammunition. These are the magazines referred to above as part of the admissions which were entered into evidence as Exhibit 5 at the trial.
- [34] The discovery of these items prompted the direction that certain officers return to the scene of Mr. Mattatall's arrest to look for a firearm.
- [35] Amongst those engaged for this purpose were Corporal Henderson and Nestle. Nestle promptly located the Firearm, proven to be a firearm per the above referenced Certificate of Analysis, in the shrubs and leaves on the ground just within the boundaries of the yard attached to 924 Laurier Avenue. This occurred within an hour of Mr. Mattatall's arrest. The location of the Firearm was approximately five metres or less from the spot where Mr. Mattatall was arrested. The photographs in Exhibit 7, Tab 4, make clear that upon Nestle locating the Firearm it is readily observable in a close-up photograph. However, it is not readily apparent from a naked eye perspective, given the combination of lighting available and the extent of the ground cover.
- [36] The Firearm had a loaded magazine and there was a bullet in the chamber. It was thus in a position to be ready to fire without delay were the trigger to be pulled. As defence points out, no interviews were conducted of the owners or residents of either 914 or 924 Laurier Avenue to determine whether the firearm belonged to them, was associated with them, or whether

they knew Mr. Mattatall. However, the Firearm was brought to court by Constable Dawson along with the two magazines seized from Mr. Mattatall's person, namely, those removed from his pants (collectively entered as Exhibits 4 and 5 at trial). Constable Dawson inserted each of the magazines into the Firearm and there was an audible click indicating compatibility.

- [37] In respect of the Lexus, the former registered owner of the vehicle was the lay witness referred to above. Mr. Jaio testified that he reported the Lexus stolen back in July of 2024 and when it was not immediately recovered, he had received an insurance payout in August of 2024 in the amount of approximately \$24,500. For context, Mr. Jaio testified that the original purchase was approximately \$50,000 in 2018 when he first acquired the vehicle. Mr. Jaio was able to identify both the vehicle licence plate and the VIN attached to the Lexus. He further testified that he did not know Mr. Mattatall and did not give permission for Mr. Mattatall to drive the Lexus at any time.
- [38] However, Mr. Jaio testified that at the time the Lexus was reported stolen, he was not actually the one primarily operating the vehicle. Mr. Jaio had instead made the Lexus available for use on applicable terms as a rideshare vehicle. The last known individual to be in lawful possession of the Lexus with the permission of Mr. Jaio was a Mr. Branch. Mr. Branch was not a witness at trial. The Lexus did not have any obvious damage to the interior or exterior of the vehicle which would suggest it was stolen and, as noted, Mr. Mattatall was in possession of a key fob for the vehicle.

Legal Analysis

- [39] The first and most important principle of law applicable to every criminal case is the presumption of innocence. Mr. Mattatall entered these proceedings presumed to be innocent and the presumption of innocence remains throughout the case unless the Crown on the evidence put before me satisfies me beyond a reasonable doubt that he is guilty.
- [40] Two rules flow from the presumption of innocence. One is that the Crown bears the burden of proving guilt. The other is that guilt must be proven beyond a reasonable doubt. These rules are linked to the presumption of innocence to ensure that no innocent person is convicted. The burden of proof rests with the Crown and never shifts. There is no burden on Mr. Mattatall to prove that he is innocent. He does not have to prove anything.
- [41] In this regard, I must address at least briefly the critical point of what the expression of beyond a reasonable doubt mean. A reasonable doubt is not an imaginary or frivolous doubt. It is not based on sympathy for or prejudice against anyone involved in the proceeding. Rather, it is based on reason and common sense. It is a doubt that arises logically from the evidence or the absence of evidence. It is virtually impossible to prove anything to an absolute certainty and the Crown is not required to do so. Such a standard would be impossibly high. However, the standard of proof beyond a reasonable doubt falls much closer to absolute certainty than a probable guilt.

