*R v Mantla,* 2018 NWTSC 35 **S-1-CR-2017-000041**

# 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.

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**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**

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| 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 |

1. bed with her boyfriend, Elvis Lafferty. His
2. parents were also sleeping in the room. Her
3. three children, L., K., and A. were sleeping in
4. the living room. This intruder stabbed Elvis
5. Lafferty and E. M. a number of times.
6. Mr. Lafferty died from his injuries. Ms. M. was
7. seriously injured but survived.
8. Kevin Mantla was charged with the murder
9. of Mr. Lafferty and the attempted murder of
10. Ms. M. His trial proceeded earlier this year
11. over a number of weeks in January and February.
12. The theory advanced by the Crown at
13. trial is that Mr. Mantla, who had been in a
14. common-law relationship with Ms. M. for a number
15. of years, is responsible for these crimes and
16. that he committed them because he was jealous and
17. angry about E. M.'s relationship with
18. Mr. Lafferty. He had learned about this
19. relationship during a telephone conversation he
20. had with Ms. M. during the day on September 27th.
21. The Crown's theory is that when he
22. learned of this, he decided he would kill them
23. both, and devised a plan to do so. He travelled
24. to Yellowknife for this purpose. He waited until
25. the friend he was staying with went to sleep, and
26. then he went to Lanky Court to execute his plan.
27. After he had attacked them, he got rid of
28. incriminating evidence and eventually went to the
29. RCMP detachment to try to get himself booked into
30. the drunk tank in an effort to create a false
31. alibi.
32. The Crown says that the evidence
33. establishes beyond a reasonable doubt that
34. Mr. Mantla was the one who killed Mr. Lafferty,
35. that he intended to cause his death, and that his
36. actions were planned and deliberate, making him
37. guilty of first-degree murder.
38. The Crown also says that the evidence
39. shows beyond a reasonable doubt that he intended
40. to kill E. M., making him guilty of her attempted
41. murder.
42. The Defence argues that the evidence of
43. identification is deficient and that the Crown
44. has not proven beyond a reasonable doubt that
45. Mr. Mantla is the person who did this. The
46. Defence also argues that if I conclude that the
47. Crown has proven beyond a reasonable doubt that
48. Mr. Mantla has done this, I should have a
49. reasonable doubt on the issue of intent and that
50. at most, given the evidence of Mr. Mantla's
51. intoxication, he should be found guilty only of
52. manslaughter of Mr. Lafferty and only of the
53. aggravated assault of Ms. M.
54. At the trial, the Crown called as
55. witnesses people who were at Lanky Court when the
56. attack happened; emergency personnel and police
57. officers who were the first responders at Lanky
58. Court; John Wetrade, the friend of Mr. Mantla,
59. who was the one who Mr. Mantla spent some time
60. with the afternoon and evening before these
61. events; police officers involved in various
62. aspects of the investigation at the scene and
63. elsewhere; police officers who were present when
64. Mr. Mantla was arrested at the RCMP detachment
65. that morning; witnesses who collected and handled
66. various exhibits; a blood spatter expert;
67. witnesses from the forensic laboratory, where the
68. extraction and analysis of DNA for comparison
69. purposes were done; and the DNA expert who
70. compared the profiles extracted from some of the
71. exhibits seized.
72. The Crown also filed several exhibits,
73. including maps, photographs, copies of diagrams
74. showing the layout of the crime scene with
75. notations made by various witnesses, video
76. footage from security cameras from various
77. locations, and expert reports. There were also a
78. number of agreed statement of facts filed which
79. covered various aspects of the investigation and
80. findings that were not in issue.
81. The Defence did not present any evidence
82. at this trial.
83. I am not going to attempt to summarize
84. all of the evidence in my decision today, but I
85. do have to refer to large portions of it. I will
86. try to focus on the evidence that is relevant to
87. the contested issues. But I have, during my
88. deliberations on this matter, reviewed and
89. considered all the evidence that was presented.
90. As I deal with each of the issues that
91. arise in this case, I will refer to the legal
92. principles that apply more specifically to each
93. one. But at the outset, I want to mention that I
94. have also instructed myself about a number of
95. general overarching principles that are relevant
96. in any criminal case. I am not going to go here
97. in the same level of detail as I would if I were
98. instructing a jury on the law, but there are
99. fundamental principles that I have kept in mind
100. and that I want to mention this morning.
101. 1. Mr. Mantla is presumed innocent of
102. these charges. He does not have the burden of
103. proving he is not guilty. The onus to prove his
104. guilt rests with the Crown and never leaves the
105. Crown.
106. 2. The Crown's burden is to prove each
107. element of the offences charged beyond a
108. reasonable doubt. This is a very high standard
109. of proof. It is not absolute certainty, but it
110. is more than probability of guilt. But on a
111. scale, it is closer to absolute certainty than to
112. probability of guilt.
113. 3. That very high burden applies to
114. credibility of witnesses. Mr. Mantla is entitled
115. to the benefit of any doubt that arises from
116. issues of credibility or reliability. I am not
117. required to firmly believe or disbelieve any
118. witness. I may be left unsure about what I
119. believe and what I accept. If a reasonable doubt
120. arises from such an issue, Mr. Mantla is entitled
121. to the benefit of that doubt.
122. 4. A reasonable doubt is one that is
123. based on reason and common sense. It can arise
124. from the evidence or from a gap in the evidence.
125. 5. Given the nature of the allegations
126. in this case, I have also kept in mind that my
127. decision must be based on the evidence and not on
128. sympathy for anyone or prejudice against anyone.
129. I say this because it is undisputed that
130. Mr. Lafferty was killed and Ms. M. was seriously
131. injured in the course of a brutal attack that
132. took place while three of Ms. M.'s young children
133. and Mr. Lafferty's parents were in the house.
134. All these people, except the youngest child, were
135. called to testify at trial. They were asked
136. questions about an event that was deeply
137. traumatic and horrible for all of them. It would
138. not be humanly possible not to feel sympathy and
139. compassion for what those people went through.
140. But that empathy and that compassion cannot have
141. any bearing on my decision.
142. What was unfolding at the time of the
143. events that the witnesses were talking about has
144. to be taken into account in weighing their
145. evidence from the point of view of their ability
146. to observe things. That is always relevant in
147. assessing the reliability of witness' accounts of
148. events. What I am saying when I speak of the
149. relevance of sympathy and prejudice is that the
150. analysis of the evidence must be done with the
151. same rigor no matter how sympathetic (or
152. unsympathetic, for that matter), the
153. circumstances of the witness may be.
154. Evidence is not accepted based on
155. sympathy, and it is not rejected on the basis of
156. prejudice, and a person's guilt or innocence can
157. never be decided based on sympathy or prejudice.
158. In a case like this one, this is a very important
159. principle to remember. Had this been a jury
160. trial, I would have given the jury a strong
161. warning about this, and I have kept that at the
162. forefront of my mind in approaching the issues in
163. this case.

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# II) IDENTIFICATION

1. The first issue that I have to deal with
2. is identification. On that issue, the Crown
3. relies on two broad categories of evidence. The
4. first is the direct evidence of witnesses who
5. were in the house that night and say that
6. Mr. Mantla was the one who did this. And the
7. second is circumstantial evidence.
8. This trial took a month, a lot of
9. evidence was called. There was a lot of evidence
10. to consider and analyze on this issue. It is my
11. responsibility today to explain my conclusions
12. and to review a lot of this evidence, to explain
13. why I have arrived at the conclusion I have. And
14. because this is going to take some time, I will
15. say at the outset, and this soon will become very
16. clear, that I am satisfied beyond a reasonable
17. doubt that Mr. Mantla was the person who did
18. this.

