

CANADA / JUDGMENT

R. v. Wood

2024 BCSC 2664

COURT

Supreme Court of British Columbia

DECIDED

25 November 2024

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2024 BCSC 2664 R. v. Wood

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Wood,

2024 BCSC 2664

Date: 20241125

Docket: 72346-2

Registry: Chilliwack

Rex

v.

Catherine Susanne Wood

Before: The Honourable Justice Walkem

Oral Reasons for Judgment

Counsel for the Crown:

D.J. Williams

The Accused, appearing on her own behalf:

C. Wood

Counsel appearing as Amicus Curiae:

P.R. Derksen

Place and Date of Trial:

Chilliwack, B.C.

October 9-11, 21-22, 2024

Place and Date of Judgment:

Chilliwack, B.C.

November 25, 2024

[1] THE COURT: The charges arise from the allegation that Ms. Catherine Susanne Wood ran her truck over Mr. Fred Reed's left leg just below his ankle on the evening of December 17, 2021. Ms. Wood represented herself at trial. Prior to trial, I appointed an amicus curiae as I found it necessary in the interests of justice.

[2] Ms. Wood is charged as follows:

Count 1

... [that] on or about the 17th day of December, 2021, at or near Chilliwack, in the Province of British Columbia, did operate a conveyance in a manner that, having regard to all of the circumstances, was dangerous to the public and, as a result, caused bodily harm to Fred Reed, contrary to Section 320.13(2) of the Criminal Code.

Count 2

... [that] on or about the 17th day of December, 2021, at or near Chilliwack, in the Province of British Columbia, in committing assault of Fred Reed, did carry, use, or threaten to use a weapon or an imitation weapon, contrary to Section 267(a) of the Criminal Code.

Count 3

... on or about the 17th day of December, 2021, at or near Chilliwack, in the Province of British Columbia, in committing assault of Fred Reed, did cause him bodily harm, contrary to Section 267(b) of the Criminal Code.

Summary of position of Crown and defence

[3] The Crown and Ms. Wood each presented a different theory of events that led to Mr. Reed's injuries. The Crown alleges that Ms. Wood intentionally struck Mr. Reed with her truck, or at least operated her truck in a manner that showed reckless disregard for Mr. Reed's safety. Ms. Wood characterized her actions as accidental. Her evidence was that she no longer saw Mr. Reed before she set her truck in motion. Ms. Wood's testimony was that she was unaware that she had ran over Mr. Reed's leg until she was arrested later that evening.

Witnesses

- [4] Ms. Wood entered pleas of not guilty to the charges and testified in her own defence. Unrelated to the events forming part of the charges, Mr. Reed passed away on April 4, 2023. Mr. Reed testified and was extensively cross-examined by defence counsel at a preliminary inquiry on March 17, 2023.
- [5] The Crown applied under s. 715(1) of the Criminal Code, R.S.C. 1985, c. C-46, to have audio of the preliminary inquiry testimony by Mr. Reed admitted as evidence in the trial. I granted the Crown's application. The audio transcript of Mr. Reed's preliminary inquiry testimony and that of Constable Hartle heard on the voir dire were admitted as evidence in the trial. Other witnesses who testified were Mr. Michael Arsenault, a friend of Mr. Reed who witnessed the incident; Corporal Steven Tamaki, who interviewed Mr. Reed and Mr. Arsenault following the incident and arrested Ms. Wood; and, Ms. Debra Muntean, a friend of Ms. Wood who testified about her observations of the relationship and interactions between Ms. Wood and Mr. Reed.
- [6] Constable Hartle in the voir dire gave evidence that he attended an unexplained death call and found Mr. Reed deceased on April 3, 2023. He noted drug paraphernalia at the scene, which he surmised was crystal methamphetamine and/or cocaine. Constable Hartle's evidence was that he knew who Mr. Reed was, as he had attended approximately three to four calls involving Ms. Wood and Mr. Reed. He did not recall seeing any injuries on Ms. Wood during any of those calls. On one occasion when he responded to a call, Constable Hartle testified that he had recommended charges against Ms. Wood for breach of conditions rather than Mr. Reed.

Corporal Steven Tamaki

- [7] On December 17, 2021, Corporal Tamaki went to the Chilliwack General Hospital at or after 10:00 p.m. in response to a call the police had received that a man had presented at the hospital with injuries. Corporal Tamaki attended the hospital to interview the injured party, Mr. Reed, and interviewed Mr. Arsenault as well as the hospital. Corporal Tamaki took statements from Mr. Reed and Mr. Arsenault. On cross-examination, it was revealed that Corporal Tamaki may have interviewed Mr. Reed with Mr. Arsenault present for at least part of the interview.
- [8] Mr. Arsenault's testimony was that he gave his statement a short distance from Mr. Reed's cubicle in the Emergency Department.
- [9] Corporal Tamaki could not recall if Mr. Reed and Mr. Arsenault were together when they gave their statements, but acknowledged that they may have been.

- [10] Corporal Tamaki observed that Mr. Reed appeared to be in pain, and photographed his lower left leg which was red and swollen above his ankle. Afterwards, Corporal Tamaki attended at Ms. Wood's residence in the Lindell Beach area of Cultus Lake, where he arrested her for aggravated assault.
- [11] Ms. Wood testified in her own defence. Ms. Wood testified to physical abuse she said she was subjected to by Mr. Reed. Ms. Wood testified that Mr. Reed had punched her numerous times. She also seemed to indicate that, on at least one occasion, this was part of a process whereby Mr. Reed taught her how to defend herself. On one occasion, Ms. Reed [sic] testified that Mr. Reed punched her in front of some friends after she had backed her truck up to repark it next to their friend's vehicle. She characterized his actions as an attempt to exert control and show her that he was the boss.
- [12] Ms. Wood introduced a photograph taken by Ms. Muntean which she said shows marks left on her head when Mr. Reed choked her. The black-and-white photograph was not clear. This photograph was taken a month or two before December 17, 2021.
- [13] Ms. Wood's testimony was that she and Mr. Reed had a prearranged appointment to retrieve her chainsaw from Mr. Arsenault on December 17, 2021. Ms. Wood said she picked up Mr. Reed around 9:00 p.m. to 9:30 p.m., Mr. Reed drove, as he usually did. Mr. Reed then parked in Mr. Arsenault's driveway and walked to Mr. Gordon George's house, who some of the witnesses, including Ms. Wood, referred to as "Chief". Mr. George was Mr. Arsenault's neighbour.
- [14] Mr. Arsenault came out to speak to Ms. Wood. Ms. Wood and Mr. Arsenault then retrieved Ms. Wood's chainsaw from Mr. Arsenault's shop. The chainsaw was put in Ms. Wood's vehicle. Ms. Wood testified that she had always intended to leave without Mr. Reed, because she feared if she got into her truck, he would insist on going with her to her house and there would be a fight. She said she got into the truck and backed out of Mr. Arsenault's yard without spinning her tires or driving too quickly. Ms. Wood was aware that Mr. Reed initially ran after the truck, and understood he was concerned about her backing into the slough.
- [15] Ms. Wood said she was aware that the road fronting Mr. Arsenault's property, and bordering a slough on the other side, was partially washed out on one of its sides. She could see this in the backup camera of the truck which illuminated the darkness and, as a result, she stopped short of the edge of the slough.
- [16] Ms. Wood said she heard Mr. Reed yelling something like, "You are not leaving me here." Mr. Reed then stood in front of her truck with his hands on the hood. Ms. Wood's testimony was that she just wanted to go home and was scared of Mr. Reed.
- [17] Ms. Wood testified that she did not know if she and Mr. Reed made eye contact when he was standing in front of her truck with his hands on the hood, as she just wanted to get away.