- [42] I must not find Mr. Mattatall guilty unless I am sure he is guilty. Even if I find that Mr. Mattatall is probably guilty or likely guilty, that is not sufficient. In these circumstances I must give the benefit of doubt to Mr. Mattatall and find him not guilty because Crown has failed to satisfy me of his guilt beyond a reasonable doubt.
- [43] In this regard I was referred by the Crown to the decision of Justice Donegan in *R. v. Belcourt*, 2024 BCSC 2186, which has a number of similarities in terms of being a circumstantial evidence based case, save and except for the distinguishing feature that the accused, Ms. Belcourt, elected to give evidence and thus engage the *R. v. W.(D.)* analysis. While there are multiple paragraphs in *Belcourt* which are instructive, I shall simply refer to paragraphs 59 and 60 which provide as follows:
- [59] The question I must decide here is whether the Crown has discharged its burden to prove, beyond a reasonable doubt, that the evidence in this case permits, as the only reasonable inference, that Ms. Belcourt possessed the cocaine for the purpose of trafficking and possessed the prohibited firearm. I must ask whether there are any plausible theories or reasonable possibilities that are inconsistent with guilt. I am satisfied there are not and that the Crown has met its burden in this case.
- [60] Considered as a whole, I am satisfied that, viewed logically and in light of human experience, the evidence is not reasonably capable of supporting any inferences other than that the accused is guilty on both counts.
- [44] Other case law referred to by the Crown and the defence, which I have reviewed overnight, include *R. v. Villaroman*, 2016 SCC 33; *R. v. Kulcsar*, 2020 BCSC 682; *R. v. Harper*, 2019 BCSC 1460; *R. v. Loutit and Wiebe*, 2024 BCSC 525; *R. v. King*, 2014 BCSC 98; *R. v. Ryan*, 2021 BCSC 2665; *R. v. Geall*, 2023 BCSC 2506; *R. v. Bhatti*, 2018 BCSC 1657; *R. v. Gayke*, 2019 BCSC 308, *R. v. Walker*, 2003 ABCA 14; *R. v. Renwick*, 2024 BCPC 34; *R. v. Main*, 2019 BCPC 241; and *R. v. Blanchette*, 2024 BCPC 117.
- [45] A very key portion of the Crown case relies on the expert evidence of Constable Riley, the scope of his qualifications confirmed after a quite lengthy voir dire as I have outlined above. This trial is the first occasion where Constable Riley has been qualified in this Court, having been previously qualified, however, in the Provincial Court of British Columbia on one prior occasion. Despite the capable cross-examination efforts of defence counsel, I accept Constable Riley's evidence that, when considering the totality of the evidence presented, the amounts of cocaine and methamphetamine were consistent with possession for the purposes of trafficking at a retail level, namely the lowest level, as opposed to simply being for personal possession.
- [46] In particular, I accept Constable Riley's evidence that the fact that there were two different types of stimulants and the presence of weapons, which were either on Mr. Mattatall's person or in his proximity and over which he exercised knowledge and control, sufficiently prove that Mr. Mattatall was in possession of these controlled substances for the purposes of trafficking. Supplementing this is the fact the amount of cash that was located in the RBK

pouch, which I accept was not made up cumulatively in predominantly \$20 bills but included qualitatively mostly \$20 bills, some 21 of them, which is the denomination most frequently used, in Constable Riley's expert opinion, in drug trafficking.

- [47] As noted above, in accordance with this constitutionally protected right, Mr. Mattatall did not testify at trial. He is not and cannot be prejudiced by this decision. However, unlike certain of the authorities referred to by the defence, which I have cited above, I have no alternative explanation for why Mr. Mattatall was in possession of the controlled substances. Further, I received uncontroverted evidence that Mr. Mattatall was driving the Lexus for several hours under police surveillance with only two noted stops, neither of which were asserted to involve interaction consistent with drug trafficking but were otherwise not explained; by way of limited example, such as going to the grocery store and returning to the Lexus with groceries.
- [48] The defence theory rests on the basis that I accept that it is possible that Mr. Mattatall is a drug user. However, I have no evidence that Mr. Mattatall is a drug user, let alone that he is a polysubstance abuse drug user who drove around Kelowna and West Kelowna with an amount of controlled substances which I have accepted constitutes a "retail" amount of controlled substances in a zipped pouch in the hoodie of his sweatshirt together with a knife with limited means to consume such substances. In this regard, I do also recognize there were lighters located as part of the searches incidental to arrest and, as defence obtained during cross-examination, an admission that cash can be used as a means to ingest powder cocaine, which was one of the controlled substances.
- [49] However, simply stated, I am satisfied that, viewed logically and in light of human experience, the evidence is not reasonably capable of supporting any inference other than that Mr. Mattatall is guilty on both counts of possession of the controlled substances for the purpose of trafficking. I return to this in my summary.
- [50] Consistent with the above review of the evidence, I am satisfied that, viewed logically and in light of human experience, the evidence is not reasonably capable of supporting any inference other than that Mr. Mattatall is guilty on both counts of both possessing a restricted firearm and transporting a restricted firearm as noted in the indictment.
- [51] Upon arriving back in the Lexus at 880 Saucier Avenue on December 18, 2024, Mr. Mattatall was in the direct observation of at least one human member of the RCMP at all times, save and except for a minute or less when he entered the premises located at 914 Laurier Avenue. During that one minute or less, the only member of the RCMP who had eyes on Mr. Mattatall was Nestle, and Nestle is unable to give evidence. Accordingly, the court does not have direct evidence of Mr. Mattatall actually discarding any firearm prior to his arrest. However, the court has compelling circumstantial evidence that Mr. Mattatall was in possession of the Firearm, a loaded restricted firearm which had an active bullet in its chamber which he was carrying when he attempted to flee the police that evening and crossed a busy thoroughfare.

