

**PROVINCIAL COURT OF NOVA SCOTIA**

**Citation:** *R. v. Long-Sorochan*, 2022 NSPC 35

**Date:** 20221102

**Docket:** 8509111, 8509112, 8509113

**Registry:** Kentville

**Between:**

His Majesty the King

v.

Quentin Long-Sorochan

**DECISION**

<b>Judge:</b>	The Honourable Judge Ronda van der Hoek,
<b>Heard:</b>	September 28, 2022, October 4, 2022, in Kentville, Nova Scotia
<b>Decision</b>	November 2, 2022
<b>Charge:</b>	266 of the <i>Criminal Code of Canada</i> 266 of the <i>Criminal Code of Canada</i> 267(a) of the <i>Criminal Code of Canada</i>
<b>Counsel:</b>	Nathan McLean, for the Crown Meg Green, for the Defendant

**By the Court -Orally:**

**Introduction:**

[1] Mr. Long-SoroChan is charged with assaulting a former domestic partner on two occasions and on one of those occasions also assaulting her with a chair, contrary to sections 266 and 267(a) of the *Criminal Code*.

[2] The trial was held over two days, the complainant and the defendant were the only witnesses, and the complainant provided additional evidence following a breach of the rule in *Brown and Dunne*.

[3] The sole issue is whether the Crown proved all the elements of the offences beyond a reasonable doubt.

*The Burden of Proof in a Criminal Trial:*

[4] Every person charged with a criminal offence is presumed innocent. The Crown carries the burden to prove the offences charged beyond a reasonable doubt. This criminal burden is the heaviest in our justice system. The onus of proof never switches from the Crown to Mr. Long-SoroChan asking him to instead prove that he did not commit the offences with which he is charged. Following careful

consideration of the whole of the evidence, I may only convict him if I am satisfied that the Crown has established the charges beyond a reasonable doubt.

[5] A reasonable doubt “does not involve proof to an absolute certainty, it is not proof beyond any doubt nor is it an imaginary or frivolous doubt” (*R. v. Lifchus*, [1997] 3 S.C.R. 320). Instead, the Crown’s burden of proof lies “much closer to absolute certainty than to proof on the balance of probabilities” (*R. v. Starr*, [2000] 2 S.C.R. 144). Finally, a “reasonable doubt does not need to be based on the evidence; it may arise from an absence of evidence or a simple failure of the evidence to persuade the trier of fact to the requisite level of beyond reasonable doubt.” (*R. v. J.M.H.*, 2011 SCC 45 (CanLii))

[6] In assessing the reliability and credibility of witness testimony, the Court considered such things as general capacity to make specific observations, ability to recall what was observed or heard, and to interpret what was perceived and testify accurately about what was recollected. The assessment also considers whether the witness was sincere, candid, biased, reticent, or evasive. (*R. v. D.D.S.*, 2006 NSCA 34)

*Elements of the offences:*

[7] Assault requires proof Mr. Long-Sorochoan intentionally applied force to Ms. Boulard, without her consent, and he knew she did not consent to the application of force.

[8] Assault with a weapon requires proof he used or threatened to use a weapon, a chair, in an effort to apply force to her without her consent, knowing she did not consent.

*The evidence and findings of fact:*

[9] The Court will not detail every word of testimony, but I listened carefully to all of it, took decent notes, and considered the final submissions of counsel who identified the issues of concern. Only after a complete review of all the foregoing did the Court make findings of fact.

[10] Ms. Boulard testified about an evening between February 1 and June 30, 2019, when she and Mr. Long-Sorochoan had a friend over for drinks. She was feeling tipsy, a 4/10 on the scale typically used to indicate sobriety, was unsure what Mr. Long-Sorochoan was drinking or his level of impairment, but confirmed both he and his friend were drinking.

[11] Between 10 and 11 pm, Ms. Boulard and Mr. Long-Sorochoan argued and she “just remembers being on the living room floor” with his hands around her neck. She was not sure how she came to be on the floor, but prior to this she believed they were all sitting on the living room couches. She does not recall details of the argument.