- [18] Ms. Wood testified that her foot came off the brake for a millisecond and that she accidentally bumped or tapped Mr. Reed with the truck. Ms. Wood initially ascribed her taking her foot off the brake to the fact that she was not wearing her boot cast for her broken foot. On cross-examination, Ms. Wood suggested that she was wearing her boot cast. Ms. Wood described any contact of the truck with Mr. Reed during the first instance as minimal, and said the truck moved forward half an inch, if that.
- [19] Ms. Wood testified that Mr. Reed had then moved toward the passenger side of the truck with his hands on the hood and she simply no longer saw him. She said Mr. Reed was "just gone" and not in front of the truck. Ms. Wood claimed that she thought Mr. Reed had gone back to either of Mr. Arsenault or Mr. George's home.
- [20] Ms. Wood testified that she thought that Mr. Reed had left and she did not intend to strike Mr. Reed with her truck when she drove forward. Ms. Wood denied feeling a bump when she ran over Mr. Reed's leg and said she was unaware that she had run him over. Ms. Wood testified that she was not speeding as she drove away.
- [21] Ms. Wood claimed she left the Aitchelitz First Nation Reserve land sometime before 10:00 p.m. and returned to her home at Cultus Lake.
- [22] On cross-examination, Ms. Wood described Mr. Reed standing in front of her truck as a "10 out of 10" level of angry. She testified it was dark, although she had her headlights on, there was some light provided by a street light, and lights from Mr. Arsenault's home. Ms. Wood testified that Mr. Reed was not trying to get into the vehicle and that the doors were locked, on cross-examination. She said she did not beep the horn to warn Mr. Reed to move from in the front of the truck or to warn him that she intended to drive forward.
- [23] Ms. Wood testified that Mr. Reed carried a knife in his belt. She indicated he had thrown a knife at her with dinner at one point during an argument and that remnants of the dinner were still on her blinds or wall. It seemed this incident referred to a dinner knife, though this was not clear. Ms. Wood did not testify that Mr. Reed had in any way reached for, produced, or threatened her with a knife on December 17, 2021.
- [24] Ms. Wood testified that it was not the first time she had left Mr. Reed at the Aitchelitz First Nation Reserve lands to find his own way home.
- [25] Ms. Wood's testimony seemed to question whether Mr. Reed was seriously injured. Ms. Wood testified that Mr. Reed was able to walk post-surgery and to do an odd job - removing a rat trap, and blocking holes underneath a trailer - for Ms. Muntean shortly after his surgery. Ms. Wood suggested that Mr. Reed may have exaggerated his injuries or their ongoing impact so he could bring an ICBC personal injury action, because he was unaware that the law had changed to limit personal injury claims. Ms. Wood testified she had "married" Mr. Reed posthumously to gain access to his pension benefits.

Mr. Arsenault

- [26] Mr. Arsenault had been friends with Mr. Reed for a number of years before the incident and had many opportunities to witness Ms. Wood and Mr. Reed together. Mr. Arsenault described the relationship of Mr. Reed and Ms. Wood as "on and off", saying that they appeared to hate each other one day and then love each other the next. His evidence was that he wanted little to do with the relationship, given their frequent disputes.
- [27] Mr. Arsenault testified that on December 17, 2021, he first became aware of Ms. Wood on his property when he saw her on security camera footage exiting the passenger side door of her truck which was parked in his driveway. Mr. Arsenault testified that Mr. Reed had called him and told him that Ms. Wood wanted the chainsaw back. Mr. Arsenault said he had not known the chainsaw that he purchased from Mr. Reed was stolen from Ms. Wood when he agreed to purchase it for \$100.
- [28] Mr. Arsenault said Ms. Wood came with him to his workshop and he returned the chainsaw to her. He said he gladly returned it, as he did not want to be in possession of stolen property.
- [29] At some point during this time, Mr. Reed, who had apparently gone over to the neighbour Mr. George's house, came back to in front of Mr. Arsenault's property. After he returned the chainsaw, Mr. Arsenault testified that Ms. Wood got in her truck and backed out of his driveway at a speed fast enough to spin the back tires and that the tires were throwing up gravel. Mr. Arsenault then described Mr. Reed running after the truck and yelling, "Stop, stop," and referencing the slough. When the truck stopped reversing, Mr. Arsenault witnessed Mr. Reed then stand at the front of the truck and yell something to the effect of, "You are not leaving me here."
- [30] Mr. Arsenault testified that he was about 25 feet from where the incident occurred, standing at or near the front porch of his home.
- [31] Mr. Arsenault recalled two initial times where Ms. Wood drove the truck forward a short distance and made contact with Mr. Reed. From Mr. Arsenault's perspective, Mr. Reed was standing in front of the truck with his hands on the hood, on the passenger side, when the truck moved forward one to two feet and stopped. He described Mr. Reed as being pushed back as the truck advanced. Mr. Arsenault testified that Mr. Reed and Ms. Wood appeared to be eye to eye, with Mr. Reed standing in the front of the truck on the driver side. Mr. Arsenault, on cross-examination by the amicus, acknowledged that he could not see inside the truck and so could not say for sure if Ms. Wood was looking at Mr. Reed.
- [32] Mr. Arsenault testified that Mr. Reed made no move to get into or harm the truck. Mr. Arsenault testified that Mr. Reed was still standing with his hands on the driver side hood when Ms. Wood floored it. Mr. Arsenault described the truck as spinning tires and pedal to the metal when Ms. Wood drove forward. Mr. Arsenault testified that he witnessed Mr. Reed push himself away from the front of the vehicle toward the driver side to avoid being hit.

