

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

KEVIN MANTLA

Transcript of the Reasons for Judgment delivered by The Honourable Justice L.A. Charbonneau, sitting in Yellowknife, in the Northwest Territories, on the 24th day of May, 2018.

APPEARANCES:

Mr. B. MacPherson:	Counsel for the Crown
Ms. J. Andrews:	Counsel for the Crown
Mr. C. Davison:	Counsel for the Accused
Ms. K. Oja:	Counsel for the Accused

(Charges under s.235(1), s.239(1)(b), s.268 of the
Criminal Code)

**There is an order in place prohibiting the publication or broadcast of any information that could identify any of the children referred to in this decision
This transcript has been altered to protect the identity of the victim / young person pursuant to the direction of the presiding Judge**

1 THE COURT:

2 **I) INTRODUCTION AND OVERVIEW**

3 In the early morning hours on
4 September 28th, 2015, someone entered the home of
5 E. M. at Lanky Court in Yellowknife. She was in
6 bed with her boyfriend, Elvis Lafferty. His
7 parents were also sleeping in the room. Her
8 three children, L., K., and A. were sleeping in
9 the living room. This intruder stabbed Elvis
10 Lafferty and E. M. a number of times.
11 Mr. Lafferty died from his injuries. Ms. M. was
12 seriously injured but survived.

13 Kevin Mantla was charged with the murder
14 of Mr. Lafferty and the attempted murder of
15 Ms. M. His trial proceeded earlier this year
16 over a number of weeks in January and February.

17 The theory advanced by the Crown at
18 trial is that Mr. Mantla, who had been in a
19 common-law relationship with Ms. M. for a number
20 of years, is responsible for these crimes and
21 that he committed them because he was jealous and
22 angry about E. M.'s relationship with
23 Mr. Lafferty. He had learned about this
24 relationship during a telephone conversation he
25 had with Ms. M. during the day on September 27th.

26 The Crown's theory is that when he
27 learned of this, he decided he would kill them

1 both, and devised a plan to do so. He travelled
2 to Yellowknife for this purpose. He waited until
3 the friend he was staying with went to sleep, and
4 then he went to Lanky Court to execute his plan.
5 After he had attacked them, he got rid of
6 incriminating evidence and eventually went to the
7 RCMP detachment to try to get himself booked into
8 the drunk tank in an effort to create a false
9 alibi.

10 The Crown says that the evidence
11 establishes beyond a reasonable doubt that
12 Mr. Mantla was the one who killed Mr. Lafferty,
13 that he intended to cause his death, and that his
14 actions were planned and deliberate, making him
15 guilty of first-degree murder.

16 The Crown also says that the evidence
17 shows beyond a reasonable doubt that he intended
18 to kill E. M., making him guilty of her attempted
19 murder.

20 The Defence argues that the evidence of
21 identification is deficient and that the Crown
22 has not proven beyond a reasonable doubt that
23 Mr. Mantla is the person who did this. The
24 Defence also argues that if I conclude that the
25 Crown has proven beyond a reasonable doubt that
26 Mr. Mantla has done this, I should have a
27 reasonable doubt on the issue of intent and that

1 at most, given the evidence of Mr. Mantla's
2 intoxication, he should be found guilty only of
3 manslaughter of Mr. Lafferty and only of the
4 aggravated assault of Ms. M.

5 At the trial, the Crown called as
6 witnesses people who were at Lanky Court when the
7 attack happened; emergency personnel and police
8 officers who were the first responders at Lanky
9 Court; John Wetrade, the friend of Mr. Mantla,
10 who was the one who Mr. Mantla spent some time
11 with the afternoon and evening before these
12 events; police officers involved in various
13 aspects of the investigation at the scene and
14 elsewhere; police officers who were present when
15 Mr. Mantla was arrested at the RCMP detachment
16 that morning; witnesses who collected and handled
17 various exhibits; a blood spatter expert;
18 witnesses from the forensic laboratory, where the
19 extraction and analysis of DNA for comparison
20 purposes were done; and the DNA expert who
21 compared the profiles extracted from some of the
22 exhibits seized.

23 The Crown also filed several exhibits,
24 including maps, photographs, copies of diagrams
25 showing the layout of the crime scene with
26 notations made by various witnesses, video
27 footage from security cameras from various

1 locations, and expert reports. There were also a
2 number of agreed statement of facts filed which
3 covered various aspects of the investigation and
4 findings that were not in issue.

5 The Defence did not present any evidence
6 at this trial.

7 I am not going to attempt to summarize
8 all of the evidence in my decision today, but I
9 do have to refer to large portions of it. I will
10 try to focus on the evidence that is relevant to
11 the contested issues. But I have, during my
12 deliberations on this matter, reviewed and
13 considered all the evidence that was presented.

14 As I deal with each of the issues that
15 arise in this case, I will refer to the legal
16 principles that apply more specifically to each
17 one. But at the outset, I want to mention that I
18 have also instructed myself about a number of
19 general overarching principles that are relevant
20 in any criminal case. I am not going to go here
21 in the same level of detail as I would if I were
22 instructing a jury on the law, but there are
23 fundamental principles that I have kept in mind
24 and that I want to mention this morning.

25 1. Mr. Mantla is presumed innocent of
26 these charges. He does not have the burden of
27 proving he is not guilty. The onus to prove his

1 guilt rests with the Crown and never leaves the
2 Crown.

3 2. The Crown's burden is to prove each
4 element of the offences charged beyond a
5 reasonable doubt. This is a very high standard
6 of proof. It is not absolute certainty, but it
7 is more than probability of guilt. But on a
8 scale, it is closer to absolute certainty than to
9 probability of guilt.

10 3. That very high burden applies to
11 credibility of witnesses. Mr. Mantla is entitled
12 to the benefit of any doubt that arises from
13 issues of credibility or reliability. I am not
14 required to firmly believe or disbelieve any
15 witness. I may be left unsure about what I
16 believe and what I accept. If a reasonable doubt
17 arises from such an issue, Mr. Mantla is entitled
18 to the benefit of that doubt.

19 4. A reasonable doubt is one that is
20 based on reason and common sense. It can arise
21 from the evidence or from a gap in the evidence.

22 5. Given the nature of the allegations
23 in this case, I have also kept in mind that my
24 decision must be based on the evidence and not on
25 sympathy for anyone or prejudice against anyone.

26 I say this because it is undisputed that
27 Mr. Lafferty was killed and Ms. M. was seriously

1 injured in the course of a brutal attack that
2 took place while three of Ms. M.'s young children
3 and Mr. Lafferty's parents were in the house.
4 All these people, except the youngest child, were
5 called to testify at trial. They were asked
6 questions about an event that was deeply
7 traumatic and horrible for all of them. It would
8 not be humanly possible not to feel sympathy and
9 compassion for what those people went through.
10 But that empathy and that compassion cannot have
11 any bearing on my decision.

12 What was unfolding at the time of the
13 events that the witnesses were talking about has
14 to be taken into account in weighing their
15 evidence from the point of view of their ability
16 to observe things. That is always relevant in
17 assessing the reliability of witness' accounts of
18 events. What I am saying when I speak of the
19 relevance of sympathy and prejudice is that the
20 analysis of the evidence must be done with the
21 same rigor no matter how sympathetic (or
22 unsympathetic, for that matter), the
23 circumstances of the witness may be.

24 Evidence is not accepted based on
25 sympathy, and it is not rejected on the basis of
26 prejudice, and a person's guilt or innocence can
27 never be decided based on sympathy or prejudice.

1 In a case like this one, this is a very important
2 principle to remember. Had this been a jury
3 trial, I would have given the jury a strong
4 warning about this, and I have kept that at the
5 forefront of my mind in approaching the issues in
6 this case.

7
8 **II) IDENTIFICATION**

9 The first issue that I have to deal with
10 is identification. On that issue, the Crown
11 relies on two broad categories of evidence. The
12 first is the direct evidence of witnesses who
13 were in the house that night and say that
14 Mr. Mantla was the one who did this. And the
15 second is circumstantial evidence.

16 This trial took a month, a lot of
17 evidence was called. There was a lot of evidence
18 to consider and analyze on this issue. It is my
19 responsibility today to explain my conclusions
20 and to review a lot of this evidence, to explain
21 why I have arrived at the conclusion I have. And
22 because this is going to take some time, I will
23 say at the outset, and this soon will become very
24 clear, that I am satisfied beyond a reasonable
25 doubt that Mr. Mantla was the person who did
26 this.

27

1 **A. The Recognition Evidence**

2 The direct identification evidence comes
3 from three witnesses: E. M., L. M., and K. M.
4 Mr. Lafferty's father remembers very little about
5 what happened that night, and his evidence is of
6 no assistance whatsoever on identity. Similarly,
7 Mr. Lafferty's mother was not able to identify
8 who came into the house that night.

9 E. M. had been in a relationship with
10 Mr. Mantla for several years. They had lived
11 together. They had two children together who
12 were 8 and 5 at the time of the trial, and 5 and
13 2 in 2005 when these events took place.
14 Mr. Mantla is not their biological father but
15 they all lived together as a family for a number
16 of years. The relationship ended during the
17 summer of 2015.

18 L. and K. saw the attack on their mother
19 but not the attack on Mr. Lafferty. But it is
20 clear on the evidence that the same person is
21 responsible for both attacks.

22 I first want to speak about the law that
23 governs the area of identification evidence. The
24 identification of an accused as the person who
25 committed a crime by persons who are familiar
26 with that accused is often referred to as
27 recognition evidence. Counsel have filed cases

1 that helpfully summarize the principle that must
2 be keep in mind when dealing with this type of
3 evidence. *R. v. Olliffe* 2015 ONCA 242 paragraph
4 36; *R. v. Law* 2014 BCCA 28; and *R. v. Gill* 2017
5 BCSC 1816. I would summarize the governing
6 principles as follows:

7 1. The frailties of identification
8 evidence are well-documented. This type of
9 evidence often comes from witnesses whose
10 credibility is not really at issue and who are
11 sincerely convinced about what they saw. The
12 dangers of that type of evidence is that the
13 sincere conviction of the witness may easily
14 overtake the analysis. This can lead to
15 decisions that are based on an honest and
16 convincing, but mistaken, eyewitness
17 identification. For that reason, this type of
18 evidence must be approached with great caution.

19 2. Recognition evidence is a form of
20 identification evidence. Just like any type of
21 identification evidence, it is the opinion of the
22 witness as to the identity of the person they
23 saw. The same concerns apply and the same
24 caution is warranted in assessing the reliability
25 of that type of evidence. The level of
26 familiarity between the accused and the witness
27 may enhance the reliability of the evidence, but

1 it is not a guarantee of accuracy. The evidence
2 must still be assessed critically and cautiously
3 taking into consideration all the circumstances.
4 There is no set formula to do this. This is very
5 much a case-by-case type of analysis.

6 3. The identification or recognition
7 evidence should not be examined in isolation.
8 The context is important. Problematic aspects of
9 the identification must be carefully considered
10 and weighed and so must aspects of the
11 identification or recognition evidence that are
12 potentially exculpatory.

13 I will not refer to the details of that
14 case here, but I think the *Olliffe* decision
15 provides a very good example of the types of
16 things that must be considered and perhaps, more
17 importantly, what must not be overlooked in the
18 analysis of the identification evidence of a
19 witness who is familiar with the suspect.

20 In this area, any case will fall
21 somewhere on a continuum. At one end of the
22 continuum is identification evidence by a witness
23 who has never seen the suspect before and is
24 based on a fleeting glance and poor observation
25 conditions. At the other end of the continuum is
26 identification evidence by someone very
27 well-acquainted with the accused in circumstances

1 when the witness is able to make his or her
2 observations of events under optimal conditions.

3 Generally speaking, the reliability of
4 identification evidence in the latter situation
5 will be much greater than in the former, but few
6 cases are at one extreme or the other of the
7 continuum. Most fall somewhere in between.

8 I now turn to the evidence in this case.
9 As I said, three witnesses identified Mr. Mantla
10 as the person who attacked E. M. with a knife at
11 Lanky Court: E. M. herself and her two
12 daughters, L. and K.