27

# A. The Recognition Evidence

1. The direct identification evidence comes
2. from three witnesses: E. M., L. M., and K. M.
3. Mr. Lafferty's father remembers very little about
4. what happened that night, and his evidence is of
5. no assistance whatsoever on identity. Similarly,
6. Mr. Lafferty's mother was not able to identify
7. who came into the house that night.
8. E. M. had been in a relationship with
9. Mr. Mantla for several years. They had lived
10. together. They had two children together who
11. were 8 and 5 at the time of the trial, and 5 and
12. 2 in 2005 when these events took place.
13. Mr. Mantla is not their biological father but
14. they all lived together as a family for a number
15. of years. The relationship ended during the
16. summer of 2015.
17. L. and K. saw the attack on their mother
18. but not the attack on Mr. Lafferty. But it is
19. clear on the evidence that the same person is
20. responsible for both attacks.
21. I first want to speak about the law that
22. governs the area of identification evidence. The
23. identification of an accused as the person who
24. committed a crime by persons who are familiar
25. with that accused is often referred to as
26. recognition evidence. Counsel have filed cases
27. that helpfully summarize the principle that must
28. be keep in mind when dealing with this type of
29. evidence. *R. v. Olliffe* 2015 ONCA 242 paragraph
30. 36; *R. v. Law* 2014 BCCA 28; and *R. v. Gill* 2017
31. BCSC 1816. I would summarize the governing
32. principles as follows:
33. 1. The frailties of identification
34. evidence are well-documented. This type of
35. evidence often comes from witnesses whose
36. credibility is not really at issue and who are
37. sincerely convinced about what they saw. The
38. dangers of that type of evidence is that the
39. sincere conviction of the witness may easily
40. overtake the analysis. This can lead to
41. decisions that are based on an honest and
42. convincing, but mistaken, eyewitness
43. identification. For that reason, this type of
44. evidence must be approached with great caution.
45. 2. Recognition evidence is a form of
46. identification evidence. Just like any type of
47. identification evidence, it is the opinion of the
48. witness as to the identity of the person they
49. saw. The same concerns apply and the same
50. caution is warranted in assessing the reliability
51. of that type of evidence. The level of
52. 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
28. when the witness is able to make his or her
29. observations of events under optimal conditions.
30. Generally speaking, the reliability of
31. identification evidence in the latter situation
32. will be much greater than in the former, but few
33. cases are at one extreme or the other of the
34. continuum. Most fall somewhere in between.
35. I now turn to the evidence in this case.
36. As I said, three witnesses identified Mr. Mantla
37. as the person who attacked E. M. with a knife at
38. Lanky Court: E. M. herself and her two
39. daughters, L. and K.
40. Some of the concerns raised by the
41. defence about the reliability of this evidence
42. apply to all three witnesses; however, as far as
43. Ms. M.'s evidence, Defence raised broader
44. concerns, including issues that potentially go to
45. her credibility and not simply the reliability of
46. her account. For the children's evidence, I
47. understood the concerns to be primarily
48. reliability. Because of the difference in scope
49. of the issues raised, I am going to deal with the
50. children's evidence first, and then I will
51. address Ms. M.'s evidence.
52. L. was 11 at the time of the events and
53. 13 at the time of trial. K. was 9 at the time of
54. the events and 11 at trial. Both were
55. interviewed in the afternoon of September
56. 29th, 2015. Their interviews were videotaped and
57. were admitted into evidence pursuant to Section
58. 715.1 of the *Criminal Code*. For each of them,
59. the evidence consists of the video statement,
60. supplemented by questions asked by the Crown, and
61. questions asked by Defence in cross-examination.
62. L.'s evidence is that on the evening in
63. question, she, her sister K., and her brother,
64. A., were in the living room. Their mother, Elvis
65. Lafferty, and his parents were the only other
66. people in the apartment. They were all in E.
67. M.'s bedroom. L. says she woke up to a noise.
68. She thought someone was trying to get into the
69. house. It is not entirely clear if she went back
70. to sleep. But at one point, she heard her mother
71. screaming. She described seeing her mother in
72. the hallway and Kevin Mantla stabbing her. She
73. was about 4 feet away as she was watching this,
74. and nothing was obstructing her view. She said
75. the lighting was low, but she could see; the
76. light in the hallway was on. She said at one
77. point, she thought it was Elvis Lafferty who was
78. standing near her mom, because he and Kevin
79. Mantla were about the same height. She was not
80. wearing her glasses, which she needs to see from
81. a distance, but she squinted, and that helped her

1 see.