- [33] Mr. Arsenault's view of Mr. Reed was then blocked by the truck. Mr. Arsenault said the truck with Ms. Wood driving then straightened and drove off at a fast speed. Mr. Arsenault then saw Mr. Reed laying on the ground where the truck had been, grabbing at his left leg. He said something to the effect of, "That bitch hit me."
- [34] Mr. Arsenault loaded Mr. Reed into his vehicle and was going to drive him home per Mr. Reed's request. Mr. Reed asked that they stop at a liquor store and pick up beer first. Mr. Arsenault, who testified that he himself does not drink, went into the liquor store and purchased beer for Mr. Reed. While at the liquor store parking lot, Mr. Reed drank a beer and said that his leg was still hurting badly and that he wanted to go to the hospital instead of going home.
- [35] Mr. Arsenault then drove Mr. Reed to the Chilliwack General Hospital and waited with him as he was treated in the Emergency Department. Mr. Reed did not recall if he or someone else called the police, but he did recall giving a statement to police at the hospital.
- [36] Mr. Arsenault identified Ms. Wood's truck as black, though in later testimony he suggested it could be blue or black. When asked about any abusive behaviour he had witnessed of Mr. Reed toward Ms. Wood, Mr. Arsenault testified that he had witnessed Mr. Reed verbally abusing Ms. Wood and using language he characterized as "inappropriate" to use in front of a woman on multiple occasions. Mr. Arsenault testified that he saw mutually verbally abusive behaviour between Ms. Wood and Mr. Reed. Mr. Arsenault denied he had ever seen Mr. Reed be physically violent toward Ms. Wood.
- [37] On cross-examination by the amicus, Mr. Arsenault estimated that the incident occurred at around 6:00 to 7:00 p.m. His testimony was that it was not dark at the time and that he could see some light on the slough behind the road.

Mr. Reed - preliminary inquiry testimony, March 17, 2023

- [38] Mr. Reed was 58 years old at the time of his testimony. He testified that his relationship with Ms. Wood had started approximately three years prior, though they had known each other for years before.
- [39] Mr. Reed testified that on December 17, 2021, Ms. Wood came by his house and beeped her horn. He went outside and got into the passenger side of the truck. Mr. Reed's testimony was that Ms. Wood drove them to Mr. Arsenault's house.
- [40] Mr. Reed denied that he and Ms. Wood had a prior plan to go to Mr. Arsenault's house, though he did agree that he had had a conversation with both Ms. Wood and a conversation with Mr. Arsenault about returning Ms. Wood's chainsaw that he had sold to Mr. Arsenault. Mr. Reed testified that when Ms. Wood picked him up from his house, it was dark out and he estimated it to be around 6:30 or 7:00 p.m.

[41] Mr. Reed said that he was talking to Mr. Arsenault in front of Mr. Arsenault's home when Ms. Wood got into the truck and started to reverse down the driveway. Mr. Reed noted that Ms. Wood had "done this to me before, take me someplace, takes off". He said he was concerned about Ms. Wood driving into the slough, as he did not know if she was aware that part of the bank had washed away. Mr. Reed testified that when Ms. Wood began reversing the truck, he ran after the truck yelling, "stop, stop, you're going to go in the slough."

[42] When asked to describe how fast Ms. Wood was backing up, Mr. Reed's testimony was, "just backing up speed. Nobody races when they back up."

[43] At another point in his testimony, he suggested that Ms. Wood seemed to have sped up when she saw him running toward the truck. Mr. Reed testified that his initial concern in running after the truck was safety and the danger that Ms. Wood would reverse into the slough.

[44] After Ms. Wood stopped the truck, Mr. Reed testified:

... I went and got in front of the truck because that ... disaster was averted so she did stop on the road ... then my attention went into not being left behind so I got in front of the vehicle.

[45] Mr. Reed said that Ms. Wood stopped the -- that when Ms. Reed [sic] had stopped the truck, that he went to the front of the truck, just off the centre of the truck on the driver side a little bit, with his hands on the hood. He then said to her, "You're not going to leave me down here again." He admitted that some of what he was saying was not pretty.

[46] Mr. Reed testified that while he was standing in front of the truck, Ms. Wood "burped" the truck a little bit and "pushed me back a little". Mr. Reed's description of the first time the truck bumped him was as follows:

A ... And we're just looking at each other, eyeball-to-eyeball, and she burped it a little bit and just like ... hit the brakes again enough to bump me in my knees with the bumper and the front of the hood 'cause Dodges have big square front ends, right?

Bumped me in the chest, I stepped back a couple steps. I did not let go of the truck. I didn't fall down or nothing then. And then I just looked her in the eyes and was waiting for some kind of acknowledgment of what I said and nothing happened.

Q Could you see into the truck?

A Well, of course.

Q Did you make eye contact with her?

A Well, that's what -- that's the only reason I stood on that side of the truck was to make eye contact with her.

Q Did she say anything back?

A Nothing. Her lips didn't move once. Just looked at me and that was it.

[47] Mr. Reed described the first contact that the truck made with him as not being very heavy: It wasn't even that hard. It was enough to just knock me off my balance a little bit. That was it.

[48] He described being moved back a couple of steps.

[49] Mr. Reed testified that he remained standing in front of the truck on the driver side with his hands on the hood and that he and Ms. Wood continued to look at each other:

... First time she bumped me, I moved back couple steps. And she hit the brakes, stopped, and I still had my hands there looking her in the eyes. No words were spoken. And all of a sudden, I could just hear the engine start revving and I just jumped out of the way ...

[50] Mr. Reed said that his eye-to-eye contact with Ms. Wood lasted approximately five to 10 seconds. He then heard the engine rev. The truck moved forward and he used his hands on the hood to push himself away from the truck toward the driver side. Mr. Reed then described being on the ground, flailing about, attempting to avoid getting ran over.

[51] Mr. Reed was asked by the Crown about his efforts:

Q And how did that turn out?

A Not very good. I got the rest of me out of the way but I -- she got me with -- on one leg, my left leg, right above the ankle.