13 Some of the concerns raised by the
14 defence about the reliability of this evidence
15 apply to all three witnesses; however, as far as
16 Ms. M.'s evidence, Defence raised broader
17 concerns, including issues that potentially go to
18 her credibility and not simply the reliability of
19 her account. For the children's evidence, I
20 understood the concerns to be primarily
21 reliability. Because of the difference in scope
22 of the issues raised, I am going to deal with the
23 children's evidence first, and then I will
24 address Ms. M.'s evidence.

25 L. was 11 at the time of the events and
26 13 at the time of trial. K. was 9 at the time of
27 the events and 11 at trial. Both were

1 interviewed in the afternoon of September
2 29th, 2015. Their interviews were videotaped and
3 were admitted into evidence pursuant to Section
4 715.1 of the *Criminal Code*. For each of them,
5 the evidence consists of the video statement,
6 supplemented by questions asked by the Crown, and
7 questions asked by Defence in cross-examination.

8 L.'s evidence is that on the evening in
9 question, she, her sister K., and her brother,
10 A., were in the living room. Their mother, Elvis
11 Lafferty, and his parents were the only other
12 people in the apartment. They were all in E.
13 M.'s bedroom. L. says she woke up to a noise.
14 She thought someone was trying to get into the
15 house. It is not entirely clear if she went back
16 to sleep. But at one point, she heard her mother
17 screaming. She described seeing her mother in
18 the hallway and Kevin Mantla stabbing her. She
19 was about 4 feet away as she was watching this,
20 and nothing was obstructing her view. She said
21 the lighting was low, but she could see; the
22 light in the hallway was on. She said at one
23 point, she thought it was Elvis Lafferty who was
24 standing near her mom, because he and Kevin
25 Mantla were about the same height. She was not
26 wearing her glasses, which she needs to see from
27 a distance, but she squinted, and that helped her

1 see.

2 In cross-examination, she was asked if
3 it could have been Elvis Lafferty she saw, and
4 she said, no. She was asked when she realized it
5 was Kevin and not Elvis, and she answered, "When
6 Kevin started talking." She testified she told
7 Mr. Mantla to stop. She said she saw Elvis
8 Lafferty's mother's in the hallway and Kevin
9 Mantla pushing her, shoving her with both his
10 hands, while he was holding the knife.

11 She also said that before he left,
12 Mr. Mantla took out the batteries out of one of
13 the house phones and ripped or cut the phone cord
14 off the wall. L. said that before he did this,
15 he said, "I'm going to kill you too." She
16 understood him to be referring to her and her
17 sister, K., who was with her in the living room.
18 But after he damaged the phone cord, he left.

19 L. was asked to make notations on copies
20 of a diagram of the apartment. She marked, among
21 other things, where she was in the apartment when
22 she saw Mr. Mantla stabbing her mother. On
23 another one, she marked where he was when she saw
24 him damage the telephone cord. These diagrams
25 were marked as exhibits.

26 L. said she saw Mr. Mantla's face, his
27 body, and that she heard his voice. She said he

1 was wearing a green leather jacket. She is sure
2 Mr. Mantla is the person she saw.

3 As for K., she said she went to sleep in
4 the living room with her sister and brother that
5 night. She woke up to her mother screaming. Her
6 mom was laying down in the hallway, and
7 Mr. Mantla was standing next to her, "cutting
8 her." She said she was "3 metre sticks" away
9 from where Mr. Mantla was when she saw this. She
10 said that Mr. Mantla then walked to where one of
11 the phones was and cut the cord with the knife.
12 She said he then "speed walked" to the door and
13 ran out.

14 She too marked copies of diagrams of the
15 apartment to illustrate what she was saying and
16 where people were at different times. These were
17 marked as exhibits as well.

18 K. testified at trial that at one point
19 while this was happening, she asked Mr. Mantla
20 what he was doing, and he answered "she's
21 cheating on me." During the video statement, she
22 had mentioned him saying that but had not said it
23 was in response to a question she had asked. She
24 had been asked, as well, if Mr. Mantla had said
25 anything to her, and she had answered "No." I
26 will get back to this aspect of things in a
27 moment, because it is one of the issues that was

1 raised by Defence to call into question the
2 reliability of her identification evidence.

3 K. described what Mr. Mantla was wearing
4 that night. She said he was wearing a black or
5 green jacket, white shoes, and no hat. She said
6 she saw Mr. Mantla's face and eyes. She
7 recognized his voice. She was asked in
8 cross-examination, "Do you think that man could
9 have been someone else?" And she answered, "No,
10 no. It was him."

11 The Crown takes the position that the
12 children's evidence is rock solid and was
13 unshaken in cross-examination. The Crown says
14 that their description of events is, in general
15 terms, consistent with one another and is
16 corroborated by certain things, such as the
17 amount of blood that was found in that area of
18 the hallway, where both girls say their mother
19 was being stabbed; the damage to the phone cord
20 that police found in the apartment near the
21 television stand, which is the location where
22 they both said he was when the phone cord was
23 damaged. And the Crown emphasized that
24 Mr. Mantla was well-known to them both.

25 Defence argued that a number of things
26 call into question the reliability and accuracy
27 of the recognition evidence of these two

1 witnesses, including the chaotic nature of the
2 events and the fact that all of this unfolded
3 very quickly. These children woke up to their
4 mother being the victim of a violent attack.
5 These, for sure, are not ideal conditions in
6 which to be making observations.

7 The second issue is the less than ideal
8 lighting conditions in the house. Different
9 witnesses described the lighting conditions
10 differently, but overall, although there was some
11 light in the apartment, it was described by the
12 first responders as dim lighting.

13 L. needs glasses to see far, and she was
14 not wearing those that night. She said, at
15 first, what she saw was blurry, and she had to
16 squint to see better. Again, those are not
17 optimal conditions in which to be making
18 observations.

19 Mr. Mantla does not have any particular
20 distinguishing features. This is another factor
21 that is usually considered when assessing the
22 weight of recognition evidence. To the extent
23 that the children said they recognized
24 Mr. Mantla's voice, the Defence notes that, by
25 all the accounts, very little was said by him
26 during this.

27 Defence also points out that L. and K.

1 each said they heard Mr. Mantla say something,
2 but they heard different things. And no one else
3 testified to hearing what either of them
4 recounted. With respect to K., as I mentioned a
5 moment ago, Defence noted the difference between
6 what she said in the video interview and what she
7 said at trial. Here, I am referring to the
8 evidence about the comment Mr. Mantla made about
9 Ms. M. cheating on him.

10 During the video, she said that she
11 heard him say that, but at trial, she said it was
12 in response to a question she asked. Defence
13 argues that the shift in her evidence further
14 calls into question her reliability and the
15 reliability of any recognition based on voice.

16 Both of these witnesses testified
17 through a closed circuit television system, and
18 in K.'s case, with a support person present. As
19 far as the assessment of their evidence, this is
20 an entirely neutral factor. By this, I mean that
21 the use of the testimonial aid does not render
22 their evidence more credible or reliable, and it
23 does not render it less credible or less
24 reliable. It is also of no use or relevance in
25 deciding the ultimate issues in this case. The
26 use of testimonial aids can never be used as
27 something indicative of an accused's guilt.

1 Neither witness showed any hesitation
2 that the person that was in their house that
3 night was their stepfather, Mr. Mantla. Neither
4 was shaken on cross-examination as far as the
5 identity of the person they saw. But as I said
6 at the beginning, in this area, a witness' own
7 confidence in the accuracy of their
8 identification cannot drive the analysis. The
9 overall circumstances must be carefully examined,
10 because a confident witness may well be mistaken.

11 In arriving at my conclusion that their
12 evidence should be accepted as reliable, I have
13 considered the following things: First, the
14 familiarity with the person they observed. As I
15 said when I was talking about the legal framework
16 on the issue of recognition evidence, every
17 situation falls somewhere on a continuum. Here,
18 we have two young witnesses who have lived with
19 Mr. Mantla for several years. He was their
20 stepfather and very well-known to them. That
21 puts this particular situation in a very
22 different category than identification evidence
23 offered by a stranger or acquaintance. In this
24 context, for example, the absence of any
25 distinguishing features, such as scars, tattoos,
26 or some other physical feature, carries less
27 weight than when the identification is made by

1 someone less familiar with the person they say
2 they recognized.

3 The second factor I have taken into
4 account is the chaotic circumstances of the
5 observation. This should not be overlooked.
6 What was happening at the time these young
7 witnesses saw the perpetrator must be carefully
8 considered, and I have done so. This would have
9 been a sudden, terrifying, traumatic, and
10 short-lived event, and I recognize these are not
11 good conditions in which to make observations. I
12 have taken into account their ability to observe
13 despite the chaotic circumstances.

14 Both children were right there. Scared
15 as they were, their attention was focussed on
16 what was happening to their mother. They had an
17 unblocked view of the attacker. They also
18 watched him make his way to damage the phone
19 cord, and their accounts on this are consistent.
20 Both recognized the knife as one that belonged to
21 the household. K. noticed the colour of the
22 shoes. Their descriptions of the person's jacket
23 are not identical, but they are not incompatible.

24 I have considered the lighting
25 conditions. They were not ideal, but all
26 witnesses say there was some light there. It was
27 not pitch black. On the whole of the evidence,

1 it is reasonable to conclude that the lighting
2 conditions when Ms. M. was being stabbed were
3 similar to the lighting conditions when the first
4 responders arrived a short time later.

5 Those first responders said the lighting was dim,
6 but Sergeant McKinnon and Constable Fracassi did
7 not need to use their flashlights in the hallway
8 and in the living room. They did in the bedroom,
9 which was darker. The light in the living room
10 was not on, but witnesses talked about there
11 being some light coming from the kitchen and the
12 hallway. There was enough light in the living
13 room for first responders to see the children in
14 the living room.

15 Mr. Chartrand said he saw children
16 there. Constable Fracassi saw only A. But the
17 point is, that both could see there were a child
18 or children in the living room when they arrived
19 at the door. Perhaps more importantly everyone
20 says that the hallway light was lit, and by all
21 accounts, that is where Ms. M. was being stabbed
22 as the children were watching.

23 K. has no issues with her eyes. L.
24 does wear glasses, and she was honest about
25 things being a bit blurry when she does not wear
26 them. But she also said once she squints, that
27 helps her. And this came across during her

1 interview with the police as well. At one point,
2 the officer was asking her about this, and during
3 the interview, he moved away checking with her if
4 she could still see how many fingers he was
5 holding up, and she was able to get it right. So
6 that puts the degree of her eyesight problem in
7 context.

8 I have also taken into account the
9 corroboration of certain aspects of the
10 children's observation. Their observations are
11 consistent with one another and consistent with
12 the presence of a lot of blood in the hallway, on
13 the floor and walls.

14 Of course, aside from issues that relate
15 specifically to the inherent frailties of
16 identification evidence, the overall reliability
17 of the account of these young witnesses might be
18 weighed in light of their age.

19 Children's evidence must be assessed
20 taking into account their age and level of
21 development. At the same time, this cannot, in
22 any way, result in a dilution of the standard of
23 proof. Age makes some inconsistencies less
24 significant than they would be for an adult
25 witness. A good example of this in this case is
26 when K. was asked how long before this,
27 Mr. Mantla and her mother were going out. Her

1 answer was "A long time ago." By all accounts,
2 the separation was actually quite recent. But
3 for a young child, perception of time would be
4 different. So that type of inconsistency does
5 not call into question the reliability of her
6 evidence as a whole. No one suggested it did.

7 I found that despite their young age,
8 these witnesses appeared precise and careful in
9 their answers. When they did not know something,
10 they said so. And notably, there were occasions
11 where they corrected the interviewer giving their
12 statement to police. I noticed this when both
13 statements were played. For example, at one
14 point during K.'s statement, the officer refers
15 to Mr. Mantla as her father, and she immediately
16 interjects and said that he is not her father; he
17 is A.'s father. Something similar happened in
18 the interview with L. The questioner misspoke
19 and said something about L. coming out of her
20 room. And she corrected him immediately. She
21 said she was not in her room; she was in the
22 living room.