[12] While on the floor Mr. Long-Sorochoan had his legs around her, on top of her, and was facing her with his hands around her neck, she believes both hands. She testified that she “just remembers trying to get him off of her”, was scared, in disbelief, and did not know what was going on. The look of anger and a “spaced” look on his face added to her fear. Mr. Long-Sorochoan released Ms. Boulard and “stormed” out of the house. She believes the presence of his friend led Mr. Long-Sorochoan to end the assault and leave.

[13] Mr. Boulard says the whole thing happened quickly and says she was “probably yelling” at Mr. Long-Sorochoan to get off of her and to figure out what was happening, but mostly the incident is a blur. She does not remember him saying anything during the assault and does not believe she hit him. She still does not know why it happened and was left with bruises on her neck. She did not consent to Mr. Long-Sorochoan putting his hands around her neck.

*Christmas Party 2019:*

[14] Things were getting worse in their relationship when the two attended Ms. Boulard's work Christmas party. At the party she consumed a few drinks and "things were getting intense with the drinking", and she wanted to go home. At home Mr. Long-SoroChan drank a lot of beer, she did not believe she drank very much, but she could see his attitude starting to change. It "got less easy to talk to him" and she tried to sit with him to watch a movie and calm him down. He was accusing her of cheating and other nonsense.

[15] A few hours before midnight Mr. Long-SoroChan started "smashing things". He picked up an old wooden chair and threw at her such that she had to duck to avoid impact. The chair hit the wall and broke. She explained that she was standing in the open space facing the stairs with her back to the bedroom when the chair went past her in the direction of the bedroom.

[16] The arguing continued until 5 am, and while she was standing at the bottom of the stairs, Mr. Long-SoroChan gave her a quick shove with two hands in the torso/arm area. She tripped over the corner of the stair and fell into the wall where she struck the back of her head. She landed on the floor on her back. The push worried her because she was not sure where she would land. She got up and yelled

at him saying ‘you could have just killed me if I landed a different way’. She ran upstairs to the landlord and onto her mother’s home. Once again, she did not consent to this bodily contact.

[17] On cross-examination she was not evasive but continued on as she had during direct examination. She agreed the relationship was “pretty intense”, adding that she spent “a lot of time trying to calm him down”. When she was asked if she “gave as good as she got”, she said “yes, verbally”. She would not agree with the proposition that both parties engaged in shoving matches all of the time. Asked by defence counsel to assess her drinking habits at the time, Ms. Boulard indicated that she drank at parties and had a few at home. She also disagreed with the suggestion that she was angry and instead offered the word ‘frustrated’. She also agreed with defence counsel that Mr. Long-SoroChan throws things when he is angry and did not accept that the chair was not thrown at her, adding “at me enough that I had to get out of the way”. When asked if he broke his guitar during the situation, she disagreed. She also disagreed that there was mutual shoving at the bottom of the stairs.

[18] Ms. Boulard says she did not report the incidents to police because she did not want Mr. Long-SoroChan to get in trouble. Only well after their breakup did she go to police, and only because he was leveling threats to her family that became

intolerable after damage was done to her parents' business. She was quick to point out that she did not ascribe the damage to Mr. Long-Sorochan, but she had to "get things out to the police- the things that happened in the relationship".

[19] Ms. Boulard presented as a fragile witness. She testified behind a screen, and appeared to struggle with her testimony. She was careful not to overstate her evidence or fill gaps in her memory, and as a result, appeared balanced and fair. She went to police because Mr. Long-Sorochan "needs to know what repercussions are", yet her saying so did not sound like a threat or an effort to make someone pay due to a breakup, but simply frustration about what happened to her and the continued harassment. She frankly admitted she drank alcohol on the evenings of the allegations, but would not own cocaine use. She did however quite fairly admit to such use on other occasions. Her evidence in that regard could be considered a hallmark of truth. Overall, I found her evidence candid and truthful.

[20] I also found her evidence reliable. She is clearly still frightened of Mr. Long-Sorochan, and it was apparent from her testimony that she was stunned when she found herself on the ground with his hands around her throat. She was completely shocked by the event, suggesting it was not something that had been occurring in their relationship to date. Despite consuming alcohol, her ability to recall events



was not impaired and she provided as much detail as could be expected given the passage of time. My sense, the arguments were so common, that the topics raised ran one into the next. Overall, she was both a reliable and credible witness.