[52] Mr. Reed testified that his left leg was run over by the driver side rear tire. He described hearing his bone snap and then watched the truck drive off without braking or stopping to see if he was okay. Mr. Reed's testimony was that three of his leg bones were broken in the incident and he required surgery to insert metal plates and screws to repair the damage.

[53] In his testimony, Mr. Reed denied perpetrating any domestic violence against Ms. Wood and said that Ms. Wood "calls the cops all the time on me when we start arguing." Mr. Reed testified that he had been charged with assault against Ms. Wood, but appeared to claim that the violence was mutual. He acknowledged that on December 17, 2021, he was under a no-contact order with Ms. Wood.

Ms. Muntean

[54] Ms. Muntean was a friend of Ms. Wood and Mr. Reed. Mr. Reed often did odd jobs for Ms. Muntean. Ms. Muntean testified that she had, over Ms. Wood's phone, heard Mr. Reed use language toward Ms. Wood that she said was unacceptable and disgusting. She had spoken with Mr. Reed about the way he was speaking to Ms. Wood. She said she heard Mr. Reed be angry or hang up the phone in conversations with Ms. Wood subsequently, but she did not hear him swear at her in the same way again.

- [55] Ms. Muntean testified she had taken a picture of Ms. Wood's neck because there were red marks on her neck and Ms. Wood had said Mr. Reed had put them there. This was in October or November of 2021. Ms. Muntean did not personally witness Mr. Reed being violent toward Ms. Wood. She described Mr. Reed as kind and respectful in his interactions with her, though she did witness him losing his temper and throwing tools while working.
- [56] Ms. Muntean said that the relationship between Ms. Wood and Mr. Reed was volatile and that she tried to stay out of it. On numerous occasions, both Ms. Wood and Mr. Reed had called Ms. Muntean to give Mr. Reed a ride home from Ms. Wood's home at Lindell Beach after Ms. Wood and Mr. Reed had had an argument. Ms. Muntean described Mr. Reed as steadily drinking while he did work for her.
- [57] Ms. Muntean said Mr. Reed had approached her to do odd jobs sometime after his surgery and that he was not wearing a cast or walking on crutches at that time.

Credibility

- [58] Factors to be considered when assessing credibility were summarized by Madam Justice Dillon in *Bradshaw v. Stenner*, 2010 BCSC 1398, which was affirmed by the Court of Appeal in 2012, as involving an assessment of the trustworthiness of a witness's testimony based upon the veracity or sincerity of a witness and the accuracy of the evidence that the witness provides. Additional factors to be assessed include: whether the witness's evidence harmonizes with independent evidence that has been accepted; whether the witness changes their testimony during direct and cross-examine; whether the witness's testimony seems unreasonable, impossible, or unlikely; whether a witness has a motive to lie; and the demeanour of the witness generally.
- [59] In *Faryna v. Chorny*, 1951 CanLII 252 (B.C.C.A), the Court of Appeal directed that the ultimate test of a witness's credibility involves assessing whether their evidence is in harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.
- [60] In *R. v. T.A.P.*, 2022 BCSC 2356 (unreported), Justice Ker described the task of weighing the credibility of witness testimony as follows at para. 36:
- [36] Assessing the credibility of witnesses is an intricate process, involving simultaneous weighing of a multitude of factors. One of the most important factors remains the assessment of whether the testimony seems plausible in terms of the inherent likelihood that events occurred as the witness described them. Therefore, included in this exercise is a measure of common sense and judicial experience.
- [61] An additional consideration is necessary here because Ms. Wood testified on her own behalf. The test for weighing evidence where a person testifies on their own behalf is as set out in *R. v. W.(D.)*, [1991] 1 S.C.R. 742, which gave this direction to triers of fact at 758:

- 1) if you believe the evidence of the accused you must acquit;
 - 2) if you do not believe the evidence, but are left with a reasonable doubt, you must acquit;
 - 3) if you are not left in doubt by the evidence of the accused, you must still ask yourself whether, on the basis of the evidence you have accepted, you are convinced beyond a reasonable doubt by the evidence of the accused's guilt.
- [62] The Court of Appeal for British Columbia outlined a fourth prong to this test in *R. v. C.W.H.*, (1991), 68 C.C.C. (3d) 146, 1991 CanLII 3956 (B.C.C.A), which is if, after careful consideration of all the evidence, you are unable to decide whom to believe, you must acquit.
- [63] I apply this analysis to the elements of each offence below.
- [64] To convict in a case such as this requires a finding that I do not believe Ms. Wood's version of events. However, that alone is not sufficient. A consideration of the evidence that I do accept must establish each of the elements of the offence beyond a reasonable doubt for Ms. Wood to be found guilty.
- [65] Ms. Wood, Mr. Reed, and Mr. Arsenault each were present during the incident and gave differing accounts of the cause of Mr. Reed's injuries. The credibility of the witnesses must be assessed in consideration of the evidence as a whole.
- [66] The witnesses largely agreed on the key pieces of evidence. There were some minor discrepancies which is to be expected, given the length of time that has passed. For example, Ms. Wood estimated that she had picked up Mr. Reed somewhere in the neighbourhood of 9:00 to 9:30 p.m., whereas Mr. Reed estimated the time was closer to 6:30 or 7:00 p.m.
- [67] I found Mr. Reed and Mr. Arsenault's testimony to be generally credible. Mr. Reed gave a straightforward account of events and readily admitted where his own behaviour was problematic. For example, he admitted to using not pretty language with Ms. Wood, and said that he was subject to a no-contact order on December 17, 2021.
- [68] I note that Corporal Tamaki and Constable Hartle each had little independent recall of events so long ago, although their testimony focused on the aftermath, at least Corporal Tamaki's, or on the identification of Mr. Reed post-death, so they did not actually -- their testimony did not go to the actual events on the evening of December 17, 2021.
- [69] Ms. Muntean was a fair and straightforward witness, and I have accepted her testimony.
- [70] The Crown characterized Mr. Arsenault as a straight shooter who spoke using colloquial and sometimes loose language. I agree with that characterization. I found Mr. Arsenault tried his best to answer questions honestly and was responsive on cross-examination. He readily admitted areas where his recollection was less clear. He said he had been flustered by an assertive cross-examination during the preliminary inquiry, but was calmer under cross-examination at trial. He was clearly fond of Mr. Reed, though admitted that Mr. Reed used

drugs and regularly borrowed money from him. He admitted when he did not remember things or agreed with the cross-examiner where his recollection might not be accurate.