23 As for the discrepancy in K.'s account
24 about how Mr. Mantla came to say "she's cheating
25 on me," it is not something that I find
26 significant, especially considering her age. It
27 is not the kind of shift that causes me not to

1 accept that the attacker uttered those words, and
2 it is not the kind of shift that causes me to
3 question her reliability in talking about what
4 she saw.

5 These witnesses are young witnesses, but
6 on the whole, they appeared to me to be cautious
7 and honest. The conditions to observe events
8 were admittedly far from ideal, but the house was
9 not in complete darkness either, and these
10 witnesses had much more than a fleeting glance at
11 the person who attacked their mother. There was
12 the attack itself, the walking past to damage the
13 phone cord; there were some things said, albeit
14 not a lot; they both identified a person they
15 knew very well.

16 And it is important to remember that
17 given their ages at the time of these events,
18 Mr. Mantla would have been a part of their lives
19 for half of their lives or more. This is someone
20 they had lived with. So even examined with the
21 caution that is warranted any time eyewitness
22 identification is proffered, I find the
23 identification of L. and K. solid and compelling.

24 I now turn to E. M.'s evidence. She
25 testified through a closed circuit television
26 system as well. She testified about the events
27 that occurred earlier during the day, and I will

1 get back to those later in my reasons. But for
2 now, I will focus on her evidence about what
3 happened in her house when she woke up, and her
4 identification of Mr. Mantla as the person who
5 attacked her.

6 Ms. M. explained that she, Elvis
7 Lafferty, and his parents were in her bedroom
8 that evening. She said no one had been consuming
9 any alcohol. They were just talking. She and
10 Mr. Lafferty went to sleep on their bed, and Mr.
11 Lafferty's parents went to sleep on a mattress on
12 the floor of the bedroom.

13 At trial, she described waking up and
14 seeing Mr. Lafferty getting up and then him and
15 Mr. Mantla facing each other in the bedroom
16 doorway. Then she said Mr. Mantla started
17 stabbing Mr. Lafferty repeatedly, and
18 Mr. Lafferty collapsed. She tried to run out,
19 and Mr. Mantla grabbed her in the hallway and
20 said "You are not getting away." She described
21 trying to fight with him, struggling, trying to
22 hold the knife, holding her arms above her head
23 to protect herself, but that Mr. Mantla was too
24 strong. She was eventually stabbed multiple
25 times by him in various part of her body.

26 She said Mr. Lafferty's parents ran and
27 hid in the bathroom and that Mr. Mantla was

1 banging on the door with the knife, that she was
2 telling them to call the police and that
3 Mr. Mantla was saying "They don't have any
4 phone." She testified she saw L. a short
5 distance from where she was and that L. was
6 standing there crying. She said she was lying on
7 the floor, and Mr. Mantla was standing by the
8 door at one point after the attack finished, and
9 she asked him why he did this. And at this
10 point, he got emotional, crying and said words to
11 the effect "It's already done. There's nothing
12 we can do. It's done," and then he left.

13 She said she tried to get up, and she
14 made it to the first door, but then got too weak
15 and just laid there until the ambulance arrived.
16 This was where first responders found her.

17 The Defence raised a number of concerns
18 about the reliability of Ms. M.'s evidence about
19 what occurred in the house that night. Many of
20 those concerns have to do with the reliability of
21 her recollection, and others have to do with her
22 credibility as a witness. Although, at this
23 point, I am dealing with the identification
24 issue, the reliability and credibility of Ms. M.
25 is relevant to findings of fact as to things that
26 occurred earlier in the day. So to avoid
27 repetition, I will address all of those issues

1 here.

2 One area of concern relates to
3 inconsistencies between her trial testimony and
4 things she said during various statements she
5 gave to police. She was interviewed three times
6 by police: At the hospital in Yellowknife on
7 September 28 just before she was going into
8 surgery; at the hospital in Edmonton on September
9 30th, 2015; and, finally, on October 12th, 2015,
10 she gave a sworn statement after she had returned
11 to Yellowknife from Edmonton but was still in
12 hospital. She testified at the preliminary
13 hearing in March 2017 and had various meetings
14 with the Crown before the preliminary hearing and
15 before the trial.

16 There were a number of inconsistencies
17 that were brought out during Ms. M.'s
18 cross-examination. I am not going to refer to
19 them all, but I want to give a few examples.

20 At trial, she described, as I mentioned,
21 walking up, seeing Mr. Lafferty and Mr. Mantla
22 standing facing each other, Mr. Mantla stabbing
23 Mr. Lafferty repeatedly, and Mr. Lafferty
24 collapsing. She acknowledged that in her
25 statement to police in October, she said it all
26 happened fast, and she did not see Mr. Mantla
27 stab Mr. Lafferty. She also acknowledged that at

1 the preliminary hearing she testified that when
2 she woke up, she saw Mr. Lafferty's parents run
3 to the washroom, then she saw Mr. Mantla in the
4 room, and she saw him kneeling down towards
5 Mr. Lafferty and stabbing him. She agreed that
6 the trial was the first time she said anything
7 about seeing Mr. Mantla and Mr. Lafferty facing
8 each other out the bedroom door.

9 In her statement to police in October,
10 she acknowledged that she did not remember
11 Mr. Mantla dragging her into the hallway. She
12 also had said she did not remember fighting back,
13 and mentioned that Mr. Lafferty's mother had told
14 her she was fighting back and was trying to block
15 the hits. Similarly, she had said she did not
16 remember the Laffertys running to the bathroom,
17 that this was something that they had told her
18 happened.

19 At trial, it was suggested to Ms. M.
20 that some of the things she testified to were
21 things that she does not actually remember
22 herself but that she incorporated because of
23 things other people told her. She disagreed with
24 that suggestion and maintained that she remembers
25 those things.

26 There were some inconsistencies aside
27 from her account of what happened in the house

1 that night. For example, at trial, she said that
2 by the time of these events, she had been going
3 out with Mr. Lafferty for a few weeks. In her
4 October statement, she had said they started
5 seeing each other in August, which would place it
6 earlier. She agreed during the trial that was
7 her answer when she spoke to the police, but,
8 ultimately, she said she did not remember when
9 they started dating.

10 There was also an inconsistency between
11 her October statement and what she said about
12 Mr. Mantla and Mr. Lafferty's shoe sizes. This
13 was relevant because of some of the evidence that
14 was collected in this case. She acknowledged her
15 answers to the police but said she was, today,
16 not sure what the shoe size was.

17 Ms. M. testified she had a telephone
18 conversation with Mr. Mantla during the afternoon
19 before the night of these events. At trial, she
20 said he uttered a threat and used words "you guys
21 are going to die." She acknowledged that when
22 speaking with police in October 2015, she said
23 Mr. Mantla had said he was going to come after
24 her and Elvis but had not said anything about him
25 using the words "You are going to die."

26 Ms. M. testified that she was not
27 drinking alcohol on the day or evening of these

1 events and that she did not see anyone else drink
2 either. L. M. said she did not see anyone drink
3 that night. K. said she thought the adults were
4 drinking. She did not see them drinking, but she
5 could tell by their faces that they were.

6 Both of Mr. Lafferty's parents testified
7 that alcohol was consumed that night by all of
8 them. Mr. Lafferty said all four of them were
9 drinking Bacardi and that he drank so much he
10 passed out. Mary Jane Lafferty said she started
11 drinking in the morning with her husband and her
12 son, then in the evening, they bumped into Ms. M.
13 at the mall, they returned to Lanky Court, and
14 she said the four of them drank beer and vodka.

15 On this point of alcohol consumption,
16 there is evidence that when Ms. M. was taken to
17 hospital to be treated for her injuries, samples
18 of her blood were taken as part of usual medical
19 procedures. These were eventually analyzed and
20 showed that there was an amount of alcohol in her
21 blood corresponding to 40 milligrams of alcohol
22 in 100 millilitres of blood. She was asked in
23 cross-examination if it would surprise her to
24 hear that tests showed there was alcohol in her
25 bloodstream, and she said she would not be
26 surprised. This was not explored further and was
27 not the subject of any questions in

1 re-examination.

2 It goes without saying that what Ms. M.
3 went through that night is horrific. Everyone in
4 that house woke up to a living nightmare. Ms. M.
5 was stabbed numerous times in various parts of
6 her body in front of her children. One of the
7 stabs to her wrist area had such force that it
8 almost amputated her hand.

9 In submissions, Crown counsel suggested
10 that her evidence and the inconsistencies in it
11 should be approached with leniency in light of
12 these circumstances. Defence urged against such
13 an approach noting that the fact that she was
14 subjected to a traumatic event is on the contrary
15 a reason to be especially cautious about her
16 evidence.

17 Defence also made the point, and
18 properly so, that sympathy for what a witness has
19 gone through is not a reason not to examine
20 problems with that witness's evidence closely and
21 critically. That second aspect of the Defence's
22 submission goes back to what I said at the
23 beginning about the fact that the same rigor must
24 be applied to the analysis of evidence
25 irrespective of the sympathy one may feel for
26 what a witness went through.

27 When looking at inconsistencies between

1 what Ms. M. said at trial and what she said in
2 her statements to the police, regard must be had
3 for the circumstances when these statements were
4 taken. All three were taken when she was still
5 in hospital and under treatment for very serious
6 injuries. Of the three statements, the one taken
7 in October was probably the one taken in the best
8 of conditions. Still, she was still in the
9 hospital and recovering. So differences in what
10 she said about Mr. Mantla's shoe size or when she
11 started going out with Mr. Lafferty are of little
12 significance and indeed, again, those are not
13 things that were emphasized in defence
14 submissions.

15 What is more troublesome are the
16 inconsistencies in her account of what she
17 remembers happening in the house, and, in
18 particular, the addition of details over time.
19 Some are quite specific details, and it is of
20 concern that many are things that in the October
21 statement, she specifically said she did not
22 remember but others told her about.

23 Two good examples of this are the
24 Laffertys hiding in the bathroom and Ms. M trying
25 to defend herself while she was being attacked.
26 At trial, she even demonstrated with her arms how
27 she was protecting herself. It may lead to the

1 conclusion that she sincerely believes that is
2 what she did. But in the October statement, she
3 said she did not remember those things and that
4 those were things that the Laffertys told her.

5 Another cause of concern is that the
6 forensic examination of the scene revealed the
7 presence of her blood on a wall in the bedroom,
8 which suggests that this is where she was first
9 struck. That is not how she remembers things
10 now. She says she was first stabbed in the
11 hallway.

12 Ms. M. may be quite certain today that
13 she actually remembers those things, but on the
14 whole, I do not find her account of the details
15 of how the attack unfolded to be reliable.

16 The question of her consumption of
17 alcohol raises a different issue.

18 It is difficult to reconcile with Archie
19 and Mary Jane Lafferty's account of how much
20 liquor they say was consumed. The evidence of
21 Archie and Mary Jane Lafferty, everyone agrees,
22 is not particularly reliable. They had been
23 drinking earlier that day. Even their account of
24 where they met Ms. M. is inconsistent.

25 Mr. Lafferty says they met in a bar, whereas Mrs.
26 Lafferty said they met at the mall. Mr. Lafferty
27 remembers virtually nothing of the evening, and

1 Mary Jane Lafferty's evidence about what happened
2 was very confused.

3 I do keep in mind that these people
4 suffered an extreme trauma that night, and I have
5 a lot of sympathy for them, but their evidence
6 simply is not reliable.

7 The evidence of empty bottles found in
8 various parts of the apartment does not add much
9 to the matter because that does not tell us when
10 the alcohol was consumed. I would attach more
11 weight to the evidence of the children on this,
12 bearing in mind they may not have been aware of
13 what was happening in the bedroom. L. said she
14 did not see anyone drinking. K. thought the
15 adults were drinking based on their faces,
16 although she did not see it.