2

In cross-examination, she was asked if

1. it could have been Elvis Lafferty she saw, and
2. she said, no. She was asked when she realized it
3. was Kevin and not Elvis, and she answered, "When
4. Kevin started talking." She testified she told
5. Mr. Mantla to stop. She said she saw Elvis
6. Lafferty's mother's in the hallway and Kevin
7. Mantla pushing her, shoving her with both his
8. hands, while he was holding the knife.
9. She also said that before he left,
10. Mr. Mantla took out the batteries out of one of
11. the house phones and ripped or cut the phone cord
12. off the wall. L. said that before he did this,
13. he said, "I'm going to kill you too." She
14. understood him to be referring to her and her
15. sister, K., who was with her in the living room.
16. But after he damaged the phone cord, he left.
17. L. was asked to make notations on copies
18. of a diagram of the apartment. She marked, among
19. other things, where she was in the apartment when
20. she saw Mr. Mantla stabbing her mother. On
21. another one, she marked where he was when she saw
22. him damage the telephone cord. These diagrams
23. were marked as exhibits.
24. L. said she saw Mr. Mantla's face, his
25. body, and that she heard his voice. She said he
26. was wearing a green leather jacket. She is sure
27. Mr. Mantla is the person she saw.
28. As for K., she said she went to sleep in
29. the living room with her sister and brother that
30. night. She woke up to her mother screaming. Her
31. mom was laying down in the hallway, and
32. Mr. Mantla was standing next to her, "cutting
33. her." She said she was "3 metre sticks" away
34. from where Mr. Mantla was when she saw this. She
35. said that Mr. Mantla then walked to where one of
36. the phones was and cut the cord with the knife.
37. She said he then "speed walked" to the door and
38. ran out.
39. She too marked copies of diagrams of the
40. apartment to illustrate what she was saying and
41. where people were at different times. These were
42. marked as exhibits as well.
43. K. testified at trial that at one point
44. while this was happening, she asked Mr. Mantla
45. what he was doing, and he answered "she's
46. cheating on me." During the video statement, she
47. had mentioned him saying that but had not said it
48. was in response to a question she had asked. She
49. had been asked, as well, if Mr. Mantla had said
50. anything to her, and she had answered "No." I
51. will get back to this aspect of things in a
52. moment, because it is one of the issues that was
53. raised by Defence to call into question the
54. reliability of her identification evidence.
55. K. described what Mr. Mantla was wearing
56. that night. She said he was wearing a black or
57. green jacket, white shoes, and no hat. She said
58. she saw Mr. Mantla's face and eyes. She
59. recognized his voice. She was asked in
60. cross-examination, "Do you think that man could
61. have been someone else?" And she answered, "No,
62. no. It was him."
63. The Crown takes the position that the
64. children's evidence is rock solid and was
65. unshaken in cross-examination. The Crown says
66. that their description of events is, in general
67. terms, consistent with one another and is
68. corroborated by certain things, such as the
69. amount of blood that was found in that area of
70. the hallway, where both girls say their mother
71. was being stabbed; the damage to the phone cord
72. that police found in the apartment near the
73. television stand, which is the location where
74. they both said he was when the phone cord was
75. damaged. And the Crown emphasized that
76. Mr. Mantla was well-known to them both.
77. Defence argued that a number of things
78. call into question the reliability and accuracy
79. of the recognition evidence of these two
80. witnesses, including the chaotic nature of the
81. events and the fact that all of this unfolded
82. very quickly. These children woke up to their
83. mother being the victim of a violent attack.
84. These, for sure, are not ideal conditions in
85. which to be making observations.
86. The second issue is the less than ideal
87. lighting conditions in the house. Different
88. witnesses described the lighting conditions
89. differently, but overall, although there was some
90. light in the apartment, it was described by the
91. first responders as dim lighting.
92. L. needs glasses to see far, and she was
93. not wearing those that night. She said, at
94. first, what she saw was blurry, and she had to
95. squint to see better. Again, those are not
96. optimal conditions in which to be making
97. observations.
98. Mr. Mantla does not have any particular
99. distinguishing features. This is another factor
100. that is usually considered when assessing the
101. weight of recognition evidence. To the extent
102. that the children said they recognized
103. Mr. Mantla's voice, the Defence notes that, by
104. all the accounts, very little was said by him
105. during this.
106. 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
107. someone less familiar with the person they say
108. they recognized.
109. The second factor I have taken into
110. account is the chaotic circumstances of the
111. observation. This should not be overlooked.
112. What was happening at the time these young
113. witnesses saw the perpetrator must be carefully
114. considered, and I have done so. This would have
115. been a sudden, terrifying, traumatic, and
116. short-lived event, and I recognize these are not
117. good conditions in which to make observations. I
118. have taken into account their ability to observe
119. despite the chaotic circumstances.
120. Both children were right there. Scared
121. as they were, their attention was focussed on
122. what was happening to their mother. They had an
123. unblocked view of the attacker. They also
124. watched him make his way to damage the phone
125. cord, and their accounts on this are consistent.
126. Both recognized the knife as one that belonged to
127. the household. K. noticed the colour of the
128. shoes. Their descriptions of the person's jacket
129. are not identical, but they are not incompatible.
130. I have considered the lighting
131. conditions. They were not ideal, but all
132. witnesses say there was some light there. It was
133. not pitch black. On the whole of the evidence,
134. it is reasonable to conclude that the lighting
135. conditions when Ms. M. was being stabbed were
136. similar to the lighting conditions when the first
137. responders arrived a short time later.
138. Those first responders said the lighting was dim,
139. but Sergeant McKinnon and Constable Fracassi did
140. not need to use their flashlights in the hallway
141. and in the living room. They did in the bedroom,
142. which was darker. The light in the living room
143. was not on, but witnesses talked about there
144. being some light coming from the kitchen and the
145. hallway. There was enough light in the living
146. room for first responders to see the children in
147. the living room.
148. Mr. Chartrand said he saw children
149. there. Constable Fracassi saw only A. But the