- [71] Overall, I found Mr. Arsenault's testimony to be credible and that he gave an honest accounting of the events of December 17, 2021, to the best of his ability and recollection.
- [72] I recognize that Mr. Arsenault did not appear fond of Ms. Wood. He suggested that she routinely drives while drinking. Indeed, he suggested she was chronically under the influence of alcohol and referred to her as crazy. However, I do not find that any dislike on his part affected his testimony of the events on December 17, 2021. Further, Mr. Arsenault's view of Ms. Wood can partially be explained by events that transpired after Mr. Reed's death. There was a disagreement between Ms. Wood and Mr. Reed's friends about how his funeral arrangements were dealt with, which caused tension between Mr. Arsenault and Ms. Wood.
- [73] I recognize Mr. Arsenault's testimony that it was light out on the night of December 17 conflicts with Mr. Reed and Ms. Wood's testimony that it was dark. However, the area where the event occurred had some sources of light from a street light, the lights on the track, and Mr. Arsenault's porch and house lights, though not enough to completely light the area, and I do not find this portion of Mr. Arsenault's testimony to affect his credibility.
- [74] Mr. Reed and Mr. Arsenault's testimony aligned on several points. First, that Mr. Reed was standing on the driver side of the truck with his hands on the front hood. Second, that Ms. Wood initially drove the truck forward, making some minimal contact with Mr. Reed, and then braked. Mr. Arsenault suggested Ms. Wood may have bumped Mr. Reed in this manner twice. Third, that Mr. Reed continued to stand in front of the truck on the driver side with his hands on the hood. Mr. Reed testified that he was eye to eye with Ms. Wood. Although Mr. Arsenault could not see in the truck, his description of Ms. Wood and Mr. Reed's relative positions supported Mr. Reed's evidence. Fourth, they agreed that Ms. Wood put the truck in motion and drove forward with Mr. Reed still standing in front of it, and that Mr. Reed pushed himself off toward the driver side in an attempt to avoid being hit.

Ms. Wood

- [75] Ms. Wood was clearly still experiencing the loss of Mr. Reed, despite their tumultuous relationship. She clearly cared for him and still does. I found her evidence about some points to be credible and reliable. However, I found her testimony regarding the actual circumstances in which she ran over Mr. Reed's leg with her truck to lack credibility. Ms. Wood gave evidence that after she had accidentally bumped Mr. Reed with the truck, Mr. Reed went from standing in front of the driver side of the truck with his hands on the hood to simply not -- sorry -- from standing on the passenger side of the truck to simply not being there. Ms. Wood testified that Mr. Reed was not in front of the truck, but had left by the time she drove forward. Ms. Wood testified that she believed Mr. Reed had gone to the home of either Mr. George or Mr. Arsenault.

- [76] Mr. Reed's evidence on this point contradicted Ms. Wood's evidence. He says that he and Ms. Wood were looking at each other eye to eye before she drove forward. Mr. Arsenault's account supports Mr. Reed's version.
- [77] Mr. Reed and Mr. Arsenault testified that Ms. Wood revved the truck's engine as the truck moved forward or before the truck moved forward. Mr. Reed used his hands on the hood to attempt to propel himself out of the way. Mr. Reed testified that he pushed himself toward the driver side and then scrabbled around on the ground, attempting to avoid the truck's tires. Mr. Arsenault's testimony agreed that Mr. Reed propelled himself to the driver side. Mr. Arsenault did not see Mr. Reed again until the truck drove away and he saw him lying on the ground.
- [78] I prefer the testimony of Mr. Reed and Mr. Arsenault about these events. The testimony of Ms. Wood simply does not make sense, considered in light of the evidence as a whole. I do not find Ms. Wood's account to be plausible or likely on consideration of the circumstances. Ms. Wood said she did not feel the truck running over Mr. Reed's leg, nor did she spot him in her rear-view mirror as she drove away.
- [79] Overall, on this point, I did not find Ms. Wood to be a forthright or credible witness, that is particularly regarding the details of the striking and then running over Mr. Reed. I did not find Ms. Wood's evidence of this incident to be believable, particularly the point about Mr. Reed seeming to disappear before Ms. Wood made the decision to drive forward. The timing does not work. It makes no sense that Mr. Reed was in front of the truck one second and absent the next. Where Mr. Reed and Ms. Wood's accounts of the incident conflict, I prefer the evidence of Mr. Reed whose account was largely corroborated by Mr. Arsenault.

Findings

- [80] Mr. Reed was an Indigenous man born in 1964 and approximately 57 years old at the time of the incident. Mr. Reed made his living by doing various odd jobs, including selling firewood and seafood at the side of the road in Cultus Lake, roofing, drywalling, tree falling, and other handyman services. Mr. Reed was over six feet in height and had a muscular build.
- [81] Ms. Wood was 57 years at the time of trial and of slight stature. She lives at Lindell Beach in Cultus Lake. Ms. Wood is a retired worker at Telus. She is currently self-employed as a clothing designer and aspiring author.
- [82] Mr. Reed and Ms. Wood lived at opposite ends of Cultus Lake. Mr. Reed lived with Ramona, who was variously identified as his roommate by himself and Ms. Wood, or girlfriend by Mr. Arsenault and Constable Hartle.
- [83] Ms. Wood and Mr. Reed had an on-again/off-again relationship which started several years before the incident. At the time of the incident, Mr. Reed was under a no-contact order with Ms. Wood. Ms. Wood and Mr. Reed frequently argued, broke up, and then reunited. Police were frequently called to disputes between them.