17 The quantity of alcohol found in her
18 blood was relatively small. Certainly, the
19 presence of alcohol in her bloodstream suggests
20 some consumption of alcohol at some point that
21 day or evening, and the Laffertys' evidence do
22 contradict her evidence that no one was drinking
23 alcohol at the apartment. Ms. M.'s evidence that
24 she would not be surprised to hear there was
25 alcohol in her bloodstream is, on its face,
26 puzzling. It could mean she had been drinking
27 earlier in the day. It could mean she was

1 accepting that her memory could be in error on
2 this point. I do not know, and I cannot
3 speculate about that. And in the final analysis,
4 I am not sure what to make of that. But it is
5 another aspect of the evidence that calls into
6 question the reliability of her recollection. On
7 the whole, I do not see it as a reason to
8 conclude she was deliberately lying about this
9 aspect of things or anything else. I see it more
10 as another reason to approach her evidence with
11 caution, from the point of view of reliability.

12 So all these problems mean that on the
13 issue of identification, in addition to all the
14 usual concerns, additional caution is warranted
15 when looking at Ms. M.'s evidence. At the same
16 time, the concern about incorporating what others
17 told her as part of her own evidence relates to
18 how the attack unfolded. It has no bearing on
19 the issue of identity. There is no evidence that
20 anyone told her who did this to her and that she
21 could have incorporated that into her memory and
22 adopted it as her own. Archie and Mary Jane
23 Lafferty could not have told who did this because
24 they did not know Mr. Mantla that day and cannot
25 identify him. There is also no suggestion that
26 L. and K. could have tainted their mother's own
27 independent identification as to who came into

1 the house that night. On the evidence, it is
2 difficult to see when they would have even have
3 had an opportunity to do that, given that they
4 ran out of the house and what unfolded afterwards
5 in terms of the medical treatment Ms. M. needed.
6 And with E. M.'s identification evidence, it is
7 also relevant that Mr. Mantla was her former
8 common-law spouse. This is someone she knew very
9 well.

10 On balance, while there are problems
11 with Ms. M.'s evidence that do not arise with
12 respect to the evidence of L. and K., I do not
13 believe she is mistaken as to the identity of her
14 attacker. In my view, the recognition evidence
15 of these three witnesses does establish beyond a
16 reasonable doubt that Mr. Mantla was the person
17 who stabbed Mr. Lafferty and Ms. M. Having
18 reviewed it with caution and applying a critical
19 lens to it, it leaves me sure as to who was in
20 the apartment that night.

21 But there is a lot more. There is also
22 a strong body of circumstantial evidence, which,
23 in my view, even on its own, leads inescapably to
24 the same conclusion. And now I am going to turn
25 to that evidence.

26
27 **B. The Circumstantial Evidence of Identification**

1 The principle that describes the
2 interplay of circumstantial evidence with the
3 requirement for proof beyond a reasonable doubt
4 has been formulated in various ways. A generally
5 accepted way of describing it is that to base a
6 finding of guilt on circumstantial evidence, the
7 trier of facts has to be satisfied, beyond a
8 reasonable doubt, that guilt is the only rational
9 conclusion that can be drawn from the evidence.

10 In this case, that circumstantial
11 evidence comes, first, from evidence relating to
12 the sequence of events before, during, and after
13 the attack, and, second, from the forensic
14 evidence.

15 Many things about the sequence of events
16 on the day in question are beyond dispute. Some
17 are the subject of admissions, some are
18 established by real evidence, such as video and
19 audio recordings, some come from witnesses whose
20 credibility and reliability is not at all an
21 issue. There are a few areas where it falls to
22 me to make findings of fact, and for those areas,
23 I will explain my findings as I go along.

24 Leaving aside the forensic evidence for
25 now, as I see it, the evidence called at this
26 trial establishes the following sequence of
27 events: First, about events that took place

1 before the attack:

2 1. E. M. put an end to her relationship
3 with Mr. Mantla in the summer of 2015. He
4 returned to live in Gamètì.

5 2. A short time after this, E. M. began
6 a relationship with Elvis Lafferty. The evidence
7 is not entirely clear as to exactly when that
8 happened, but that relationship was relatively
9 recent. Elvis Lafferty's parents had never met
10 Ms. M. before the day of these events.

11 3. On the morning of September 27th,
12 2015, Kevin Mantla tried to call E. M. collect
13 four times in close succession. The first call
14 was placed at 8:39 a.m., and the last was placed
15 at 8:44 a.m. She did not pick up because she did
16 not want to speak to him.

17 4. Later that morning, E. M. decided to
18 call him. She wanted to tell him about her
19 relationship with Elvis Lafferty and tell him to
20 leave them alone. Mr. Mantla did not believe her
21 when she said she was in another relationship.
22 Ms. M. put Mr. Lafferty on the phone, and he
23 spoke with Mr. Mantla. Ms. M. said this was an
24 intense and disturbing phone call. She said that
25 during the call, Mr. Mantla said that he would
26 come after her and Elvis Lafferty.

27 5. E. M. spoke to Mr. Mantla another

1 time later that day, in the afternoon. This
2 time, he called her. In that call, he said he
3 was going to fly to Yellowknife and was going to
4 come after them. In examination in chief, she
5 was asked what words he used exactly, and she
6 said, "He said, You guys are going to die."
7 Ms. M. said this was also an intense phone call,
8 that after it, she was emotional and scared. So
9 much so, that she called Mr. Mantla's parents in
10 Gamètì. She was working on the assumption that
11 they were the ones who had given him money for
12 the plane ticket, and so she told them he had
13 threatened to kill her and that they should go to
14 the airport and take the money back.

15 There is an issue as to exactly what
16 Mr. Mantla said in that call. As I alluded to
17 previously, in statements to the police, she said
18 he used different words and did not make any
19 reference to anyone dying. In those statements,
20 she said he used words to the effect "I'm going
21 to come after you guys." In my view, it matters
22 little what words were used. Whatever was said,
23 this was an intense, frightening call. L. M.
24 confirmed that after that conversation, her
25 mother and Elvis Lafferty were nervous and
26 scared. And K. said something similar about the
27 mood at the house that evening, that people were

1 nervous.

2 It is very telling, in my view, that the
3 conversation scared Ms. M. enough to prompt her
4 to call Mr. Mantla's parents and ask them not to
5 pay his way to Yellowknife. And it is noteworthy
6 that she testified that she told them that
7 Mr. Mantla had threatened to kill her.

8 On that issue, whatever exact words Mr.
9 Mantla used, I find as a fact that what he said
10 conveyed a threat to cause serious harm to Elvis
11 Lafferty and to Ms. M., and it was said in a way
12 that caused her to become very concerned about
13 it.

14 6. At 3:30 p.m. that day, Mr. Mantla
15 went to the Gamètì Airport and purchased a
16 one-way ticket for that day's flight to
17 Yellowknife. At the airport in Gamètì, Mr.
18 Mantla met John Wetrade, who was also travelling
19 on that flight. Mr. Wetrade is originally from
20 Gamètì but now lives in Yellowknife. He had been
21 in Gamètì visiting his family, and he was on his
22 way back to Yellowknife. Mr. Mantla and
23 Mr. Wetrade were friends. Mr. Mantla
24 occasionally stayed with him when he visited
25 Yellowknife.

26 I will say now that I accept
27 Mr. Wetrade's evidence. Mr. Wetrade had no

1 motive whatsoever to get Mr. Mantla in trouble.
2 On the contrary, they have known each other a
3 long time and are friends. Mr. Wetrade appeared
4 a bit reticent at times during his testimony.
5 And under the circumstances, that is
6 understandable. It cannot be easy to testify as
7 a prosecution witness on a murder case when the
8 accused is a friend. But he was a careful
9 witness, and I accept his evidence about what
10 happened over the course of that afternoon,
11 evening, and following morning. I find that
12 evidence credible and reliable.

13 7. At the Gamètì Airport, Mr. Mantla
14 spoke with Mr. Wetrade. He told him he was "kind
15 of upset" about his girlfriend having cheated on
16 him. Mr. Wetrade said that Mr. Mantla mostly
17 told him he was sad about what she did to him.

18 8. The flight landed in Yellowknife
19 just before 6:00 p.m. At the Air Tindi hanger,
20 Mr. Mantla used the pay phone. The security
21 cameras captured this. The footage was played in
22 court. Mr. Wetrade identified himself and Mr.
23 Mantla on that footage. We see Mr. Mantla at the
24 pay phone. We also see he is wearing a jacket, a
25 black hat, and white shoes. He is carrying a
26 black backpack with an orange tag.

27 9. Two calls were placed from the Air

1 Tindi hanger pay phone to the phone at Ms. M.'s
2 apartment. The first was placed at 17:54, and
3 the second one at 17:58. Both calls were
4 relatively short. The first, one minute and 49
5 seconds, and the second, 3 minutes and 28
6 seconds.

7 10. Mr. Wetrade overheard parts of this
8 conversation. It was obvious to him Mr. Mantla
9 was "talking to his woman." He heard Mr. Mantla
10 ask her why she did this to him, why she cheated
11 on him. He said that he did not hear the rest of
12 the conversation "because it was blurred." The
13 records show the two calls, and Ms. M. talked
14 about only one call that afternoon. And there is
15 also a bit of a discrepancy about the timing of
16 the calls. But based on the parts Mr. Wetrade
17 did overhear, I find, as a fact, that this is the
18 telephone interaction that Ms. M. testified
19 about. She was mistaken about Mr. Mantla still
20 being in Gamètì at that point, but nothing turns
21 on that.

22 11. Mr. Wetrade offered to Mr. Mantla
23 to stay at his apartment until he had another
24 place to stay. Mr. Mantla had stayed there in
25 the past. From the Air Tindi hanger, the two of
26 them got a ride from Mr. Wetrade's sister to go
27 to Nova Court to get Mr. Wetrade's key. From

1 there, Mr. Mantla wanted to get a mickey. So
2 they took a cab and went to the Elk's Hall. Mr.
3 Mantla purchased a bottle of vodka from a
4 bootlegger. They then walked to Mr. Wetrade's
5 apartment at Crestview Apartments.

6 12. At Crestview, Mr. Mantla drank
7 vodka. Mr. Wetrade does not drink because of a
8 medical condition. The two of them smoked crack.

9 13. Mr. Wetrade eventually went to bed.
10 He estimates this was at about 12:30 or 1:00.
11 When he went to bed, Mr. Mantla was still in the
12 living room. Mr. Wetrade's understanding was
13 that Mr. Mantla was going to sleep on the living
14 room couch. There is no evidence that Mr. Mantla
15 told Mr. Wetrade anything about having plans to
16 go anywhere else that night.

17 14. Footage from security cameras in
18 the stairwells of Crestview Apartments show a man
19 coming down the stairs. The footage was played
20 at trial, and I have watched it again several
21 times. Based on my observations of the video and
22 of the still images taken from that video, I find
23 as a fact that Mr. Mantla is the person coming
24 down those stairs. The images do not show his
25 face enough for me to recognize him in that way,
26 but the overall appearance and clothes of the man
27 corresponds with the images of Mr. Mantla at the

1 Air Tindi hanger. The date and timestamp for
2 this segment of the footage is September 28, 22
3 minutes past midnight. There is an admission
4 that the date on the timestamp of the video is
5 accurate and that the time shown is an
6 approximate representation of the time.

7 Those are the elements of circumstantial
8 evidence that relate to things that happened
9 before the attack.

10 Now I turn to the evidence about the
11 attack itself:

12 The call to police after the attack at
13 Lanky Court came at 12:55 on September 28, 2015.
14 I am satisfied that the events in the house took
15 place over a relatively short period of time and
16 that as soon as the attacker left, people left
17 the apartment, and help was called. In other
18 words, the attack on Mr. Lafferty and Ms. M.
19 happened a short time before the call to police.
20 That means that the attack happened roughly half
21 an hour after Mr. Mantla left Crestview. The
22 distance between Crestview and Lanky Court, as
23 measured by a police officer, is 1.7 kilometres.

24 The evidence about the attack itself is
25 also telling, in that the person who committed
26 the attacks entered the house undetected. The
27 person used a knife that both children recognized

1 as a knife of the household. The person who did
2 this was able to quickly locate the telephone
3 cord in the living room and damage it. Whether
4 it was ripped or cut, it was damaged, and the
5 person who did this was able to do it quickly.
6 That is consistent with the person having some
7 familiarity with the residence.