150. point is, that both could see there were a child
151. or children in the living room when they arrived
152. at the door. Perhaps more importantly everyone
153. says that the hallway light was lit, and by all
154. accounts, that is where Ms. M. was being stabbed
155. as the children were watching.
156. K. has no issues with her eyes. L.
157. does wear glasses, and she was honest about
158. things being a bit blurry when she does not wear
159. them. But she also said once she squints, that
160. helps her. And this came across during her
161. interview with the police as well. At one point,
162. the officer was asking her about this, and during
163. the interview, he moved away checking with her if
164. she could still see how many fingers he was
165. holding up, and she was able to get it right. So
166. that puts the degree of her eyesight problem in
167. context.
168. I have also taken into account the
169. corroboration of certain aspects of the
170. children's observation. Their observations are
171. consistent with one another and consistent with
172. the presence of a lot of blood in the hallway, on
173. the floor and walls.
174. Of course, aside from issues that relate
175. specifically to the inherent frailties of
176. identification evidence, the overall reliability
177. of the account of these young witnesses might be
178. weighed in light of their age.
179. Children's evidence must be assessed
180. taking into account their age and level of
181. development. At the same time, this cannot, in
182. any way, result in a dilution of the standard of
183. proof. Age makes some inconsistencies less
184. significant than they would be for an adult
185. witness. A good example of this in this case is
186. when K. was asked how long before this,
187. Mr. Mantla and her mother were going out. Her
188. answer was "A long time ago." By all accounts,
189. the separation was actually quite recent. But
190. for a young child, perception of time would be
191. different. So that type of inconsistency does
192. not call into question the reliability of her
193. evidence as a whole. No one suggested it did.
194. I found that despite their young age,
195. these witnesses appeared precise and careful in
196. their answers. When they did not know something,
197. they said so. And notably, there were occasions
198. where they corrected the interviewer giving their
199. statement to police. I noticed this when both
200. statements were played. For example, at one
201. point during K.'s statement, the officer refers
202. to Mr. Mantla as her father, and she immediately
203. interjects and said that he is not her father; he
204. is A.'s father. Something similar happened in
205. the interview with L. The questioner misspoke
206. and said something about L. coming out of her
207. room. And she corrected him immediately. She
208. said she was not in her room; she was in the
209. living room.
210. As for the discrepancy in K.'s account
211. about how Mr. Mantla came to say "she's cheating
212. on me," it is not something that I find
213. significant, especially considering her age. It
214. is not the kind of shift that causes me not to
215. accept that the attacker uttered those words, and
216. it is not the kind of shift that causes me to
217. question her reliability in talking about what
218. she saw.
219. These witnesses are young witnesses, but
220. on the whole, they appeared to me to be cautious
221. and honest. The conditions to observe events
222. were admittedly far from ideal, but the house was
223. not in complete darkness either, and these
224. witnesses had much more than a fleeting glance at
225. the person who attacked their mother. There was
226. the attack itself, the walking past to damage the
227. phone cord; there were some things said, albeit
228. not a lot; they both identified a person they
229. knew very well.
230. And it is important to remember that
231. given their ages at the time of these events,
232. Mr. Mantla would have been a part of their lives
233. for half of their lives or more. This is someone
234. they had lived with. So even examined with the
235. caution that is warranted any time eyewitness
236. identification is proffered, I find the
237. identification of L. and K. solid and compelling.
238. I now turn to E. M.'s evidence. She
239. testified through a closed circuit television
240. system as well. She testified about the events
241. that occurred earlier during the day, and I will
242. get back to those later in my reasons. But for
243. now, I will focus on her evidence about what
244. happened in her house when she woke up, and her
245. identification of Mr. Mantla as the person who
246. attacked her.
247. Ms. M. explained that she, Elvis
248. Lafferty, and his parents were in her bedroom
249. that evening. She said no one had been consuming
250. any alcohol. They were just talking. She and
251. Mr. Lafferty went to sleep on their bed, and Mr.
252. Lafferty's parents went to sleep on a mattress on
253. the floor of the bedroom.
254. At trial, she described waking up and
255. seeing Mr. Lafferty getting up and then him and
256. Mr. Mantla facing each other in the bedroom
257. doorway. Then she said Mr. Mantla started
258. stabbing Mr. Lafferty repeatedly, and
259. Mr. Lafferty collapsed. She tried to run out,
260. and Mr. Mantla grabbed her in the hallway and
261. said "You are not getting away." She described
262. trying to fight with him, struggling, trying to
263. hold the knife, holding her arms above her head
264. to protect herself, but that Mr. Mantla was too
265. strong. She was eventually stabbed multiple
266. times by him in various part of her body.
267. She said Mr. Lafferty's parents ran and
268. hid in the bathroom and that Mr. Mantla was
269. banging on the door with the knife, that she was
270. telling them to call the police and that
271. Mr. Mantla was saying "They don't have any
272. phone." She testified she saw L. a short
273. distance from where she was and that L. was
274. standing there crying. She said she was lying on
275. the floor, and Mr. Mantla was standing by the
276. door at one point after the attack finished, and
277. she asked him why he did this. And at this
278. point, he got emotional, crying and said words to
279. the effect "It's already done. There's nothing
280. we can do. It's done," and then he left.
281. She said she tried to get up, and she
282. made it to the first door, but then got too weak
283. and just laid there until the ambulance arrived.
284. This was where first responders found her.
285. The Defence raised a number of concerns
286. about the reliability of Ms. M.'s evidence about
287. what occurred in the house that night. Many of
288. those concerns have to do with the reliability of
289. her recollection, and others have to do with her
290. credibility as a witness. Although, at this
291. point, I am dealing with the identification
292. issue, the reliability and credibility of Ms. M.
293. is relevant to findings of fact as to things that
294. occurred earlier in the day. So to avoid
295. repetition, I will address all of those issues

1 here.