[21] Mr. Long-Sorochan was a very different witness. His testimony did not hold a ring of truth. Instead, his frankness seemed to begin and end with an acknowledgement he struggled with addictions and mental health issues at the time, after that claims of near perfect recall and not suffering black outs did not ring so true. I say this because he testified to being under the influence of a considerable amount of alcohol used in combination with cocaine on the relevant dates. He also says the relationship was stressful, toxic, and involved daily verbal yelling back and forth and a lot of drinking. The whole relationship was a fight.

[22] He recalled the December Christmas party. He says both were into drugs and a lot of alcohol, and it was her birthday celebration as well. She was not asked about these points on cross examination. He says they drank at home and argued, and he smashed a chair on the floor because he was “pretty angry back then and not medicated”. He says he did not throw the chair at Ms. Boulard, but in “a whole other direction”, adding he also broke his guitar.

[23] Mr. Long-Sorochan does not recall pushing Ms. Boulard into the stairs, he says instead he went to bed at 5 am and she left because they were fighting. He says she went up to the landlord's apartment, yelled that he dragged her up the stairs by her hair. He did not see her fall at any point.

[24] Mr. Long-Sorochan says he drank a lot back then. They were spending approximately hundred dollars a day on alcohol. It was lowest he has ever been, and he was not in a good headspace. He was depressed and angry and suffering mental health issues that he was medicating with alcohol. He says he never blacked out when drinking and has never gotten physical with Ms. Boulard, but he has gotten physical with his "stuff". He says he now receives medication for his anger that he "was struggling with a lot".

[25] On cross-examination Mr. Long-Sorochan was asked about the December timeframe, and told Crown counsel he drank beer all day and in the afternoon after 1 pm they went to the Christmas party. He says he "would have had four drinks before he left for the party", and at home he probably had five more. They also did cocaine and he added they "did a lot". The complainant was asked whether she consumed cocaine that night and said she did not.

[26] Mr. Long-Sorochan says he “pretty much” remembers the whole night. Ms. Boulard was seeing his friend and he was upset. He says he was “definitely not making choices” that he should have at the time. He denies throwing a chair at Ms. Boulard, instead he says she was behind him near the stairs when he broke the chair by smashing it on the floor.

[27] Also on cross examination, Mr. Long-Sorochan says they were on the couch watching a movie, she was playing a game for a bit, he was playing music and things were calm. Ms. Boulard was not asked on cross-examination if she was playing a game but when recalled to provide additional testimony, says she did not believe so. Mr. Long-Sorochan says nothing happened before she went upstairs to the landlord. He says he does not know why she went upstairs, but she blacked out a lot. He says she often hid from his rage, and while he described himself as “pretty ruthless”, says he did not do any of the things he is charged with, as he is not that kind of person.

[28] Mr. Long-Sorochan recollected the night his friend was over for drinks, when Ms. Boulard testified that he grabbed her throat. He says she called police that night and they removed her. Ms. Boulard was not asked about this in her evidence. He adds it was a different friend and not the one she mentioned, and he did not put his hands on her or get in a fight with her. He says they were both

drinking that night, he drank twenty-four beers with his friend and used cocaine as well. He says they always argued but not usually in front of people and once again says he never put hands on her “ever”. He says they argued, and she ended up going to her mother’s house.

*Submissions of counsel:*

[29] Defence counsel submits that Mr. Long-SoroChan was a witness who was honest about his struggles with drugs and alcohol. Ms. Boulard however was not credible because she did not provide a high level of detail with respect to the alleged assaults. While Mr. Long-SoroChan breaks his own belongings, he does not suffer black outs, and denied the allegations. It is not clear the Crown has proven the allegations and in particular Mr. Long-SoroChan’s intent with respect to the charge involving the chair.

[30] The Crown notes Mr. Long-SoroChan was in the midst of a mental health crisis, was drinking excessively and using cocaine, yet says he always remembers everything. It does not make common sense that the amount of alcohol used in combination with drugs and an anger problem render his evidence reliable or accurate. Rather, that he was throwing and smashing things demonstrates he was out of control. The complainant’s evidence that she went upstairs after he pushed

her, and she tripped on the stairs must be compared with his - that the night was peaceful. The Crown says the Court, in assessing Mr. Long-Sorochan's evidence, should not find it credible and it does not raise a reasonable doubt. Ms. Boulard on the other hand was a truthful and reliable witness whose evidence should be accepted by the Court.