8 As to words that were uttered during the
9 attack, not everyone heard the same thing. Given
10 the chaotic situation, the fact that people were
11 screaming, I do not find that surprising, but I
12 do not believe that either of the children made
13 up the things that they say the intruder said.
14 And I also reject the suggestion that they are
15 mistaken about what they heard. The person who
16 did this said to K., most likely in response to
17 having asked why he was doing this, words to the
18 effect "she is cheating on me." That is an
19 important element of circumstantial evidence,
20 because it suggests that the attacker was someone
21 who had been in a relationship with Ms. M.

22 And then there is circumstantial
23 evidence of things that happened after the
24 attack. And this includes:

25 1. During the night at about 3:30 a.m.,
26 Mr. Wetrade woke up, and Mr. Mantla was not in
27 the apartment.

1 2. Mr. Wetrade saw Mr. Mantla a few
2 hours later. He woke up to someone calling his
3 name and throwing rocks at his window. It was
4 Mr. Mantla. Mr. Wetrade let him in. By then, it
5 was about 6:00 a.m. Mr. Mantla was no longer
6 wearing his jacket. He was wearing white shoes.
7 Mr. Wetrade never saw the jacket again.

8 3. Mr. Wetrade went back to bed. He
9 heard Mr. Mantla walking around and running water
10 in the bathroom. Mr. Mantla then knocked on his
11 bedroom door and said he was going to go back to
12 "his woman." Mr. Mantla left.

13 4. The Crestview security camera shows
14 a man coming down the stairs. The date and
15 timestamp on this footage is September 28, 6:44
16 a.m. The man's face is not clearly visible, but
17 I find, as a fact, that, again, this is
18 Mr. Mantla. There are many things that identify
19 him. He is carrying the black backpack with an
20 orange tag on top that looks exactly the same as
21 the backpack we know Mr. Mantla had with him at
22 the Air Tindi hanger and was in possession with
23 at the time of his arrest a very short time
24 later. The man coming down the stairs is wearing
25 a checkered shirt that looks exactly the same as
26 the shirt worn by Mr. Mantla at the time of his
27 arrest. The man is wearing white shoes, and

1 Mr. Wetrade said Mr. Mantla was wearing white
2 shoes that morning.

3 5. Mr. Mantla was carrying a garbage
4 bag. He was no longer wearing the black hat that
5 he had been wearing at the Air Tindi hanger and
6 when he left Crestview. Later that morning,
7 Mr. Wetrade noticed the garbage bag missing from
8 the garbage can in his washroom. He told police
9 about this. I will get back to this aspect when
10 I deal with the forensic evidence.

11 6. By the time Mr. Mantla arrived at
12 the detachment, it was 7:00 a.m. He was in the
13 front lobby using the phone to call the operator.
14 The conversation was recorded and is in evidence.
15 Mr. Mantla told the operator he wanted to be
16 placed in the drunk tank because he had no place
17 to sleep.

18 Constable Shae was sent down to talk to
19 him. Constable Shae told him he could not put
20 him in the drunk tank because he is not drunk.
21 He noticed that Mr. Mantla was not wearing any
22 shoes. He asked him about this. Mr. Mantla said
23 his shoes were stolen. A short time after, he
24 said he lent them to a friend.

25 Constable Shae had just come on shift.
26 He knew police were looking for Kevin Mantla, but
27 he did not realize that this was the person he

1 was talking to. Once he learned the identity of
2 Mr. Mantla, he took him into custody and called
3 his colleagues, and this is when Mr. Mantla was
4 arrested.

5 A short time after this, a pair of white
6 running shoes, the Starter brand shoes, were
7 found by a police officer near a garbage dumpster
8 across street from the detachment, a short
9 distance away. The photos of the dumpster appear
10 to show that it has a metal bar on top of the lid
11 that enables locking it shut.

12 The evidence gives rise to a strong
13 inference that those were the shoes that Mr.
14 Mantla was wearing when he left Crestview. I
15 come to this conclusion because we know he left
16 Crestview wearing white shoes and arrived at the
17 RCMP detachment approximately 15 minutes later
18 wearing no shoes. And those white shoes were
19 found in close proximity to the detachment. I do
20 not accept that this is a mere coincidence. I
21 find, as a fact, that Mr. Mantla left the shoes
22 there before going into the detachment across the
23 street.

24 This sequence of events revealed by the
25 circumstantial evidence is consistent with Mr.
26 Mantla being the intruder at Lanky Court and
27 inconsistent with any other rational conclusion.

1 Without repeating all of it again, it
2 shows that Mr. Mantla was not accepting the end
3 of the relationship with Ms. M. after having
4 spoken to Mr. Lafferty and realizing it was true
5 that she had moved on. His reaction was to
6 threaten them both in that first conversation and
7 again in the subsequent call. He specifically
8 threatened to come to Yellowknife and come after
9 them. The language used during the attack, what
10 K. heard, the reference to Ms. M. cheating on
11 him, only makes sense coming from someone who had
12 been in a relationship with Ms. M. Notably, it
13 also mirrors exactly the language used by
14 Mr. Mantla when he spoke to Mr. Wetrade and the
15 language Mr. Wetrade overheard him use on the
16 phone at the Air Tindi hanger.

17 Another element is that we know that
18 Mr. Mantla did not stay at Mr. Wetrade's home
19 that night. He went somewhere. The distance
20 between Crestview and Lanky Court, the time
21 Mr. Mantla left Crestview and the time the police
22 received the complaint, all fits together very
23 well with the scenario whereby Mr. Mantla went
24 directly there from Crestview.

25 As I have noted, the evidence suggests
26 that the attacker had some familiarity with the
27 layout of the Lanky Court apartment.

1 When Mr. Mantla returned to Crestview in
2 the morning, he no longer had his jacket. There
3 is nothing in the evidence that suggests any
4 explanation for the disappearance of this jacket
5 during the night.

6 The photographs of the scene give rise
7 to an inference that the attacker would have
8 ended up with some blood on him. It seems to me
9 that the only rational explanation for the
10 disappearance of the jacket is that Mr. Mantla
11 disposed of it. It is important to bear in mind
12 that this all occurred in late September in
13 Yellowknife, when the temperature is not usually
14 conducive to not wearing jackets, when there is a
15 compelling reason not to.

16 For the sake of completeness, I want to
17 say a few words about evidence that I have not
18 found of any assistance in arriving at this
19 decision.

20 The Crown took the position that
21 Mr. Mantla's attendance at the RCMP detachment
22 that morning is after-the-fact conduct that is
23 indicative of his guilt because he was trying to
24 fabricate a false alibi by having himself placed
25 into the drunk tank. The Crown argued that this
26 is part of the evidence that I could use to
27 conclude that he was guilty.

1 I am satisfied that Mr. Mantla lied to
2 the police that morning in several respects. The
3 two most obvious lies were that he needed a place
4 to stay, that he had no place to sleep, and the
5 second is that his shoes were stolen. Obviously,
6 Mr. Mantla did have a place to go. He was there
7 at Mr. Wetrade's house a very short time before.
8 And as for the shoes, Mr. Mantla told Constable
9 Shae that he had lent them to someone and also
10 said that they were stolen. This was a lie as
11 well because when he left Mr. Wetrade's house
12 that morning, Mr. Mantla was wearing shoes. He
13 did not show up in socks at the detachment
14 because someone stole his shoes. He showed up in
15 socks at the detachment because he left his shoes
16 by the dumpster before going into the detachment.

17 The fact that Mr. Mantla lied to the
18 police is relevant, in my view, to how much
19 credence can be given generally to what he told
20 the officers that morning. And I will get back
21 that this later. But I am not convinced that
22 these were concoctions designed to create a false
23 alibi, or perhaps I should say I am not convinced
24 that is the only explanation for his actions.
25 All I can say about Mr. Mantla's conduct
26 attending the detachment at that particular point
27 is that it is somewhat bizarre. I find it

1 difficult to accept that he would think police do
2 not keep track of who gets booked into the drunk
3 tank and when. So I am left puzzled by this
4 evidence.

5 I am not comfortable making a finding
6 either way about what Mr. Mantla's objective was
7 in acting in this manner. I do not know why he
8 was trying to get himself booked into the drunk
9 tank that morning, but I certainly decline to
10 draw any inference about his guilt from that
11 aspect of the evidence.

12 Similarly, I would not attach any weight
13 to the comment made to Mr. Wetrade before he
14 left. And, here, I am referring to him saying
15 "I'm going back to my woman." This, too, is a
16 puzzling comment. One might argue it is
17 inconsistent with him having tried to kill her or
18 knowing that she was seriously injured. That
19 would be a more compelling argument if there was
20 any indication that Mr. Mantla actually tried to
21 go to Lanky Court that morning, but the evidence
22 is to the contrary. Lanky Court is not on the
23 way between Crestview and the RCMP detachment.
24 On the contrary, it is very much out of the way
25 and some distance away. Given the time
26 Mr. Mantla arrived at the detachment, he could
27 not possibly have made a detour via Lanky Court

1 first.

2 Another possibility, of course, is that
3 this statement was a clumsy or desperate attempt
4 to distance himself from a crime he knew he had
5 committed and was getting increasingly anxious
6 about. I simply do not know. I cannot say that
7 this behaviour is only consistent with a guilty
8 state of mind, nor do I find it necessarily
9 consistent with an innocent state of mind.

10 In summary, I do not think it assists
11 either Crown or defence.

12 But on the whole, in reference to the
13 balance of the circumstantial evidence that I
14 have referred to, I am satisfied beyond a
15 reasonable doubt that the only rational
16 explanation for that evidence is that Mr. Mantla
17 was the one who attacked Ms. M. and Mr. Lafferty
18 at Lanky Court.

19 In addition there is forensic evidence
20 that also supports this conclusion.

21 First, there was the blood spatter
22 evidence. I will only say a few words about the
23 blood spatter evidence. Sergeant Davidson, who
24 testified about this, explained the process he
25 used to identify areas of interest, collect
26 samples of blood, and approach his task. He
27 explained that different types of blood stains

1 indicate different scenarios, and he explained
2 how he is able to draw certain conclusions about
3 directionality based on the shape of the stains.

4 I did not understand his conclusions to
5 be disputed for the most part. The blood found
6 in the Lanky Court apartment is entirely
7 consistent with the type of injuries that these
8 victims suffered. Mr. Lafferty's blood was found
9 only in the bedroom, which is consistent with him
10 having been stabbed there and nowhere else in the
11 house. Some of Ms. M.'s blood was found on the
12 wall near the bed, which suggests that contrary
13 to what she now remembers, she was stabbed in the
14 bedroom as well as in the hallway.

15 The second aspect of the forensic
16 evidence, of course, is the DNA evidence. On
17 this, I heard detailed evidence at the trial
18 about various exhibits that were seized and
19 processed, including those that were collected
20 for the purpose of DNA analysis and comparison.
21 Again, I do not propose to refer to all of this
22 evidence here. I will focus on what, in my view,
23 is the most significant.

24 As far as the DNA testing process, I
25 heard evidence about the procedures followed at
26 the laboratory in Edmonton. I heard from the
27 different technicians who handled the exhibits

1 and were responsible for locating, extracting DNA
2 samples from the exhibits, and generating DNA
3 profiles from those samples. This is the
4 evidence that was used for the purposes of
5 comparison by the DNA expert, Laura Reader.

6 I heard about the standard procedures
7 and precautions that are followed in the
8 laboratory to preserve the exhibits and eliminate
9 the risk of contamination. And all the witnesses
10 who were involved in handling the exhibits at the
11 lab in this case said they followed those
12 procedures.

13 Nothing arose in the evidence of these
14 witnesses that calls into question their
15 training, professionalism, or their assertion
16 that they followed standard protocols in dealing
17 with those exhibits. The expertise of Ms. Reader
18 was not challenged. She explained the processes
19 that she followed and how she arrived at her
20 conclusions. She was careful to draw
21 distinctions and to explain where nuance was
22 required. Obviously, this is a very technical
23 area, but she explained how DNA profiling works,
24 which enabled me to make up my own mind about
25 whether I should rely on her opinion evidence.