2

One area of concern relates to

1. inconsistencies between her trial testimony and
2. things she said during various statements she
3. gave to police. She was interviewed three times
4. by police: At the hospital in Yellowknife on

7 September 28 just before she was going into

1. surgery; at the hospital in Edmonton on September
2. 30th, 2015; and, finally, on October 12th, 2015,
3. she gave a sworn statement after she had returned
4. to Yellowknife from Edmonton but was still in
5. hospital. She testified at the preliminary
6. hearing in March 2017 and had various meetings
7. with the Crown before the preliminary hearing and
8. before the trial.
9. There were a number of inconsistencies
10. that were brought out during Ms. M.'s
11. cross-examination. I am not going to refer to
12. them all, but I want to give a few examples.
13. At trial, she described, as I mentioned,
14. walking up, seeing Mr. Lafferty and Mr. Mantla
15. standing facing each other, Mr. Mantla stabbing
16. Mr. Lafferty repeatedly, and Mr. Lafferty
17. collapsing. She acknowledged that in her
18. statement to police in October, she said it all
19. happened fast, and she did not see Mr. Mantla
20. stab Mr. Lafferty. She also acknowledged that at
21. the preliminary hearing she testified that when
22. she woke up, she saw Mr. Lafferty's parents run
23. to the washroom, then she saw Mr. Mantla in the
24. room, and she saw him kneeling down towards
25. Mr. Lafferty and stabbing him. She agreed that
26. the trial was the first time she said anything
27. about seeing Mr. Mantla and Mr. Lafferty facing
28. each other out the bedroom door.
29. In her statement to police in October,
30. she acknowledged that she did not remember
31. Mr. Mantla dragging her into the hallway. She
32. also had said she did not remember fighting back,
33. and mentioned that Mr. Lafferty's mother had told
34. her she was fighting back and was trying to block
35. the hits. Similarly, she had said she did not
36. remember the Laffertys running to the bathroom,
37. that this was something that they had told her
38. happened.
39. At trial, it was suggested to Ms. M.
40. that some of the things she testified to were
41. things that she does not actually remember
42. herself but that she incorporated because of
43. things other people told her. She disagreed with
44. that suggestion and maintained that she remembers
45. those things.
46. There were some inconsistencies aside
47. from her account of what happened in the house
48. that night. For example, at trial, she said that
49. by the time of these events, she had been going
50. out with Mr. Lafferty for a few weeks. In her

4 October statement, she had said they started

1. seeing each other in August, which would place it
2. earlier. She agreed during the trial that was
3. her answer when she spoke to the police, but,
4. ultimately, she said she did not remember when
5. they started dating.
6. There was also an inconsistency between
7. her October statement and what she said about
8. Mr. Mantla and Mr. Lafferty's shoe sizes. This
9. was relevant because of some of the evidence that
10. was collected in this case. She acknowledged her
11. answers to the police but said she was, today,
12. not sure what the shoe size was.
13. Ms. M. testified she had a telephone
14. conversation with Mr. Mantla during the afternoon
15. before the night of these events. At trial, she
16. said he uttered a threat and used words "you guys
17. are going to die." She acknowledged that when
18. speaking with police in October 2015, she said
19. Mr. Mantla had said he was going to come after
20. her and Elvis but had not said anything about him
21. using the words "You are going to die."
22. Ms. M. testified that she was not
23. drinking alcohol on the day or evening of these
24. events and that she did not see anyone else drink
25. either. L. M. said she did not see anyone drink
26. that night. K. said she thought the adults were
27. drinking. She did not see them drinking, but she
28. could tell by their faces that they were.
29. Both of Mr. Lafferty's parents testified
30. that alcohol was consumed that night by all of
31. them. Mr. Lafferty said all four of them were
32. drinking Bacardi and that he drank so much he
33. passed out. Mary Jane Lafferty said she started
34. drinking in the morning with her husband and her
35. son, then in the evening, they bumped into Ms. M.
36. at the mall, they returned to Lanky Court, and
37. she said the four of them drank beer and vodka.
38. On this point of alcohol consumption,
39. there is evidence that when Ms. M. was taken to
40. hospital to be treated for her injuries, samples
41. of her blood were taken as part of usual medical
42. procedures. These were eventually analyzed and
43. showed that there was an amount of alcohol in her
44. blood corresponding to 40 milligrams of alcohol
45. in 100 millilitres of blood. She was asked in
46. cross-examination if it would surprise her to
47. hear that tests showed there was alcohol in her
48. bloodstream, and she said she would not be
49. surprised. This was not explored further and was
50. not the subject of any questions in
51. re-examination.
52. It goes without saying that what Ms. M.
53. went through that night is horrific. Everyone in
54. that house woke up to a living nightmare. Ms. M.
55. was stabbed numerous times in various parts of
56. her body in front of her children. One of the
57. stabs to her wrist area had such force that it
58. almost amputated her hand.
59. In submissions, Crown counsel suggested
60. that her evidence and the inconsistencies in it
61. should be approached with leniency in light of
62. these circumstances. Defence urged against such
63. an approach noting that the fact that she was
64. subjected to a traumatic event is on the contrary
65. a reason to be especially cautious about her
66. evidence.
67. Defence also made the point, and
68. properly so, that sympathy for what a witness has
69. gone through is not a reason not to examine
70. problems with that witness's evidence closely and
71. critically. That second aspect of the Defence's
72. submission goes back to what I said at the
73. beginning about the fact that the same rigor must
74. be applied to the analysis of evidence
75. irrespective of the sympathy one may feel for
76. what a witness went through.
77. 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
78. conclusion that she sincerely believes that is
79. what she did. But in the October statement, she
80. said she did not remember those things and that
81. those were things that the Laffertys told her.
82. Another cause of concern is that the
83. forensic examination of the scene revealed the
84. presence of her blood on a wall in the bedroom,
85. which suggests that this is where she was first
86. struck. That is not how she remembers things
87. now. She says she was first stabbed in the
88. hallway.
89. Ms. M. may be quite certain today that
90. she actually remembers those things, but on the
91. whole, I do not find her account of the details
92. of how the attack unfolded to be reliable.
93. The question of her consumption of
94. alcohol raises a different issue.
95. It is difficult to reconcile with Archie
96. and Mary Jane Lafferty's account of how much
97. liquor they say was consumed. The evidence of
98. Archie and Mary Jane Lafferty, everyone agrees,
99. is not particularly reliable. They had been
100. drinking earlier that day. Even their account of
101. where they met Ms. M. is inconsistent.
102. Mr. Lafferty says they met in a bar, whereas Mrs.
103. Lafferty said they met at the mall. Mr. Lafferty
104. remembers virtually nothing of the evening, and
105. Mary Jane Lafferty's evidence about what happened
106. was very confused.
107. I do keep in mind that these people
108. suffered an extreme trauma that night, and I have
109. a lot of sympathy for them, but their evidence
110. simply is not reliable.
111. The evidence of empty bottles found in
112. various parts of the apartment does not add much
113. to the matter because that does not tell us when
114. the alcohol was consumed. I would attach more
115. weight to the evidence of the children on this,
116. bearing in mind they may not have been aware of
117. what was happening in the bedroom. L. said she
118. did not see anyone drinking. K. thought the
119. adults were drinking based on their faces,
120. although she did not see it.
121. The quantity of alcohol found in her
122. blood was relatively small. Certainly, the
123. presence of alcohol in her bloodstream suggests
124. some consumption of alcohol at some point that
125. day or evening, and the Laffertys' evidence do
126. contradict her evidence that no one was drinking
127. alcohol at the apartment. Ms. M.'s evidence that
128. she would not be surprised to hear there was
129. alcohol in her bloodstream is, on its face,
130. puzzling. It could mean she had been drinking
131. earlier in the day. It could mean she was
132. accepting that her memory could be in error on
133. this point. I do not know, and I cannot
134. speculate about that. And in the final analysis,
135. I am not sure what to make of that. But it is
136. another aspect of the evidence that calls into
137. question the reliability of her recollection. On
138. the whole, I do not see it as a reason to
139. conclude she was deliberately lying about this
140. aspect of things or anything else. I see it more
141. as another reason to approach her evidence with
142. caution, from the point of view of reliability.
143. So all these problems mean that on the
144. issue of identification, in addition to all the
145. usual concerns, additional caution is warranted
146. when looking at Ms. M.'s evidence. At the same
147. time, the concern about incorporating what others
148. told her as part of her own evidence relates to
149. how the attack unfolded. It has no bearing on
150. the issue of identity. There is no evidence that
151. anyone told her who did this to her and that she
152. could have incorporated that into her memory and
153. adopted it as her own. Archie and Mary Jane
154. Lafferty could not have told who did this because
155. they did not know Mr. Mantla that day and cannot
156. identify him. There is also no suggestion that
157. L. and K. could have tainted their mother's own
158. independent identification as to who came into
159. the house that night. On the evidence, it is
160. difficult to see when they would have even have
161. had an opportunity to do that, given that they
162. ran out of the house and what unfolded afterwards
163. in terms of the medical treatment Ms. M. needed.
164. And with E. M.'s identification evidence, it is
165. also relevant that Mr. Mantla was her former
166. common-law spouse. This is someone she knew very
167. well.
168. On balance, while there are problems
169. with Ms. M.'s evidence that do not arise with
170. respect to the evidence of L. and K., I do not
171. believe she is mistaken as to the identity of her
172. attacker. In my view, the recognition evidence
173. of these three witnesses does establish beyond a
174. reasonable doubt that Mr. Mantla was the person
175. who stabbed Mr. Lafferty and Ms. M. Having
176. reviewed it with caution and applying a critical
177. lens to it, it leaves me sure as to who was in
178. the apartment that night.
179. But there is a lot more. There is also
180. a strong body of circumstantial evidence, which,
181. in my view, even on its own, leads inescapably to
182. the same conclusion. And now I am going to turn
183. 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
28. before the attack:
29. 1. E. M. put an end to her relationship
30. with Mr. Mantla in the summer of 2015. He
31. returned to live in Gamètì.
32. 2. A short time after this, E. M. began
33. a relationship with Elvis Lafferty. The evidence
34. is not entirely clear as to exactly when that
35. happened, but that relationship was relatively
36. recent. Elvis Lafferty's parents had never met
37. Ms. M. before the day of these events.
38. 3. On the morning of September 27th,
39. 2015, Kevin Mantla tried to call E. M. collect
40. four times in close succession. The first call
41. was placed at 8:39 a.m., and the last was placed
42. at 8:44 a.m. She did not pick up because she did
43. not want to speak to him.
44. 4. Later that morning, E. M. decided to
45. call him. She wanted to tell him about her
46. relationship with Elvis Lafferty and tell him to
47. leave them alone. Mr. Mantla did not believe her
48. when she said she was in another relationship.
49. Ms. M. put Mr. Lafferty on the phone, and he
50. spoke with Mr. Mantla. Ms. M. said this was an
51. intense and disturbing phone call. She said that
52. during the call, Mr. Mantla said that he would
53. come after her and Elvis Lafferty.
54. 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