*Analysis:*

[31] First, I will say that having accepted the evidence of the Ms. Boulard does not end the inquiry. The Court must consider the Supreme Court of Canada's direction in *WD* when assessing the evidence of Mr. Long-Sorochan. That test was helpfully clarified in, "Doubt about Doubt: Coping with *W.(D.)* And Credibility Assessment". Justice Paciocco explained five considerations that add clarity to the *WD* test:

- (i) I cannot properly resolve this case by simply deciding which conflicting version of events is preferred;
- (ii) If I believe evidence that is inconsistent with the guilt of the Defendant, I cannot convict the Defendant;
- (iii) Even if I do not entirely believe the evidence inconsistent with the guilt of the Defendant, if I cannot decide whether that evidence is true, there is a reasonable doubt and the Defendant must be acquitted;

(iv) Even if I entirely disbelieve evidence inconsistent with guilt, the mere rejection of that evidence does not prove guilt; and

(v) Even where I entirely disbelieve evidence inconsistent with guilt, the Defendant should not be convicted unless the evidence that is given credit proves the Defendant's guilt beyond a reasonable doubt.

[32] It cannot be ignored that Mr. Long-SoroChan was under the influence of intoxicants during both incidents. His evidence that he was consuming alcohol to medicate depression and anger, and that he was doing so in large amounts in combination with drugs, concerns the Court that his evidence of near complete recall is rendered suspect. His angry violent actions involving the chair certainly cannot be considered a normal reaction to unresolved anger, and in the presence of a domestic partner. He reported regular daily arguments and unresolved anger. His actions were, on his own evidence, scary and a symptom of the depression and anger which eventually required medication. His evidence that the anger was not directed at Ms. Boulard, but toward "stuff", also does not ring true given his testimony that they were on the night of the Christmas party arguing about her cheating with his friend. She says he frequently accused her of cheating. He says she hid to avoid his anger.

[33] I do not believe the evidence of Mr. Long-SoroChan that Ms. Boulard went to the landlord yelling about an assault after a peaceful evening at home. This

evidence simply does not make sense nor does appear plausible in the circumstances.

[34] With respect, Mr. Long-Sorochan's memory of events was impacted by his testimony that the police came to the apartment on the night of the alleged neck assault and Ms. Boulard was removed. This scenario was implausible, and she was not, in any event, asked about it. The Court does not accept Mr. Long-Sorochan's account.

[35] Mr. Long-Sorochan's evidence of both incidents was neither credible nor reliable and I am not left in reasonable doubt by it. He offered much more detail on cross examination than he did on direct examination despite careful questioning by his counsel. He proposed evidence that Ms. Boulard did not have the opportunity to address. Significant points of contention included her use of cocaine, blacking out, yelling to the landlord that he pulled her up the stairs by her hair, yet none were not put to her on cross examination, and she had to be recalled to address them. The Court concludes Mr. Long-Sorochan's testimony in that regard should be given little weight in addition to it being suspect. Overall, his testimony appeared to be a compendious effort to mislead the Court.

[36] Just because I do not accept Mr. Long-Sorochan's evidence does not mean the Crown has proven the case, I must consider all of the evidence and determine if the charges were proven beyond a reasonable doubt. As I stated Mr. Boulard was credible and reliable and the Court accepts her evidence of the two assaults and the assault with a weapon. The chair, I find was thrown at her and, but for ducking out of the way, she would have been hit. That constitutes assault with a weapon, and I find Mr. Long-Sorochan, in an inexplicable rage, threw the chair at her. I also find that he pushed her with both hands leading her to fall and hit her head. Likewise, he inexplicably grabbed her by the neck, and while it is not clear how they got to the floor, holding her bodily and by the neck constitutes an assault. Ms. Boulard consented to none of those actions.

[37] While I am quite sure the clear minded Mr. Long-Sorochan who is now medicated for his mental health issues and no longer drinking, may find the actions alleged in this case inconsistent with who is today, they were very much who he was back in 2019.

[38] The Crown has proven the charges beyond a reasonable doubt and there will be three convictions.

[39] Judgment accordingly.



van der Hoek PCJ