- [84] Mr. Reed was verbally abusive to Ms. Wood. Witnesses differed about whether the verbal abuse was mutual and whether Mr. Reed was ever physically violent toward Ms. Wood. As an illustration of the tumultuous nature of the relationship, witnesses recounted several instances where Ms. Wood had driven off and left Mr. Reed at different places. Mr. Arsenault testified that Ms. Wood and Mr. Reed were known to dispose of each other's possessions when upset with each other, such as the dirt bikes and the chainsaw that seemed to precipitate this incident.
- [85] Mr. Reed and Ms. Wood themselves agreed that this was a feature of their relationship. Mr. Reed had two dirt bikes that he had disassembled in Ms. Wood's garage. Ms. Wood had the bikes removed by a junk removal service. In retaliation, Mr. Reed took a steel chainsaw belonging to Ms. Wood and sold it to his friend Mr. Arsenault for \$100. Ms. Wood later discovered that Mr. Reed had taken the chainsaw and wanted it back.
- [86] There had been discussions between Ms. Wood and Mr. Reed, and then Mr. Reed and Mr. Arsenault about recovering Ms. Wood's chainsaw. The witnesses disagreed about whether there was a set time for the recovery, but all agreed there was a general plan in place. Nevertheless, on the evening of December 17, 2021, Mr. Reed and Ms. Wood attended at Mr. Arsenault's residence at the Aitchelitz First Nation Reserve lands in Chilliwack, B.C., to recover the chainsaw. Ms. Wood estimated that she picked up Mr. Reed in the neighbourhood of 9:00 or 9:30 p.m. Mr. Reed estimated that the time was closer to 6:30 or 7:00 p.m.
- [87] I find it likely that they arrived at the Aitchelitz First Nation Reserve land somewhere in the neighbourhood of 8:00 to 9:00 p.m., given that Mr. Reed was later taken to the hospital for treatment and later interviewed there by Corporal Tamaki after 10:00 p.m. Ms. Wood and Mr. Reed drove in Ms. Wood's 2020 blue Dodge 1500 Ram pickup truck. It was dark when Ms. Wood and Mr. Reed arrived at Mr. Arsenault's residence.
- [88] Mr. Arsenault lived on a quiet gravel-packed road fronted by a slough which saw little traffic. Mr. Arsenault and Mr. George were neighbours and both were friends of Mr. Reed. Mr. Reed initially went to Mr. George's house. Ms. Wood spoke with Mr. Arsenault and accompanied him to his shop, where he returned the chainsaw to her. The chainsaw was placed in the truck.
- [89] Mr. Reed, during this time, arrived back at Mr. Arsenault's house. Ms. Wood got into her truck and backed down the driveway toward the road which fronted the slough.
- [90] Mr. Reed went running after the truck. Mr. Reed was yelling to warn Ms. Wood about the danger or driving into the slough, as a portion of its bank had washed out in recent rain. Mr. Reed was also yelling because he did not want to be left behind. Ms. Wood stopped the truck close to the edge of the slough at an angle to the road. Mr. Reed then stepped in front of the truck with his hands on the hood. Mr. Reed was standing facing Ms. Wood, in front of the driver side of the hood. Ms. Wood initially removed her foot from the brake and drove the truck forward a short distance and Mr. Wood [sic] retreated. The truck made some form of

gentle contact with him during this time.

- [91] I do not accept Ms. Wood's assertion that her initial bump of Mr. Reed with the truck was accidental.
- [92] Mr. Reed continued standing in front of the driver side of the truck with his hands on the hood. Mr. Reed and Ms. Wood were positioned such that they were eye to eye and Mr. Reed was visible to Ms. Wood. Ms. Wood then drove the truck forward, straightening it out to the road, and then continued to drive forward.
- [93] Mr. Reed went -- I am taking a step back -- that when she revved the truck to move forward, Mr. Reed pushed himself to the side of the truck, toward the driver side. He then fell to the ground, where he flailed on the ground trying to avoid the truck before his left leg was run over by the rear back driver side wheel. His lower left leg just above the ankle was broken in three places and required surgery.
- [94] JUSTIN and CPIC records, by consent, were introduced for consideration of Mr. Reed's credibility. I note they do not reflect any convictions relating to violence against Ms. Wood.
- [95] In summary, Ms. Wood initially struck Mr. Reed with her truck at least once, referred to variously by witnesses as a bump, burp, or tap of the truck, where Ms. Wood removed her foot from the brake and the vehicle moved forward with Mr. Reed standing in front of it with his hands on the hood. The truck made minor contact with Mr. Reed and he retreated with its forward motion.
- [96] Mr. Reed continued to stand in front of the driver side of the truck with his hands on the hood.
- [97] Mr. Reed and Ms. Wood were eye to eye, looking at each other. Ms. Wood then revved the engine and drove forward while Mr. Reed was standing in front of the truck. I do not accept Ms. Wood's account that Mr. Reed was there one second and gone the next, nor that he was gone before she drove forward.
- [98] I find Ms. Wood drove the truck forward with Mr. Reed standing directly in front of the driver side and with his hands on the hood. Mr. Reed used his hands on the hood in an attempt to propel himself out of the way toward the driver side. Mr. Reed fell to the ground and tried but was unsuccessful in avoiding the truck wheels as Ms. Wood straightened the wheels of the truck to drive away. In the process, Ms. Wood ran over Mr. Reed's leg just above the ankle, breaking three bones.
- [99] Mr. Reed required surgery to repair the three broken bones, which necessitated the insertion of several metal plates and screws into his leg. At no point did Ms. Wood stop the truck to ensure Mr. Reed's wellbeing.

Analysis of the offences

[100] Here I find that the evidence has established beyond a reasonable doubt for all offences charged that they occurred on December 17, 2021, at or in the vicinity of Chilliwack, British Columbia. Further, that it was Ms. Wood who was driving the truck and Mr. Reed whose leg was run over by the truck.

Section 320.13(2), driving in a manner dangerous to the public and causing bodily harm

[101] Section 320.13(2) of the Criminal Code states:

(2) Everyone commits an offence who operates a conveyance in a manner that, having regard to all of the circumstances, is dangerous to the public and, as a result, causes bodily harm to another person.

[102] Section 320.11 of the Criminal Code defines the term "conveyance" as including motor vehicles, and the term "operate" as including a motor vehicle.

[103] For the essential elements of the offence under s. 320.13(2) to be satisfied, the Crown must prove beyond a reasonable doubt that Ms. Wood operated a conveyance in a manner that was dangerous to the public, and that her operation of the conveyance must have caused Mr. Reed bodily harm.

[104] Section 2 of the Criminal Code defines bodily harm as any hurt or injury to a person that interferes with the health or comfort of the person and is more than merely transient or trifling in nature.

[105] I am able to resolve certain issues that are not in dispute. Ms. Wood's blue Dodge Ram pickup truck is a motor vehicle and therefore a conveyance as defined in the Criminal Code, s. 320.11. Ms. Wood was driving the truck at the time of the incident and therefore operating a motor vehicle per that section. Lastly, I find that Mr. Reed was a member of the public within the meaning of s. 321.13(2).

[106] The first disputed issue I address is whether Ms. Wood operated the truck in a manner dangerous to the public. This requirement necessitates consideration of all of the circumstances, taking into account the place and presence of other traffic or pedestrians. Careless driving on its own is not sufficient to satisfy the test. The test for dangerous driving under s. 321.13(2) is whether the accused drove in a way that was a marked departure from what a reasonable driver would do in a similar circumstance.