1. conversation scared Ms. M. enough to prompt her
2. to call Mr. Mantla's parents and ask them not to
3. pay his way to Yellowknife. And it is noteworthy
4. that she testified that she told them that
5. Mr. Mantla had threatened to kill her.
6. On that issue, whatever exact words Mr.
7. Mantla used, I find as a fact that what he said
8. conveyed a threat to cause serious harm to Elvis
9. Lafferty and to Ms. M., and it was said in a way
10. that caused her to become very concerned about
11. it.
12. 6. At 3:30 p.m. that day, Mr. Mantla
13. went to the Gamètì Airport and purchased a
14. one-way ticket for that day's flight to
15. Yellowknife. At the airport in Gamètì, Mr.
16. Mantla met John Wetrade, who was also travelling
17. on that flight. Mr. Wetrade is originally from
18. Gamètì but now lives in Yellowknife. He had been
19. in Gamètì visiting his family, and he was on his
20. way back to Yellowknife. Mr. Mantla and
21. Mr. Wetrade were friends. Mr. Mantla
22. occasionally stayed with him when he visited
23. Yellowknife.
24. I will say now that I accept
25. Mr. Wetrade's evidence. Mr. Wetrade had no
26. motive whatsoever to get Mr. Mantla in trouble.
27. On the contrary, they have known each other a
28. long time and are friends. Mr. Wetrade appeared
29. a bit reticent at times during his testimony.
30. And under the circumstances, that is
31. understandable. It cannot be easy to testify as
32. a prosecution witness on a murder case when the
33. accused is a friend. But he was a careful
34. witness, and I accept his evidence about what
35. happened over the course of that afternoon,
36. evening, and following morning. I find that
37. evidence credible and reliable.
38. 7. At the Gamètì Airport, Mr. Mantla
39. spoke with Mr. Wetrade. He told him he was "kind
40. of upset" about his girlfriend having cheated on
41. him. Mr. Wetrade said that Mr. Mantla mostly
42. told him he was sad about what she did to him.
43. 8. The flight landed in Yellowknife
44. just before 6:00 p.m. At the Air Tindi hanger,
45. Mr. Mantla used the pay phone. The security
46. cameras captured this. The footage was played in
47. court. Mr. Wetrade identified himself and Mr.
48. Mantla on that footage. We see Mr. Mantla at the
49. pay phone. We also see he is wearing a jacket, a
50. black hat, and white shoes. He is carrying a
51. black backpack with an orange tag.
52. 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
53. there, Mr. Mantla wanted to get a mickey. So
54. they took a cab and went to the Elk's Hall. Mr.
55. Mantla purchased a bottle of vodka from a
56. bootlegger. They then walked to Mr. Wetrade's
57. apartment at Crestview Apartments.
58. 12. At Crestview, Mr. Mantla drank
59. vodka. Mr. Wetrade does not drink because of a
60. medical condition. The two of them smoked crack.
61. 13. Mr. Wetrade eventually went to bed.
62. He estimates this was at about 12:30 or 1:00.
63. When he went to bed, Mr. Mantla was still in the
64. living room. Mr. Wetrade's understanding was
65. that Mr. Mantla was going to sleep on the living
66. room couch. There is no evidence that Mr. Mantla
67. told Mr. Wetrade anything about having plans to
68. go anywhere else that night.
69. 14. Footage from security cameras in
70. the stairwells of Crestview Apartments show a man
71. coming down the stairs. The footage was played
72. at trial, and I have watched it again several
73. times. Based on my observations of the video and
74. of the still images taken from that video, I find
75. as a fact that Mr. Mantla is the person coming
76. down those stairs. The images do not show his
77. face enough for me to recognize him in that way,
78. but the overall appearance and clothes of the man
79. corresponds with the images of Mr. Mantla at the
80. Air Tindi hanger. The date and timestamp for
81. this segment of the footage is September 28, 22
82. minutes past midnight. There is an admission
83. that the date on the timestamp of the video is
84. accurate and that the time shown is an
85. approximate representation of the time.
86. Those are the elements of circumstantial
87. evidence that relate to things that happened
88. before the attack.
89. Now I turn to the evidence about the
90. attack itself:
91. The call to police after the attack at
92. Lanky Court came at 12:55 on September 28, 2015.
93. I am satisfied that the events in the house took
94. place over a relatively short period of time and
95. that as soon as the attacker left, people left
96. the apartment, and help was called. In other
97. words, the attack on Mr. Lafferty and Ms. M.
98. happened a short time before the call to police.
99. That means that the attack happened roughly half
100. an hour after Mr. Mantla left Crestview. The
101. distance between Crestview and Lanky Court, as
102. measured by a police officer, is 1.7 kilometres.
103. The evidence about the attack itself is
104. also telling, in that the person who committed
105. the attacks entered the house undetected. The
106. person used a knife that both children recognized
107. as a knife of the household. The person who did
108. this was able to quickly locate the telephone
109. cord in the living room and damage it. Whether
110. it was ripped or cut, it was damaged, and the
111. person who did this was able to do it quickly.
112. That is consistent with the person having some
113. familiarity with the residence.
114. As to words that were uttered during the
115. attack, not everyone heard the same thing. Given
116. the chaotic situation, the fact that people were
117. screaming, I do not find that surprising, but I
118. do not believe that either of the children made
119. up the things that they say the intruder said.
120. And I also reject the suggestion that they are
121. mistaken about what they heard. The person who
122. did this said to K., most likely in response to
123. having asked why he was doing this, words to the
124. effect "she is cheating on me." That is an
125. important element of circumstantial evidence,
126. because it suggests that the attacker was someone
127. who had been in a relationship with Ms. M.
128. And then there is circumstantial
129. evidence of things that happened after the
130. attack. And this includes:
131. 1. During the night at about 3:30 a.m.,
132. Mr. Wetrade woke up, and Mr. Mantla was not in
133. 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
134. Mr. Wetrade said Mr. Mantla was wearing white
135. shoes that morning.
136. 5. Mr. Mantla was carrying a garbage
137. bag. He was no longer wearing the black hat that
138. he had been wearing at the Air Tindi hanger and
139. when he left Crestview. Later that morning,
140. Mr. Wetrade noticed the garbage bag missing from
141. the garbage can in his washroom. He told police
142. about this. I will get back to this aspect when
143. I deal with the forensic evidence.
144. 6. By the time Mr. Mantla arrived at
145. the detachment, it was 7:00 a.m. He was in the
146. front lobby using the phone to call the operator.
147. The conversation was recorded and is in evidence.
148. Mr. Mantla told the operator he wanted to be
149. placed in the drunk tank because he had no place
150. to sleep.
151. Constable Shae was sent down to talk to
152. him. Constable Shae told him he could not put
153. him in the drunk tank because he is not drunk.
154. He noticed that Mr. Mantla was not wearing any
155. shoes. He asked him about this. Mr. Mantla said
156. his shoes were stolen. A short time after, he
157. said he lent them to a friend.
158. Constable Shae had just come on shift.
159. He knew police were looking for Kevin Mantla, but
160. he did not realize that this was the person he
161. was talking to. Once he learned the identity of
162. Mr. Mantla, he took him into custody and called
163. his colleagues, and this is when Mr. Mantla was
164. arrested.
165. A short time after this, a pair of white
166. running shoes, the Starter brand shoes, were
167. found by a police officer near a garbage dumpster
168. across street from the detachment, a short
169. distance away. The photos of the dumpster appear
170. to show that it has a metal bar on top of the lid
171. that enables locking it shut.
172. The evidence gives rise to a strong
173. inference that those were the shoes that Mr.
174. Mantla was wearing when he left Crestview. I
175. come to this conclusion because we know he left
176. Crestview wearing white shoes and arrived at the
177. RCMP detachment approximately 15 minutes later
178. wearing no shoes. And those white shoes were
179. found in close proximity to the detachment. I do
180. not accept that this is a mere coincidence. I
181. find, as a fact, that Mr. Mantla left the shoes
182. there before going into the detachment across the
183. street.
184. This sequence of events revealed by the
185. circumstantial evidence is consistent with Mr.
186. Mantla being the intruder at Lanky Court and
187. 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
188. difficult to accept that he would think police do
189. not keep track of who gets booked into the drunk
190. tank and when. So I am left puzzled by this
191. evidence.
192. I am not comfortable making a finding
193. either way about what Mr. Mantla's objective was
194. in acting in this manner. I do not know why he
195. was trying to get himself booked into the drunk
196. tank that morning, but I certainly decline to
197. draw any inference about his guilt from that
198. aspect of the evidence.
199. Similarly, I would not attach any weight
200. to the comment made to Mr. Wetrade before he
201. left. And, here, I am referring to him saying
202. "I'm going back to my woman." This, too, is a
203. puzzling comment. One might argue it is
204. inconsistent with him having tried to kill her or
205. knowing that she was seriously injured. That
206. would be a more compelling argument if there was
207. any indication that Mr. Mantla actually tried to
208. go to Lanky Court that morning, but the evidence
209. is to the contrary. Lanky Court is not on the
210. way between Crestview and the RCMP detachment.
211. On the contrary, it is very much out of the way
212. and some distance away. Given the time
213. Mr. Mantla arrived at the detachment, he could
214. not possibly have made a detour via Lanky Court