[52] Specifically, and without limitation, I reference the following evidence:

- a) Mr. Mattatall had an ankle holster on his person designed to carry a firearm at the time of his arrest.
- b) Mr. Mattatall not only had ammunition secured within his pants at the time of his arrest, that ammunition was compatible with the Firearm that was subsequently located as evidenced by the audible click when demonstrated in court.
- c) Mr. Mattatall was reluctant to allow the police to collect his wet pants after his arrest, I logically conclude, because he knew it would result in the discovery of the previously undetected ammunition during the two prior searches incidental to arrest, and the logical next step would be searching for the Firearm.

[53] The Firearm was located within five metres or less from where Mr. Mattatall was arrested and within an hour of his arrest. While not hidden, its failure to be immediately identified given the lighting conditions, ground cover and intervening fence/hedge is entirely understandable when one reviews the photographs entered into evidence. The failure to interview the residents of 914 and 924 Laurier Avenue to confirm that the Firearm did not belong to them or was otherwise associated with them cannot constitute, in my view, reasonable doubt. That would place the Crown's burden of doubt at the absolute certainty level.

[54] Unlike the above and despite the absence of an explanation to the contrary, I am not satisfied that the Crown has proven that Mr. Mattatall was in possession of stolen property, namely, the Lexus. The Lexus was stolen in July 2024. At the time it was stolen the registered owner was not personally in possession of the vehicle, but had made it available for public use, albeit on defined terms through the rideshare app as noted. The Lexus did not have any signs of damage indicative of being stolen and Mr. Mattatall was in possession of the operational key fob. Further, the original licence plates to the Lexus, while contained within the vehicle, were not found in plain sight.

[55] Also, while the partial obscurement of the VIN number is relevant, it is also reasonably capable to be believe that persons lawfully entitled to use a motor vehicle might place an item on their dash which might partially obscure the ability to read a VIN by a person outside the vehicle. I reference just simply by a common sense example that when a person parks in a paid parking lot it is not unusual to put the ticket confirming payment in that same front area of the dash.

[56] Simply stated it is probable that Mr. Mattatall knew that the Lexus was stolen but I am not satisfied that the Crown has proven the essential elements of that offence under the Criminal Code beyond a reasonable doubt.

Conclusion

[57] Please stand Mr. Mattatall.

[58] On the basis of my above findings of fact and the application of the law pursuant to the Criminal Code, in respect of Count 1 of the Indictment, I find that you, Mr. Mattatall, on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did possess a firearm, restricted firearm or non-restricted firearm without being the holder of a licence under which you may possess the firearm or without being the holder of a registration certificate for the firearm, contrary to s. 91(1) of the Criminal Code. Accordingly, I find you guilty.

[59] In respect of Count 2, on about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, I find that you did without lawful excuse carry, handle, ship, transport or store a firearm, prohibited firearm, prohibited device or ammunition, to wit: a loaded .22 firearm, in a careless manner or without reasonable precautions for the safety of other persons, contrary to s. 86(1) of the Criminal Code. Accordingly, I find you guilty.

[60] In respect of Count 4, I find that you, on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did unlawfully possess a controlled substance, to wit: cocaine, for the purpose of trafficking, contrary to s. 5(2) of the CDSA. Accordingly, I find you guilty.

[61] In respect of Count 5, I find that you on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, did unlawfully possess a controlled substance, to wit: methamphetamine, for the purpose of trafficking, contrary to s. 5(2) of the CDSA. Accordingly, I find you guilty.

[62] In respect of Count 6, in which it is alleged that on or about the 18th day of December, 2024, at or near the City of Kelowna, in the Province of British Columbia, you did have in your possession property, a Lexus vehicle, namely the property of Yang Jaio, in a value in excess of \$5,000, knowing that said property was obtained by the commission in Canada of an offence punishable by indictment, contrary to s. 355(1) of the Criminal Code, I find you not guilty.

[63] I have already addressed Count 8 above as a result of the defence concession.

[64] You may be seated, Mr. Mattatall.

[65] As Mr. Mattatall is in custody by virtue of his continued pre-trial detention, I would like to set a prompt fix date for the next appearance with respect to either fixing a date for sentencing or, after having the opportunity to consult with your counsel, as to the ordering of pretrial presentencing reports.

- [66] CNSL J. DOSANJH: Justice, defence will not be seeking reports. I am seeking a return date of December 15th at 2:00 p.m., and in the meantime my friend will -- my friend and I will discuss available dates for sentencing.
- [67] THE COURT: All right. We will put it over to the fix date. Do you wish that Mr. Mattatall to be -- appear by video or his attendance to be excused on the fix date on the 15th?
- [68] CNSL J. DOSANJH: Excused, please.
- [69] THE COURT: All right. So the next fix date will be December 15th at 2:00 p.m. in Kelowna and the attendance of Mr. Mattatall will be excused. Thank you.
- [70] CNSL M. CHIU: Thank you, Justice.
- "Hardwick J."

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