[107] The majority of the Supreme Court of Canada in *R. v. Beatty*, [2008] 1 S.C.R. 49 at para. 43 defined the offence as follows:

[43] As we have seen, the requisite mens rea for the offence of dangerous driving was the sole issue before the Court in *Hundal*, and the test was expressed accordingly. In order to clarify the uncertainties I have mentioned, it may assist to restate the summary of the test in terms of both the actus reus and the mens rea of the offence. I respectfully disagree with the Chief

Justice that the test for the actus reus is defined in terms of a marked departure from the normal manner of driving (para. 67). The actus reus must be defined, rather, by the words of the enactment. Of course, conduct that is found to depart markedly from the norm remains necessary to make out the offence because nothing less will support the conclusion that the accused acted with sufficient blameworthiness, in other words with the requisite mens rea, to warrant conviction. In addition, it may be useful to keep in mind that while the modified objective test calls for an objective assessment of the accused's manner of driving, evidence about the accused's actual state of mind, if any, may also be relevant in determining the presence of sufficient mens rea. I would therefore restate the test reproduced above as follows:

(a) The Actus Reus

The trier of fact must be satisfied beyond a reasonable doubt that, viewed objectively, the accused was, in the words of the section, driving in a manner that was "dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place".

(b) The Mens Rea

The trier of fact must also be satisfied beyond a reasonable doubt that the accused's objectively dangerous conduct was accompanied by the required mens rea. In making the objective assessment, the trier of fact should be satisfied on the basis of all the evidence, including evidence about the accused's actual state of mind, if any, that the conduct amounted to a marked departure from the standard of care that a reasonable person would observe in the accused's circumstances. Moreover, if an explanation is offered by the accused, then in order to convict, the trier of fact must be satisfied that a reasonable person in similar circumstances ought to have been aware of the risk and of the danger involved in the conduct manifested by the accused.

[108] When considering the actus reus, I am required to focus my inquiry on the risks created by Ms. Wood's manner of driving, not its consequences, and that is from R. v. Roy, Supreme Court.

[109] As I mentioned above, I must also consider all of the circumstances relevant to an assessment of Ms. Wood's manner of driving. It is an objective inquiry.

[110] Considering the circumstances as a whole, I am satisfied beyond a reasonable doubt that Ms. Wood operated her truck in a manner that was dangerous to the public. I acknowledge that the incident occurred on a quiet road that saw little traffic. Ms. Wood removed her foot from the brake of her truck, a vehicle of significant size and weight, with a member of the public, Mr. Reed, directly in front of the truck.

- [111] Ms. Wood first bumped Mr. Reed with her truck, and then she revved the engine and drove forward with Mr. Reed still in front of the truck, standing on the driver side at the front with his hands on the hood. I am satisfied beyond a reasonable doubt that Ms. Wood's operation of her truck was a marked departure from the standard of care of a reasonably prudent driver in her circumstances.
- [112] As stated by the Ontario Superior Court of Justice in *Beedawia* at para. 94:
- I remind myself that mere carelessness or a momentary lapse in judgment does not constitute a marked departure.
- [113] The test requires that objectively a reasonable person would have appreciated the risk or done something to avoid creating the danger. I find beyond a reasonable doubt that the Crown has shown that Ms. Wood's conduct in the circumstances meets this criteria. An objectively reasonable person in Ms. Wood's position, with a person standing directly in front of their truck on the driver side with their hands on the hood, would have appreciated the risk that the actions of taking their foot off the brake and accelerating forward posed to the person standing in front of the vehicle. I find Ms. Wood's actions to be beyond carelessness and instead a deliberate act. Ms. Wood's circumstances were that of someone in a large truck with someone directly in front of the truck with their hands on the hood. I find that a reasonably prudent driver in these circumstances would not drive forward until they were sure that the person was no longer in front of their truck.
- [114] I find beyond a reasonable doubt that this conduct is a marked departure from that of a reasonably prudent driver in her circumstances.
- [115] Ms. Wood offered an explanation of her conduct; namely, that she no longer saw Mr. Reed, so that it was accidental. As outlined above, I reject this assertion and do not find it credible or reliable, nor do I find that it raises a reasonable doubt.
- [116] I am satisfied beyond a reasonable doubt that a reasonably prudent driver in Ms. Wood's circumstances would have foreseen the risk of bodily harm to Mr. Reed posed by driving her truck forward with Mr. Reed standing directly in front of it, and would have taken steps to avoid this risk by not propelling the truck forward, parking the truck until Mr. Reed was no longer in front of it. I do not accept that Ms. Wood could not see Mr. Reed when she decided to drive forward.
- [117] Lastly, regarding the other disputed issue of whether Ms. Wood's operation of the truck caused bodily harm, I find this element to be established beyond a reasonable doubt. The injuries Mr. Reed suffered as a result of the incident, three broken bones in his lower left leg just above his ankle, meets the test for bodily harm.
- [118] I also find causation to be established, as it was Ms. Wood driving over Mr. Reed with her truck that indisputably caused the bodily harm.

Defences

- [119] Ms. Wood's primary argument was that her actions were accidental and that she was unaware that Mr. Reed was still in front of the truck before she drove forward. I have rejected that argument in the analysis as set out above. Ms. Wood's submissions, however, also raise the defence indirectly of fear or necessity, which was inconsistent with her accident testimony.
- [120] The defence of necessity requires that the accused be in imminent danger and act to protect themselves or another. In *R. v. Latimer*, 2001 SCC 1, the Supreme Court of Canada defined the defence of necessity at paras. 28 to 31.
- [121] In *R. v. Dawydiuk*, 2020 BCCA 162, the accused was found to have driven his vehicle into a sidewalk after an altercation with a number of people. At least one person was struck and injured. He argued the defence of necessity; that is, that he was under threat of imminent peril and had no choice to drive as he did. The trial judge, in reasons indexed at *R. v. M.D.*, 2007 BCPC 347, rejected that argument. The trial court found that the accused had driven his vehicle where he knew that there were people, without warning them of what he intended to do, for example by honking his horn, and found that the risk to the lives and safety of the people on the sidewalk was obvious. The trial court held that a reasonable person would have recognized the risk and that the accused should have been able to foresee it, at paras. 90 and 91.
- [122] The Court of Appeal of British Columbia upheld this finding. Mr. Dawydiuk had appealed on the ground of whether or not the evidence had shown he intended to harm the people on the sidewalk. The Court of Appeal found that he had threatened, by the act of driving his truck into the sidewalk and revving his engine, to apply force to the bar patrons who were on the sidewalk and that he had the present ability to effect his threat by use of the truck. That is, that his actions were not an accident or honest mistake.
- [123] Like the Court of Appeal in that case, I do not find an air of reality for the defence of necessity in this case. Ms. Wood was secured in a large, locked truck. If she felt imminently threatened by Mr. Reed, she had several options available to her including, but not limited to, honking her horn.
- [124] Ms. Wood, shall we break for a moment? All right. So we are --
- [125] THE ACCUSED: I'm sorry.
- [126] THE COURT: No, no, no. We are going to take the morning break, all right. We will return in 15 minutes.
- [127] THE CLERK: Order in court, all rise. Court is adjourned for the morning break. Reconvene in 15 minutes.