1 first.

2

Another possibility, of course, is that

1. this statement was a clumsy or desperate attempt
2. to distance himself from a crime he knew he had
3. committed and was getting increasingly anxious
4. about. I simply do not know. I cannot say that
5. this behaviour is only consistent with a guilty
6. state of mind, nor do I find it necessarily
7. consistent with an innocent state of mind.
8. In summary, I do not think it assists
9. either Crown or defence.
10. But on the whole, in reference to the
11. balance of the circumstantial evidence that I
12. have referred to, I am satisfied beyond a
13. reasonable doubt that the only rational
14. explanation for that evidence is that Mr. Mantla
15. was the one who attacked Ms. M. and Mr. Lafferty
16. at Lanky Court.
17. In addition there is forensic evidence
18. that also supports this conclusion.
19. First, there was the blood spatter
20. evidence. I will only say a few words about the
21. blood spatter evidence. Sergeant Davidson, who
22. testified about this, explained the process he
23. used to identify areas of interest, collect
24. samples of blood, and approach his task. He
25. explained that different types of blood stains
26. indicate different scenarios, and he explained
27. how he is able to draw certain conclusions about
28. directionality based on the shape of the stains.
29. I did not understand his conclusions to
30. be disputed for the most part. The blood found
31. in the Lanky Court apartment is entirely
32. consistent with the type of injuries that these
33. victims suffered. Mr. Lafferty's blood was found
34. only in the bedroom, which is consistent with him
35. having been stabbed there and nowhere else in the
36. house. Some of Ms. M.'s blood was found on the
37. wall near the bed, which suggests that contrary
38. to what she now remembers, she was stabbed in the
39. bedroom as well as in the hallway.
40. The second aspect of the forensic
41. evidence, of course, is the DNA evidence. On
42. this, I heard detailed evidence at the trial
43. about various exhibits that were seized and
44. processed, including those that were collected
45. for the purpose of DNA analysis and comparison.
46. Again, I do not propose to refer to all of this
47. evidence here. I will focus on what, in my view,
48. is the most significant.
49. As far as the DNA testing process, I
50. heard evidence about the procedures followed at
51. the laboratory in Edmonton. I heard from the
52. different technicians who handled the exhibits
53. and were responsible for locating, extracting DNA
54. samples from the exhibits, and generating DNA
55. profiles from those samples. This is the
56. evidence that was used for the purposes of
57. comparison by the DNA expert, Laura Reader.
58. I heard about the standard procedures
59. and precautions that are followed in the
60. laboratory to preserve the exhibits and eliminate
61. the risk of contamination. And all the witnesses
62. who were involved in handling the exhibits at the
63. lab in this case said they followed those
64. procedures.
65. Nothing arose in the evidence of these
66. witnesses that calls into question their
67. training, professionalism, or their assertion
68. that they followed standard protocols in dealing
69. with those exhibits. The expertise of Ms. Reader
70. was not challenged. She explained the processes
71. that she followed and how she arrived at her
72. conclusions. She was careful to draw
73. distinctions and to explain where nuance was
74. required. Obviously, this is a very technical
75. area, but she explained how DNA profiling works,
76. which enabled me to make up my own mind about
77. whether I should rely on her opinion evidence.
78. I do not understand Defence to be taking
79. issue with her conclusions, actually. The issues
80. that defence raised on the forensic evidence have
81. more to do with the handling of the exhibits by
82. the investigators and the possibility of
83. contamination having occurred before the exhibits
84. were turned over the lab.
85. I will now address, briefly, the
86. exhibits that I think are the most significant.
87. The first are the white shoes, the K-Swiss brand.
88. These were found at Lanky Court. The right shoe
89. was found in the bedroom near Mr. Lafferty's
90. body, and the left shoe was found in the closet
91. near the entrance.
92. Sergeant Davidson's conclusions after
93. examining these shoes was that there were spatter
94. stains on both of them and that this is
95. consistent with force being applied to a blood
96. source (in this case, a person), dispersing blood
97. drops into the air onto the shoes. This is by
98. opposition to, for example, a transfer stain
99. which could result simply from an object coming
100. into contact with the blood-bearing surface.
101. Samples were taken from various areas of
102. both these shoes. And the examination of the
103. DNA found on the shoes revealed that Elvis
104. Lafferty's blood was on the right shoe, E. M.'s
105. blood was on the left shoe, and DNA matching Mr.
106. Mantla's DNA was found on three areas of the left
107. shoe, the outstep side of the lowest lace
108. opening, the interior top of the tongue, and the
109. interior outstep of the heal.
110. Defence raised concern about possible
111. contamination of the left shoe. It was first
112. photographed by Constable Lugosi in her initial
113. tour of the residence on September 28th. A
114. photograph taken on September 30th, the day it
115. was actually seized, shows that it is not exactly
116. in the same position as it was on the 28th. The
117. evidence is that in the interim, of course, the
118. residence was searched, and several police
119. officers would have been in it at various points.
120. It is not clear how the shoe came to be moved,
121. who moved it, and under what circumstances.
122. Defence argued that there is a
123. possibility that this exhibit was touched during
124. the search by police officers who might have
125. touched other things, might have not changed
126. gloves after they had touched other things, and
127. that especially considering the evidence that
128. Mr. Mantla had lived in that house, there is a
129. possibility that the presence of Mr. Mantla's DNA
130. on the shoe does not mean he was wearing it that
131. night. In other words, his DNA could have been
132. on some other object in the apartment and
133. 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
134. this chaotic scene how the shoe got there is of
135. no consequence. If it had no blood on it, it
136. could be conceivable that it was simply left in
137. the closet and that the other shoe was simply
138. left in the bedroom and just happened to be at
139. the scene and contaminated with blood without
140. being linked to the attack. The fact that there
141. is blood of victims on each of the shoe,
142. including, and specifically, the one in the
143. closet, eliminates that possibility.
144. In my view, the forensic evidence
145. establishes that this pair of shoes is connected
146. both to the offence and to Mr. Mantla. It
147. happens to be the same colour as the shoes he was
148. wearing when he arrived in Yellowknife and when
149. he left Crestview after midnight. I agree with
150. defence that the still image of the Air Tindi
151. camera alone would not be enough to conclude that
152. these are the same shoes. As this case
153. demonstrates, white shoes are not uncommon. But
154. the appearance of the shoes are similar and with
155. the rest of the evidence, in my view, the link is
156. made.
157. The second exhibit is the Starter shoes,
158. the second pair of shoes, also white, that were
159. found by the dumpster across the street from the
160. RCMP station. Sergeant Davidson identified
161. transfer stains on both of them, but no spatter
162. stains. Blood was confirmed on both shoes. Ms.
163. M.'s DNA was identified on both shoes. Mr.
164. Lafferty's DNA was identified on an area of the
165. right shoe. The sample was taken from the
166. interior top of the tongue of the shoe. This was
167. an area where there was no confirmation for the
168. presence of blood, but Mr. Lafferty's DNA was
169. identified.
170. The conclusion I draw from this is that
171. these shoes are connected to the crime scene as
172. well, and since I have found as a fact that it
173. was Mr. Mantla who left them by the dumpster,
174. that is another element that connects him to the
175. scene.
176. The third exhibit of interest is the
177. hat. A black hat bearing a similar red crest as
178. the one Mr. Mantla was wearing when he arrived in
179. Yellowknife was found in a garbage bag at the
180. dump. The search at the dump came about as a
181. result of Mr. Wetrade telling police that a
182. garbage bag from his bathroom had gone missing.
183. I agree with defence that the evidence
184. about how police came to search a certain pile of
185. garbage within the dump is only admissible to
186. explain the steps they took and not admissible to
187. show that this particular pile of garbage
188. actually came from the garbage run that included
189. the vicinity of Crestview. But an officer did
190. locate a bag that contained a black hat. He was
191. not immediately aware of the significance of this
192. find, but, eventually, the hat was seized, and it
193. was examined for forensics.
194. No blood was identified on the hat, but
195. Mr. Mantla's DNA was found on it. We know that
196. Mr. Mantla was wearing a black hat when he
197. arrived in Yellowknife. He was not wearing it
198. when he left Crestview in the morning or when he
199. arrived at the detachment, but he was wearing it
200. when he left Crestview in the middle of the
201. night. There is no evidence that this hat was
202. found in the effects that were seized. It seems
203. that the hat, like his jacket, had vanished.
204. This, combined with the footage of
205. Mr. Mantla leaving Crestview with the garbage
206. bag, not having a bag when he arrived at the
207. detachment, and the presence of his DNA on a
208. similar hat found at the Yellowknife dump,
209. establishes, in my view, that the hat that was
210. found at the dump and the hat that he was wearing
211. the day before are one and the same.
212. There is no evidence of any other
213. explanation for why Mr. Mantla would choose to
214. take out Mr. Wetrade's garbage from the bathroom
215. that morning. There were other garbage bags in
216. the apartment. The photos of Crestview show
217. that. And they were left there. It defies logic
218. that Mr. Mantla would have decided for no
219. particular reason to take out this one garbage
220. bag as he was leaving that morning. The only
221. rational explanation for that is that he had put
222. his hat in the bag and wanted to get rid of it.
223. Why would he do this? As it turns out,
224. there was nothing incriminating on that hat. No
225. blood from either victim was found on it. And
226. the eyewitnesses do not say he was wearing a hat
227. during the attack. But, as I said, he was
228. wearing this hat when he left Crestview after
229. midnight. He may well have thought that there
230. was incriminating evidence on it and, just like
231. the jacket, he decided to get rid of it.
232. Before I conclude my remarks on the
233. issue of identification, I want to address one
234. last issue that was raised in defence submissions
235. about the absence of dock identification by E. M.
236. or the children.
237. These witnesses were not asked to
238. confirm that the person before the Court is the
239. Kevin Mantla that they were talking about in
240. their testimony. As defence noted, when
241. witnesses testify by closed circuit television,
242. there is the possibility of having the camera pan
243. the courtroom and have witnesses indicate whether
244. they see the person they have been talking about
245. in the courtroom. Here, this was not done.
246. But had there been dock identification
247. in this case, it would have carried no weight.
248. The identification issue that arises in
249. this case is whether the witnesses are mistaken
250. about who they saw in the house. It is not that
251. E. M. and her children do not know who Kevin
252. Mantla is. They formed the belief as to who
253. their attacker was at the time of the events. If
254. they had pointed him out in court two years
255. later, it would have added nothing to the
256. strength of their identification.
257. It is important, as well, that the lack
258. of dock identification in this case does not
259. leave the Court without any evidence that the
260. Kevin Mantla that they were talking about is the
261. same Kevin Mantla who is before the Court. We
262. know, through admissions and through Mr. Wetrade,
263. that the Kevin Mantla who is before the Court
264. placed the call from the Air Tindi hanger to
265. E. M.'s phone, and we know that part of the
266. conversation was about her cheating on him.
267. Mr. Wetrade did identify Mr. Mantla in Court.
268. 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