26 I do not understand Defence to be taking
27 issue with her conclusions, actually. The issues

1 that defence raised on the forensic evidence have
2 more to do with the handling of the exhibits by
3 the investigators and the possibility of
4 contamination having occurred before the exhibits
5 were turned over the lab.

6 I will now address, briefly, the
7 exhibits that I think are the most significant.
8 The first are the white shoes, the K-Swiss brand.
9 These were found at Lanky Court. The right shoe
10 was found in the bedroom near Mr. Lafferty's
11 body, and the left shoe was found in the closet
12 near the entrance.

13 Sergeant Davidson's conclusions after
14 examining these shoes was that there were spatter
15 stains on both of them and that this is
16 consistent with force being applied to a blood
17 source (in this case, a person), dispersing blood
18 drops into the air onto the shoes. This is by
19 opposition to, for example, a transfer stain
20 which could result simply from an object coming
21 into contact with the blood-bearing surface.

22 Samples were taken from various areas of
23 both these shoes. And the examination of the
24 DNA found on the shoes revealed that Elvis
25 Lafferty's blood was on the right shoe, E. M.'s
26 blood was on the left shoe, and DNA matching Mr.
27 Mantla's DNA was found on three areas of the left

1 shoe, the outstep side of the lowest lace
2 opening, the interior top of the tongue, and the
3 interior outstep of the heal.

4 Defence raised concern about possible
5 contamination of the left shoe. It was first
6 photographed by Constable Lugosi in her initial
7 tour of the residence on September 28th. A
8 photograph taken on September 30th, the day it
9 was actually seized, shows that it is not exactly
10 in the same position as it was on the 28th. The
11 evidence is that in the interim, of course, the
12 residence was searched, and several police
13 officers would have been in it at various points.
14 It is not clear how the shoe came to be moved,
15 who moved it, and under what circumstances.

16 Defence argued that there is a
17 possibility that this exhibit was touched during
18 the search by police officers who might have
19 touched other things, might have not changed
20 gloves after they had touched other things, and
21 that especially considering the evidence that
22 Mr. Mantla had lived in that house, there is a
23 possibility that the presence of Mr. Mantla's DNA
24 on the shoe does not mean he was wearing it that
25 night. In other words, his DNA could have been
26 on some other object in the apartment and
27 transferred onto the shoe.

1 In all the circumstances, I do not find
2 that the slight movement of the shoe gives rise
3 to concerns about contamination. The change in
4 position was minimal, and Mr. Mantla's DNA was
5 found in three different areas of the shoe,
6 including areas on the inside of it. Defence
7 also urges caution before concluding that the
8 spatter marks are indicative of the shoes being
9 actually worn by the attacker. This submission
10 was made in particular with respect to the shoe
11 found in the bedroom, given the evidence about
12 the spatter mark and directionality.

13 In my view, the fact that this shoe was
14 found close to the deceased, that the other shoe
15 of the pair also with the victim's blood on it
16 was found elsewhere in the house, and that both
17 have spatter marks, is powerful evidence that
18 they were, indeed, worn by the attacker and that
19 this is how the blood stains ended up on them.

20 Defence also noted that none of the
21 witnesses noticed that the assailant only had one
22 shoe or saw the assailant throw or put a shoe in
23 the closet.

24 In my view, that is neither here nor
25 there, because one of the shoes with one of the
26 victim's blood on it ended up in the closet
27 somehow. We know this. That no one noticed in

1 this chaotic scene how the shoe got there is of
2 no consequence. If it had no blood on it, it
3 could be conceivable that it was simply left in
4 the closet and that the other shoe was simply
5 left in the bedroom and just happened to be at
6 the scene and contaminated with blood without
7 being linked to the attack. The fact that there
8 is blood of victims on each of the shoe,
9 including, and specifically, the one in the
10 closet, eliminates that possibility.

11 In my view, the forensic evidence
12 establishes that this pair of shoes is connected
13 both to the offence and to Mr. Mantla. It
14 happens to be the same colour as the shoes he was
15 wearing when he arrived in Yellowknife and when
16 he left Crestview after midnight. I agree with
17 defence that the still image of the Air Tindi
18 camera alone would not be enough to conclude that
19 these are the same shoes. As this case
20 demonstrates, white shoes are not uncommon. But
21 the appearance of the shoes are similar and with
22 the rest of the evidence, in my view, the link is
23 made.

24 The second exhibit is the Starter shoes,
25 the second pair of shoes, also white, that were
26 found by the dumpster across the street from the
27 RCMP station. Sergeant Davidson identified

1 transfer stains on both of them, but no spatter
2 stains. Blood was confirmed on both shoes. Ms.
3 M.'s DNA was identified on both shoes. Mr.
4 Lafferty's DNA was identified on an area of the
5 right shoe. The sample was taken from the
6 interior top of the tongue of the shoe. This was
7 an area where there was no confirmation for the
8 presence of blood, but Mr. Lafferty's DNA was
9 identified.

10 The conclusion I draw from this is that
11 these shoes are connected to the crime scene as
12 well, and since I have found as a fact that it
13 was Mr. Mantla who left them by the dumpster,
14 that is another element that connects him to the
15 scene.

16 The third exhibit of interest is the
17 hat. A black hat bearing a similar red crest as
18 the one Mr. Mantla was wearing when he arrived in
19 Yellowknife was found in a garbage bag at the
20 dump. The search at the dump came about as a
21 result of Mr. Wetrade telling police that a
22 garbage bag from his bathroom had gone missing.

23 I agree with defence that the evidence
24 about how police came to search a certain pile of
25 garbage within the dump is only admissible to
26 explain the steps they took and not admissible to
27 show that this particular pile of garbage

1 actually came from the garbage run that included
2 the vicinity of Crestview. But an officer did
3 locate a bag that contained a black hat. He was
4 not immediately aware of the significance of this
5 find, but, eventually, the hat was seized, and it
6 was examined for forensics.

7 No blood was identified on the hat, but
8 Mr. Mantla's DNA was found on it. We know that
9 Mr. Mantla was wearing a black hat when he
10 arrived in Yellowknife. He was not wearing it
11 when he left Crestview in the morning or when he
12 arrived at the detachment, but he was wearing it
13 when he left Crestview in the middle of the
14 night. There is no evidence that this hat was
15 found in the effects that were seized. It seems
16 that the hat, like his jacket, had vanished.

17 This, combined with the footage of
18 Mr. Mantla leaving Crestview with the garbage
19 bag, not having a bag when he arrived at the
20 detachment, and the presence of his DNA on a
21 similar hat found at the Yellowknife dump,
22 establishes, in my view, that the hat that was
23 found at the dump and the hat that he was wearing
24 the day before are one and the same.

25 There is no evidence of any other
26 explanation for why Mr. Mantla would choose to
27 take out Mr. Wetrade's garbage from the bathroom

1 that morning. There were other garbage bags in
2 the apartment. The photos of Crestview show
3 that. And they were left there. It defies logic
4 that Mr. Mantla would have decided for no
5 particular reason to take out this one garbage
6 bag as he was leaving that morning. The only
7 rational explanation for that is that he had put
8 his hat in the bag and wanted to get rid of it.

9 Why would he do this? As it turns out,
10 there was nothing incriminating on that hat. No
11 blood from either victim was found on it. And
12 the eyewitnesses do not say he was wearing a hat
13 during the attack. But, as I said, he was
14 wearing this hat when he left Crestview after
15 midnight. He may well have thought that there
16 was incriminating evidence on it and, just like
17 the jacket, he decided to get rid of it.

18 Before I conclude my remarks on the
19 issue of identification, I want to address one
20 last issue that was raised in defence submissions
21 about the absence of dock identification by E. M.
22 or the children.

23 These witnesses were not asked to
24 confirm that the person before the Court is the
25 Kevin Mantla that they were talking about in
26 their testimony. As defence noted, when
27 witnesses testify by closed circuit television,

1 there is the possibility of having the camera pan
2 the courtroom and have witnesses indicate whether
3 they see the person they have been talking about
4 in the courtroom. Here, this was not done.

5 But had there been dock identification
6 in this case, it would have carried no weight.

7 The identification issue that arises in
8 this case is whether the witnesses are mistaken
9 about who they saw in the house. It is not that
10 E. M. and her children do not know who Kevin
11 Mantla is. They formed the belief as to who
12 their attacker was at the time of the events. If
13 they had pointed him out in court two years
14 later, it would have added nothing to the
15 strength of their identification.

16 It is important, as well, that the lack
17 of dock identification in this case does not
18 leave the Court without any evidence that the
19 Kevin Mantla that they were talking about is the
20 same Kevin Mantla who is before the Court. We
21 know, through admissions and through Mr. Wetrade,
22 that the Kevin Mantla who is before the Court
23 placed the call from the Air Tindi hanger to
24 E. M.'s phone, and we know that part of the
25 conversation was about her cheating on him.
26 Mr. Wetrade did identify Mr. Mantla in Court.

27 We know that the Mr. Mantla who attended

1 the RCMP detachment is the Kevin Mantla who is
2 before the Court because officers identified him
3 in Court. We know that his DNA was found on one
4 of the shoes found at Lanky Court and is
5 connected to the crime scene. We know he left
6 shoes connected to the crime scene by the
7 dumpster at the RCMP station. So in short, the
8 absence of dock identification by Ms. M. and her
9 children is a nonissue in this case.

10 For all of those reasons, I am satisfied
11 beyond a reasonable doubt that the person who
12 committed these attacks is Mr. Mantla. The
13 combination of the recognition evidence of three
14 witnesses who knew him well; the evidence of the
15 sequence of events before, during, and after the
16 Lanky Court attack; and the results of the
17 forensic testing done on some of the exhibits
18 seized form a body of identification evidence
19 that, in my view, is overwhelming to a degree
20 that we rarely see in a criminal trial. I have
21 no difficulty concluding that the Crown has
22 proven this element of the crime.

23
24 **III) INTOXICATION AND INTENT**

25 The next issue I have to address is that
26 of intoxication and intent.

27 As I said, the Crown has to prove beyond

1 a reasonable doubt that Mr. Mantla had the
2 specific intent required to make out the offences
3 of murder and attempted murder. Finding that he
4 did this is only the first step.

5 First, with respect to the law, murder
6 and attempted murder are both specific intent
7 offences. The intent that the Crown has to prove
8 on a murder charge is either the specific intent
9 to kill or the intent to cause bodily harm that
10 he knew was likely to cause death, and was
11 reckless about whether death ensued or not. The
12 intent that must be proven in support of an
13 attempted murder charge is that Mr. Mantla, when
14 he stabbed E. M., meant to kill her.

15 As with any element of an offence, the
16 Crown has to prove intent beyond a reasonable
17 doubt. Where, as here, the defence raises the
18 issue of intoxication, the Crown must rebut that
19 Defence beyond a reasonable doubt. If the
20 evidence of intoxication raises a reasonable
21 doubt in my mind about whether Mr. Mantla had the
22 specific intent to kill Mr. Lafferty and also the
23 specific intent to kill Ms. M., even though he
24 did not succeed, if there is a doubt in my mind
25 about that, then he is guilty only of
26 manslaughter of Mr. Lafferty and only of
27 aggravated assault of Ms. M.

1 Intent is the state of mind of a person.
2 The only source of direct evidence about intent
3 is from that person. Often times, as is the case
4 here, that evidence is not before the Court, and
5 the Court is left having to determine intent or
6 lack thereof through inference and circumstantial
7 evidence.

8 In terms of inference, Courts are
9 entitled to rely on the common sense inference
10 that sane and sober people generally intend the
11 natural consequences of their acts. Evidence of
12 intoxication may render that inference
13 unavailable. As Crown and Defence noted, from a
14 legal standpoint, the various levels of the
15 intoxication and their effect on the analysis are
16 set out in the Supreme Court of Canada decision
17 of *R. v. Daley* [2007] 3 SCR 523. I am not going
18 to quote from that decision. Everyone agrees it
19 sets out the relevant principles of law.