(PROCEEDINGS ADJOURNED FOR MORNING RECESS)

(PROCEEDINGS RECONVENED)

[128] THE CLERK: Court is in session, Madam Justice.

[129] THE COURT: All right, so resuming where I had left off.

[130] I acknowledge that Ms. Wood, though her argument was in fact accident -- that she had suggested, or hinted, at the defence of necessity throughout her testimony; for example, by saying that she had --

[131] THE ACCUSED: Can you speak up a little bit for me?

[132] THE COURT: Sure. All right, so --

[133] THE ACCUSED: My ear's plugged 'cause I've --

[134] THE COURT: Okay, yes, let us just see. Is that better?

[135] THE ACCUSED: I think so.

[136] THE COURT: Okay.

[137] THE ACCUSED: Thank you.

[138] THE COURT: So let me just try this again, so we want to be sure that you can hear, all right?

[139] THE ACCUSED: Okay, thank you.

[140] THE COURT: So I acknowledge that Ms. Wood, whose primary argument was really that the incident was accidental, nonetheless suggested, or hinted, at the defence of necessity throughout her testimony by stating that she wanted to avoid a fight with Mr. Reed, suggesting that he was a 10 out of 10 angry, mentioning that he carried a knife on his person, so I address it here.

[141] I do not find that there is an air of reality to the defence of necessity. Ms. Wood was in a locked truck. Mr. Reed was not trying to force his way into or harm the truck. Ms. Wood could simply have waited for Mr. Reed to step away. She could have beeped the horn. She could have indicated for him to move. She could have asked for Mr. Arsenault's help. She could have called the police. Instead, she proceeded to drive her vehicle into Mr. Reed without warning. I do not find the defence of necessity to have a air of reality on a consideration of all of the circumstances here.

[142] Turning now to the assault charges. Sections 267(a) and (b) of the Criminal Code set out the offences of assault with a weapon and assault causing bodily harm. They read that:

267 Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who, in committing an assault,

(a) carries, uses or threatens to use a weapon or an imitation thereof,

(b) causes bodily harm to the complainant ...

[143] Both offences require the following essential elements: that Ms. Wood intentionally applied force to Mr. Reed; Mr. Reed did not consent to the force that Ms. Wood applied; Ms. Wood knew that Mr. Reed did not consent to the force that she applied. However, where they differ is that s. 267(a) requires the involvement of a weapon or imitation weapon. Section 267(b) requires that Ms. Wood caused bodily harm to Mr. Reed.

[144] Section 265 of the Criminal Code sets out the offence of assault and requires the Crown to prove, beyond a reasonable doubt, that Ms. Wood intentionally applied force to Mr. Reed without Mr. Reed's consent. Section 2 of the Criminal Code defines a weapon as anything used or designed to be used or intended for use in causing death or injury to any person for the purpose of threatening or intimidating any person.

[145] For the first element, the intentional application of force, applying force includes any physical contact with another person, even a gentle touch. The contact may be direct or indirect.

[146] I find, beyond a reasonable doubt, as I have outlined above, that Ms. Wood ran over Mr. Reed's lower left leg just above his ankle with the back driver side wheel of her truck. Thus I find that the requirement for applying force is met.

[147] The physical contact must be intentional, as opposed to accidental. Ms. Wood argued that the incident was an accident, as she believed Mr. Reed had left and she no longer saw him prior to driving the truck forward. I preferred the testimony of Mr. Reed, corroborated by Mr. Arsenault on this point. I did not find that assertion to be credible or to raise a reasonable doubt. I find, beyond a reasonable doubt, that Ms. Wood intentionally applied force to Mr. Reed. I find she knew he was standing in front of the truck when she pressed the gas and drove forward.

[148] There is no argument made that Mr. Reed consented to the application of force; that is, that he consented to having his lower leg run over by the truck. I find beyond a reasonable doubt that Mr. Reed did not consent to the force Ms. Wood applied. I also find beyond a reasonable doubt that Ms. Wood knew that Mr. Reed did not consent to being struck by the truck or having his leg run over by the truck.

[149] With these findings, the elements of assault are made out. The remaining issues are whether Ms. Wood used a weapon or caused bodily harm.

[150] Regarding s. 267(a), I find beyond a reasonable doubt that Ms. Wood's truck qualifies as a weapon under the Criminal Code. Her truck fits the definition of a weapon, because she used it to cause injury to Mr. Reed. I find, beyond a reasonable doubt, that Ms. Wood used this weapon in committing an assault against Mr. Reed.

[151] Regarding 267(b), I find beyond a reasonable doubt that Ms. Wood caused bodily harm to Mr. Reed. This element requires that the force applied by Ms. Wood caused the wound suffered by Mr. Reed. The wound or bodily harm must be more than transient or trifling.

[152] Here, I have no trouble finding, beyond a reasonable doubt, that the significant nature of Mr. Reed's injuries constitute bodily harm and that Ms. Wood was the cause of this bodily harm. I further find beyond a reasonable doubt that a reasonable person would have foreseen the risk that if they drove their truck forward with a person standing in front of it, that there was a risk of bodily harm.

[153] As set out above, I find beyond a reasonable doubt that Ms. Wood knew Mr. Reed was in front of the truck and drove forward anyway. I find, therefore, that the Crown has successfully proven beyond a reasonable doubt that Ms. Wood committed each of the assault offences charged and, in total, I find Ms. Wood guilty on Counts 1, 2, and 3.

"A. Walkem J."

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Prepared on 26 October 2026 · Esheria