20 Turning to the evidence, I must
21 consider, first, any evidence that suggests an
22 intent to kill, and I must also carefully
23 consider the evidence about intoxication. I will
24 start with evidence that I consider to be
25 relevant on the issue of intent to kill.

26 I have already referred, in some detail,
27 to some of the evidence that I find relevant to

1 this issue. I am not going to repeat what I have
2 already said, but I just want to note what
3 evidence is part of what I have considered useful
4 on the issue of intent.

5 The first is Mr. Mantla's state of mind
6 that morning after having spoken with Ms. M. and
7 Mr. Lafferty. He made a threat. And as I said,
8 the exact words he used do not matter. He made a
9 serious threat.

10 The nature of the injuries is another
11 piece of evidence that is relevant to intent. I
12 will not refer to the autopsy results in detail,
13 but Mr. Lafferty was stabbed numerous times in
14 several areas of his body. Some of his wounds
15 were very deep. As for Ms. M., she too was
16 stabbed multiple times in various parts of her
17 body, including her abdominal area. Considerable
18 force was used. One of her hands was almost cut
19 off. The use of this type of force gives rise to
20 a very strong inference that the intent of the
21 attacker was to kill them both.

22 And there is more. L.'s evidence that
23 Mr. Mantla said "I'm going to kill you too" is
24 compelling evidence of his intent.

25 The damage to the phone is consistent
26 with Mr. Mantla having wanted to interfere with
27 the possibility of people calling for help. And

1 there is nothing in the evidence that suggests
2 any other intention from what happened in the
3 apartment.

4 I must also consider the evidence of
5 intoxication. There is evidence that Mr. Mantla
6 consumed alcohol and crack when he spent time
7 with Mr. Wetrade that evening. There is evidence
8 that some of the officers present at his arrest
9 detected signs that he had consumed alcohol.
10 Defence invites me to draw certain conclusions
11 from things that can be observed and heard on the
12 video of his arrest at the detachment. Defence
13 argues that this evidence raises at least a
14 reasonable doubt about whether Mr. Mantla's
15 intoxication was such that he did not form the
16 specific intent to kill either Mr. Lafferty or
17 Ms. M.

18 The evidence of consumption of
19 intoxicating substances comes primarily from
20 Mr. Wetrade, who spent time with Mr. Mantla
21 closest to the events. Mr. Wetrade said
22 Mr. Mantla wanted to buy a mickey. Mr. Wetrade
23 was not involved in the transaction itself. He
24 acknowledged it was possible more than a mickey
25 was purchased, but he did not see. He said they
26 smoked crack. There is no evidence of how much
27 was consumed or when it was consumed.

1 To the extent that there were gaps in
2 the evidence in terms of quantities of what was
3 consumed and when, Defence says it was for the
4 Crown to fill them, because the Crown has the
5 onus of disproving a defence once it is raised.
6 The standard of proof is on the Crown, and this
7 does include rebutting any defence, including
8 intoxication.

9 At the end of the day, the issue is
10 whether evidence that I do have raises a
11 reasonable doubt in my mind on the issue of
12 intoxication and intent. This includes a doubt
13 that arises from an absence of evidence. But I
14 do have to rely on the evidence and not on
15 speculation.

16 The evidence that I do have is that
17 Mr. Wetrade thinks Mr. Mantla bought a mickey.
18 He simply does not know if there was more. More
19 importantly, Mr. Wetrade was asked if Mr. Mantla
20 was intoxicated that night, and his answer was
21 "Not really." He had seen Mr. Mantla intoxicated
22 before, and he had seen Mr. Mantla sober before.

23 It is true that it can be difficult to
24 assess another person's level of intoxication,
25 but the fact is I do not have any evidence, aside
26 from Mr. Wetrade's, about the effect that the
27 alcohol and drugs had on Mr. Mantla around the

1 time they were consumed. I do not have
2 Mr. Mantla's subjective view on how his faculties
3 are affected. I have Mr. Wetrade's observations
4 and perceptions that he was not really
5 intoxicated, and I have nothing else.

6 The footage of Mr. Mantla coming down
7 the stairs at Crestview is another relevant item
8 of evidence. I have watched it several times, as
9 I said already. Mr. Mantla is coming down the
10 stairs quickly. He has his hands in his pockets.
11 He has no trouble coming down the stairs or
12 negotiating the turns in the stairwell for the
13 portion of the video where he can be seen. In
14 fact, he appears to be coming down the stairs two
15 steps at a time. There is no stagger, no
16 swaying, no loss of balance. He is only in view
17 for a few seconds, but there is nothing about
18 what can be observed in those few seconds that
19 suggests any impairment of his motor skills. The
20 distance between Crestview and Lanky Court and
21 the overall timing suggests that he covered that
22 distance fairly quickly.

23 Both children said they recognize the
24 knife as one that was from their home.
25 Mr. Mantla had no difficulty locating a knife in
26 the home. When the children saw him move through
27 the living room, they did not see him stumble.

1 He had no difficulty finding and damaging the
2 phone cord. And when he got to the door, he ran.

3 There is basically nothing on the
4 evidence that supports the claim that
5 Mr. Mantla's abilities were impaired by alcohol
6 to a point that calls into question his ability
7 or his actual intent, or the availability of the
8 inference that people intend the natural
9 consequences of their actions.

10 I have considered, as well, the evidence
11 of what happened later in the morning. It is
12 less telling of his state at the time of the
13 offence, but it must be taken into account. For
14 a period of time after the commission of the
15 offence, we do not know what Mr. Mantla did or
16 where he was. But we know that some hours later
17 he went back to Crestview. He was able to throw
18 rocks at Mr. Wetrade's window to wake him up.
19 Mr. Wetrade did not notice anything unusual about
20 him.

21 When Mr. Mantla left, the security
22 camera footage shows he came down the stairs with
23 no difficulty. He got to the RCMP detachment
24 quickly thereafter.

25 Constable Shae's perception was that he
26 could not put him in the drunk tank because he
27 was not intoxicated. Other officers involved

1 with his arrest expressed in various ways their
2 views about Mr. Mantla's state. Constable Beaton
3 noted an odour of liquor. He also detected a
4 slight slur in his speech and that he was in a
5 little off balance. Constable Fage, who was also
6 right there at the time of arrest, described him
7 as mildly intoxicated. He smelled of stale odour
8 of alcohol, noted that Mr. Mantla had heavy eyes,
9 slow speech, and was flatfooted walking.

10 Constable Beaton ultimately decided to
11 lodge him in cells and give him time to sleep
12 before proceeding any further. I have a video of
13 this interaction, which I have also watched
14 several times. In my view, Mr. Mantla, in that
15 video, primarily seems very, very tired. Many
16 times he yawns. Many times he said he needs to
17 sleep. It is true that there is a point when he
18 gets up, where he seems to almost lose balance.
19 But on the whole of the evidence, I do not think
20 it can be said that Mr. Mantla was intoxicated to
21 the point of staggering by that point in the
22 morning.

23 The way he walked, his dry mouth, his
24 yawning, all of that, is consistent with him
25 being very tired, probably not having slept at
26 all that night.

27 While some of the officers noted a smell

1 of liquor, and one referred to him as being
2 mildly intoxicated, this is from the perspective
3 of officers who were investigating a murder and
4 were being cautious, making sure Mantla was in a
5 state where he understood the rights and what he
6 was being told.

7 Defence asked me to draw an inference
8 also from one of the other utterances made by
9 Mr. Mantla in his exchange with the police
10 officers. As he was being read his rights, he
11 says he "does not remember that stuff," or words
12 to that effect. He also said he did not know
13 police were looking for him and that he was
14 surprised when the officer told him what he was
15 under arrest for.

16 Defence suggests that this comment about
17 not remembering is part of what I can take into
18 account in assessing his level of intoxication at
19 the time of the offences several hours earlier.

20 I attach absolutely no weight to those
21 utterances for the simple reason that there is
22 abundant evidence that Mr. Mantla was not being
23 truthful with the officers that morning. I have
24 rejected the Crown's argument that these lies
25 were part of the attempt to concoct a false
26 alibi, but it does not mean that the evidence is
27 irrelevant.

1 As I said before, Mr. Mantla's most
2 obvious lie was that he needed to be in the drunk
3 tank because he had nowhere to go. 15 minutes or
4 so, Mr. Mantla was in Mr. Wetrade's apartment
5 where he was welcome to stay. He could have
6 slept on the couch there. Instead, he left. So
7 there very much was a place for him to stay. And
8 he also lied about his shoes being stolen. He
9 was wearing shoes when he left Mr. Wetrade's
10 house. And as I said, the reason he had no shoes
11 at the detachment was because he left them by the
12 dumpster.

13 He also told the officers he came into
14 town to see his lawyer. That seems a bit at odds
15 with the circumstances that immediately preceded
16 the purchase of this plane ticket. There is no
17 other indication he was supposed to see a lawyer
18 in town around this time, but even if that was
19 the case and leaving aside for now the issue of
20 his precise intentions in coming to Yellowknife,
21 his reason for coming to Yellowknife was linked
22 to Ms. M.

23 As I said when I discussed the
24 circumstantial evidence I am not in a position to
25 make a clear finding as to what his purpose was
26 in going to the detachment, but what I do find is
27 that he was lying to the officers about various

1 things. For that reason, I place no weight on
2 the fact that he told them he did not remember
3 anything about the night. Those utterances are
4 of no assistance to me in dealing with the issue
5 of intoxication.

6 There is also no evidence extrapolating
7 back what Mr. Mantla's level of intoxication
8 could be expected to be some seven hours earlier
9 based on the symptoms he displayed that morning.
10 Those symptoms, at best, were very mild signs of
11 alcohol consumption.

12 As counsel properly noted,
13 after-the-fact conduct is of no assistance in
14 establishing the level of liability. Disposing
15 of the jacket, for example, getting rid of the
16 shoes, getting rid of any other items, is of no
17 assistance in determining Mr. Mantla's level of
18 culpability for these offences, because a person
19 who kills someone in an intoxicated state and
20 without the specific intent to kill is as likely
21 to later want to avoid detection as is a person
22 who killed with the intention to do so. *R. v.*
23 *Daley*.

24 In my view, the evidence about
25 intoxication is very tenuous. There is evidence
26 indicating consumption of alcohol and crack the
27 previous night but no evidence of it having had

1 any particular impact on Mr. Mantla's functioning
2 or mental abilities. There is also strong
3 evidence that rebuts the notion that Mr. Mantla,
4 because of his intoxication, did not have the
5 intent to kill.

6 Aside from the circumstances of the
7 offence itself, we have Mr. Wetrade's evidence,
8 who spent the evening with Mr. Mantla, who knew
9 him well, and who said Mr. Mantla was not
10 intoxicated. And this is the witness who saw
11 Mr. Mantla very shortly before the attack.

12 I found it interesting that when
13 Mr. Wetrade was asked about alcohol consumption
14 at his house, (this is when he was being shown
15 photos showing empty beer and full beer in his
16 apartment), he said that some of his friends do
17 come to his place to drink beer here and there,
18 but he does not let things go out of hand in his
19 apartment. He lets them drink a few, and then
20 tells them to leave. This is not someone who
21 lets people get highly intoxicated at his place.
22 His apartment is not a party place. This is far
23 from determinative, but it is part of the overall
24 picture that this evidence paints.

25 In summary, I find that based on the
26 inference that sane and sober people generally
27 intend the natural consequences of their actions,

1 Mr. Mantla's intent to kill both victims can be
2 inferred from the persistence and force used in
3 the attack.

4 I find that in addition to that common
5 sense inference, there is other evidence that
6 corroborates that this was indeed his intent.

7 And, finally, considering that the level
8 of intoxication that can raise a doubt about
9 specific intent is advanced intoxication as
10 defined in *Daley*, the evidence of intoxication,
11 in my view, is extremely weak, and it does not
12 raise anything reasonable in my mind.

13

14 IV) PLANNING AND DELIBERATION

15 The last issue I need to deal with is
16 the issue of planning and deliberation. I must
17 consider whether the Crown has proven beyond a
18 reasonable doubt that this murder was planned and
19 deliberate.

20 The meaning of planned and deliberate is
21 well-established in law. A planned murder is one
22 that was conceived and carefully thought out
23 prior to being committed. The plan may be very
24 simple, but it has to be carefully thought out.

25 Deliberate means more than intentional.
26 Intentional is what makes a murder a murder, as
27 opposed to another offence.

1 The Supreme Court of Canada has said
2 that "deliberate" should be understood as having
3 its natural meaning: considered, not impulsive,
4 slow and deciding, cautious. It implies that the
5 accused must have taken the time to weigh the
6 advantages and disadvantages of his intended
7 action. This comes from *R. v. Turningrobe* 2008 1
8 SCR 454 where Chief Justice Fraser's dissenting
9 reasons in the Alberta Court of Appeal were
10 adopted by the Supreme Court of Canada.

11 A few additional things need to be
12 mentioned. The planning and deliberation must
13 relate to the murder itself, not to some other
14 act. In this case, I have to be satisfied that
15 Mr. Mantla planned and deliberated to kill, not
16 simply that he planned or deliberated to confront
17 or harass Mr. Lafferty and Ms. M. or scare them
18 or even cause them some form of physical harm.

19 Planning and deliberation can be proven
20 through circumstantial evidence. Indeed, as
21 noted by Chief Justice Fraser in *Turningrobe*,
22 absent a confession, that is often how it is
23 established.

24 As I said already when I was talking
25 about the circumstantial evidence, this requires
26 that I be satisfied beyond a reasonable doubt
27 that the only rational conclusion that can be

1 drawn from the evidence is that the murder of
2 Mr. Lafferty was planned and deliberate. The
3 Crown does not have to prove beyond a reasonable
4 doubt every individual fact it relies on in
5 support of its conclusion, but the fact that the
6 murder was planned and deliberate has to be the
7 only rational conclusion that can be drawn from
8 the facts found.

9 The other important thing to remember is
10 that while one of the phrases used to describe
11 deliberation is "not impulsive," it would be an
12 error to approach this as an either/or question.
13 What I mean by this is that just because an act
14 is not impulsive does not mean it is planned and
15 deliberate. That point was made in *Turningrobe*
16 as well at paragraph 156. Deliberation does not
17 need to have taken place over a lengthy period of
18 time as long as the accused had sufficient
19 opportunity in which to decide what to do,
20 consider the consequences of doing so, and
21 decided to act on the plan that had been
22 formulated.

23 As Chief Justice Fraser put it:

24 It does require that the reasoning
25 for the killing, as well as some form
26 of method to accomplish this goal, be
27 developed thoughtfully and not simply
be responsive to passion or impulse.
Deliberation involves a
cold-bloodedness that is more than
simply having the intent to kill.

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Intoxication, as I was saying before, is relevant to assessing whether the accused formed the specific intent to kill. It may also have relevance in considering the issue of planning and deliberation. That is, by reason of intoxication, the accused did not plan and deliberate the murder.

That is not, in this case, the Defence's primary line of argument. Defence's main point is that the evidence overall does not support a conclusion beyond a reasonable doubt that Mr. Mantla's action that night were planned and deliberate within the meaning of those terms in law.

I repeat, because it is important, that after-the-fact conduct is of no help at all to prove planning and deliberation. I suppose in certain circumstances, it could be, such as if someone somehow written out a detailed plan which included steps to be taken after the murder, and the evidence showed that those steps were, in fact, taken after the murder. But there would have to be very specific linkages between the conduct after the fact and the evidence of the plan, and there was no such evidence here. So the after-the-fact conduct is of no assistance at

1 all on this element.

2 The Crown relies on the following things
3 to argue that planning and deliberation have been
4 proven beyond a reasonable doubt: First, the
5 threats that were made; second, the fact that
6 Mr. Mantla was upset at the airport; third, the
7 phone call that he made when he arrived in
8 Yellowknife when he also uttered a threat;
9 fourth, the fact that he waited for Mr. Wetrade
10 to go to sleep before leaving Crestview; five,
11 his conduct at the house, going directly to the
12 bedroom to start the attack on the victim and the
13 focussed nature of that attack; and, six, his
14 reiteration to K. of the reason why he did this,
15 that it was because Ms. M. was cheating on him.

16 In response, the Defence says that the
17 evidence is clear that the knife used is from the
18 house. There is no suggestion that Mr. Mantla
19 brought a weapon with him. Defence says that
20 bringing a weapon would assist to prove planning
21 or as using a weapon found at the scene is more
22 consistent with a more impulsive, less
23 thought-out act.

24 Defence also argues that on this
25 element, the exact words used to utter the threat
26 are important and that if I do not conclude the
27 words "you are going to die" were uttered, that

1 weakens the suggestion that Mr. Mantla formed a
2 plan ahead of time to do this.

3 As I noted when I was dealing with the
4 circumstantial evidence, I am not convinced that
5 the exact words used to utter the threat matter.
6 What was said and the effect it had show that it
7 was a serious threat, and it says something about
8 Mr. Mantla's state of mind. At the same time,
9 not all threats are made with an intention to
10 carry them out. In fact, many threats are made
11 but not carried out.

12 Mr. Mantla's continued perception that
13 Ms. M. was cheating on him and his words to that
14 effect to Mr. Wetrade and in the phone call after
15 he arrived do demonstrate his state of mind about
16 the situation. And the steps he took to come to
17 Yellowknife are consistent with an intention to
18 confront Ms. M. and Mr. Lafferty.

19 The Crown's position, essentially, is
20 that Mr. Mantla made his plan to kill them, in
21 Gamètì, that he deliberated about that plan
22 during the plane ride and throughout the evening
23 at Mr. Wetrade's house. But there is no evidence
24 about anything he said or did while on the plane
25 or anything he said or did that evening at
26 Mr. Wetrade's house that assists with the theory
27 that throughout this period, he was brooding and

1 deliberating about what he was about to do.

2 I accept that the inference that the
3 Crown is asking me to draw is available on the
4 evidence. The more difficult question is: Is it
5 the *only* rational inference that can be drawn
6 from the evidence? Because to convict on the
7 basis of circumstantial evidence, it has to be.

8 The knife issue is not determinative,
9 because Mr. Mantla was familiar with the Lanky
10 Court residence. If he had brought the knife, it
11 would, of course, assist the Crown. The fact
12 that he did not bring a weapon with him does not
13 necessarily eliminate the possibility that he had
14 a plan, because his plan could have been to use a
15 knife from that residence.

16 The biggest difficulty I have come
17 across in considering the issue of planning and
18 deliberation is the uncertainty about how things
19 unfolded in the house that night. That is not
20 anyone's fault. None of the witnesses, under the
21 circumstances, could be expected to have a
22 play-by-play account of what took place. But on
23 my review of the evidence, I am not convinced
24 that it establishes what the Crown has put
25 forward in submissions, that Mr. Mantla entered,
26 went directly to the bedroom and began his
27 attack. How things unfolded in the house is not

1 that clear.

2 I do not find that Ms. M.'s account of
3 the sequence of events is reliable for reasons I
4 have already mentioned. The same goes for
5 Mr. and Mrs. Lafferty.

6 In the final analysis, the most reliable
7 account is that of the children, even taking into
8 account the chaotic circumstances and their age.

9 K. testified that when she woke up to
10 her mother screaming, Mr. Mantla was stabbing
11 her. Her video statement and her trial evidence
12 are pretty consistent in that regard. But L.'s
13 account is different. It seems clear she woke up
14 before her sister. She heard this noise at the
15 door. It is not clear if she went completely
16 back to sleep after that or not.

17 My understanding of her video statement
18 and of her trial testimony is that during both of
19 these, at some point, she talked about her mother
20 arguing with Mr. Mantla, and perhaps more
21 importantly, she talked about Mr. Mantla going to
22 the kitchen before he stabbed Ms. M. I think in
23 the video interview, she said he got the knife in
24 the kitchen, and she was not as specific at
25 trial, but she did talk about him going to the
26 kitchen. The Crown was careful to clarify this,
27 and L. did confirm that Mr. Mantla went to the

1 kitchen before he stabbed Ms. M. And she had
2 talked about this argument or yelling having
3 happened beforehand.

4 L.'s account is not completely
5 internally consistent or clear because there are
6 other points where she said she saw her mother
7 standing when she first saw her, and at another
8 point, she said she was already on the floor. So
9 perhaps she got mixed up, and that is hardly
10 surprising. But she did say more than once that
11 she heard her mother screaming, that there was
12 arguing, and that Kevin went to the kitchen, and
13 that Ms. M. was stabbed after that.

14 I have reviewed this testimony carefully
15 as well as my notes from when the video statement
16 that was played, and I do not think the sequence
17 of events is entirely clear. I did not find this
18 to be an issue as far as the identification issue
19 is concerned, but it does matter on this element
20 of the offence, because there is a difference
21 between Mr. Mantla breaking in, immediately
22 getting the weapon in the kitchen, and going
23 straight to the bedroom to start his attack, and
24 a scenario whereby there are other interactions,
25 something else that happens before he gets the
26 knife from the kitchen.

27 We know that Mr. Lafferty was attacked

1 in the bedroom and never came out from there. We
2 know Ms. M. was attacked in the bedroom and also
3 in the hallway. And it is certainly open to
4 infer that this is how things unfolded, with
5 Mr. Lafferty being attacked first. It seems
6 logical to think things unfolded in that order.
7 But there remains much uncertainty, and some
8 aspects of L.'s account do not fit with that
9 scenario.

10 My acceptance of the reliability of many
11 aspects of L.'s evidence when I dealt with the
12 identification and also the circumstantial
13 evidence is part of why I concluded that
14 identification and intent to kill were proven
15 beyond a reasonable doubt. I would have to have
16 a reason to dismiss out of hand other aspects of
17 her account. It would be a mistake for me to
18 accept the parts of her account that assist the
19 Crown and dismiss out of hand aspects of her
20 account that do not assist the Crown, unless
21 there is a good reason to do so.

22 As I said, the standard of proof beyond
23 a reasonable doubt applies to the elements of the
24 offence, not to individual facts. But on the
25 whole, I must be sure that this was planned and
26 deliberate. I must be able to exclude any other
27 rational explanations. And while the inference

1 that the Crown invites me to draw on this is
2 available on the evidence, I am not satisfied
3 that all other possibilities are excluded.

4 I am easily able to find that Mr. Mantla
5 was jealous and angry, that he threatened Ms. M.
6 and Mr. Lafferty, that he wanted to intimidate
7 and scare them, and even that he came to
8 Yellowknife with some confrontation in mind. I
9 have also no difficulty finding that based on the
10 evidence as a whole, Mr. Mantla was not animated
11 by good or innocent intentions when he went to
12 the Lanky Court apartment that night. But in the
13 final analysis, I am not sure that he formulated
14 a plan ahead of time to attend the house and do
15 this, that he deliberated about this throughout
16 the day and that his attendance at Lanky Court
17 was the execution of a carefully thought out
18 plan.

19 I have reasonable doubt about when
20 Mr. Mantla decided to actually kill them. I am
21 not sure if he formulated his plan, waited, and
22 gave it the careful consideration that
23 Chief Justice Fraser talks about in *Turningrobe*.
24 I am left unsure about that because of certain
25 gaps in the evidence, including the lack of
26 clarity about how things unfolded after he got in
27 the house. So in the final analysis, I am left

1 with a reasonable doubt about whether this was a
2 planned and deliberate murder.

3 Mr. Mantla, stand up, please. For the
4 reasons I have given, Mr. Mantla, I find you
5 guilty of the second degree murder of
6 Elvis Lafferty; I find you guilty of the
7 attempted murder of E. M.

8 You can sit down.

9 There will be a judicial stay of
10 proceedings on the aggravated assault charge
11 because it is based on the same facts as the
12 attempted murder count.

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CERTIFICATE OF TRANSCRIPT

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings produced from the stenographic notes of Karilee Mankow, Court Reporter, in shorthand and transcribed from audio recording to the best of my skill and ability.

Dated at the City of Edmonton, Province of Alberta, this 10th day of September, 2018.

Certified Pursuant to Rule 723
of the Rules of Court



Karilee Mankow
Court Reporter