# III) INTOXICATION AND INTENT

1. The next issue I have to address is that
2. of intoxication and intent.
3. 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
4. this issue. I am not going to repeat what I have
5. already said, but I just want to note what
6. evidence is part of what I have considered useful
7. on the issue of intent.
8. The first is Mr. Mantla's state of mind
9. that morning after having spoken with Ms. M. and
10. Mr. Lafferty. He made a threat. And as I said,
11. the exact words he used do not matter. He made a
12. serious threat.
13. The nature of the injuries is another
14. piece of evidence that is relevant to intent. I
15. will not refer to the autopsy results in detail,
16. but Mr. Lafferty was stabbed numerous times in
17. several areas of his body. Some of his wounds
18. were very deep. As for Ms. M., she too was
19. stabbed multiple times in various parts of her
20. body, including her abdominal area. Considerable
21. force was used. One of her hands was almost cut
22. off. The use of this type of force gives rise to
23. a very strong inference that the intent of the
24. attacker was to kill them both.
25. And there is more. L.'s evidence that
26. Mr. Mantla said "I'm going to kill you too" is
27. compelling evidence of his intent.
28. The damage to the phone is consistent
29. with Mr. Mantla having wanted to interfere with
30. the possibility of people calling for help. And
31. there is nothing in the evidence that suggests
32. any other intention from what happened in the
33. apartment.
34. I must also consider the evidence of
35. intoxication. There is evidence that Mr. Mantla
36. consumed alcohol and crack when he spent time
37. with Mr. Wetrade that evening. There is evidence
38. that some of the officers present at his arrest
39. detected signs that he had consumed alcohol.
40. Defence invites me to draw certain conclusions
41. from things that can be observed and heard on the
42. video of his arrest at the detachment. Defence
43. argues that this evidence raises at least a
44. reasonable doubt about whether Mr. Mantla's
45. intoxication was such that he did not form the
46. specific intent to kill either Mr. Lafferty or
47. Ms. M.
48. The evidence of consumption of
49. intoxicating substances comes primarily from
50. Mr. Wetrade, who spent time with Mr. Mantla
51. closest to the events. Mr. Wetrade said
52. Mr. Mantla wanted to buy a mickey. Mr. Wetrade
53. was not involved in the transaction itself. He
54. acknowledged it was possible more than a mickey
55. was purchased, but he did not see. He said they
56. smoked crack. There is no evidence of how much
57. 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
58. time they were consumed. I do not have
59. Mr. Mantla's subjective view on how his faculties
60. are affected. I have Mr. Wetrade's observations
61. and perceptions that he was not really
62. intoxicated, and I have nothing else.
63. The footage of Mr. Mantla coming down
64. the stairs at Crestview is another relevant item
65. of evidence. I have watched it several times, as
66. I said already. Mr. Mantla is coming down the
67. stairs quickly. He has his hands in his pockets.
68. He has no trouble coming down the stairs or
69. negotiating the turns in the stairwell for the
70. portion of the video where he can be seen. In
71. fact, he appears to be coming down the stairs two
72. steps at a time. There is no stagger, no
73. swaying, no loss of balance. He is only in view
74. for a few seconds, but there is nothing about
75. what can be observed in those few seconds that
76. suggests any impairment of his motor skills. The
77. distance between Crestview and Lanky Court and
78. the overall timing suggests that he covered that
79. distance fairly quickly.
80. Both children said they recognize the
81. knife as one that was from their home.
82. Mr. Mantla had no difficulty locating a knife in
83. the home. When the children saw him move through
84. the living room, they did not see him stumble.
85. He had no difficulty finding and damaging the
86. phone cord. And when he got to the door, he ran.
87. There is basically nothing on the
88. evidence that supports the claim that
89. Mr. Mantla's abilities were impaired by alcohol
90. to a point that calls into question his ability
91. or his actual intent, or the availability of the
92. inference that people intend the natural
93. consequences of their actions.
94. I have considered, as well, the evidence
95. of what happened later in the morning. It is
96. less telling of his state at the time of the
97. offence, but it must be taken into account. For
98. a period of time after the commission of the
99. offence, we do not know what Mr. Mantla did or
100. where he was. But we know that some hours later
101. he went back to Crestview. He was able to throw
102. rocks at Mr. Wetrade's window to wake him up.
103. Mr. Wetrade did not notice anything unusual about
104. him.
105. When Mr. Mantla left, the security
106. camera footage shows he came down the stairs with
107. no difficulty. He got to the RCMP detachment
108. quickly thereafter.
109. Constable Shae's perception was that he
110. could not put him in the drunk tank because he
111. was not intoxicated. Other officers involved
112. with his arrest expressed in various ways their
113. views about Mr. Mantla's state. Constable Beaton
114. noted an odour of liquor. He also detected a
115. slight slur in his speech and that he was in a
116. little off balance. Constable Fage, who was also
117. right there at the time of arrest, described him
118. as mildly intoxicated. He smelled of stale odour
119. of alcohol, noted that Mr. Mantla had heavy eyes,
120. slow speech, and was flatfooted walking.
121. Constable Beaton ultimately decided to
122. lodge him in cells and give him time to sleep
123. before proceeding any further. I have a video of
124. this interaction, which I have also watched
125. several times. In my view, Mr. Mantla, in that
126. video, primarily seems very, very tired. Many
127. times he yawns. Many times he said he needs to
128. sleep. It is true that there is a point when he
129. gets up, where he seems to almost lose balance.
130. But on the whole of the evidence, I do not think
131. it can be said that Mr. Mantla was intoxicated to
132. the point of staggering by that point in the
133. morning.
134. The way he walked, his dry mouth, his
135. yawning, all of that, is consistent with him
136. being very tired, probably not having slept at
137. all that night.
138. 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
139. things. For that reason, I place no weight on
140. the fact that he told them he did not remember
141. anything about the night. Those utterances are
142. of no assistance to me in dealing with the issue
143. of intoxication.
144. There is also no evidence extrapolating
145. back what Mr. Mantla's level of intoxication
146. could be expected to be some seven hours earlier
147. based on the symptoms he displayed that morning.
148. Those symptoms, at best, were very mild signs of
149. alcohol consumption.
150. As counsel properly noted,
151. after-the-fact conduct is of no assistance in
152. establishing the level of liability. Disposing
153. of the jacket, for example, getting rid of the
154. shoes, getting rid of any other items, is of no
155. assistance in determining Mr. Mantla's level of
156. culpability for these offences, because a person
157. who kills someone in an intoxicated state and
158. without the specific intent to kill is as likely
159. to later want to avoid detection as is a person
160. who killed with the intention to do so. *R. v.*
161. *Daley*.
162. In my view, the evidence about
163. intoxication is very tenuous. There is evidence
164. indicating consumption of alcohol and crack the
165. previous night but no evidence of it having had
166. any particular impact on Mr. Mantla's functioning
167. or mental abilities. There is also strong
168. evidence that rebuts the notion that Mr. Mantla,
169. because of his intoxication, did not have the
170. intent to kill.
171. Aside from the circumstances of the
172. offence itself, we have Mr. Wetrade's evidence,
173. who spent the evening with Mr. Mantla, who knew
174. him well, and who said Mr. Mantla was not
175. intoxicated. And this is the witness who saw
176. Mr. Mantla very shortly before the attack.
177. I found it interesting that when
178. Mr. Wetrade was asked about alcohol consumption
179. at his house, (this is when he was being shown
180. photos showing empty beer and full beer in his
181. apartment), he said that some of his friends do
182. come to his place to drink beer here and there,
183. but he does not let things go out of hand in his
184. apartment. He lets them drink a few, and then
185. tells them to leave. This is not someone who
186. lets people get highly intoxicated at his place.
187. His apartment is not a party place. This is far
188. from determinative, but it is part of the overall
189. picture that this evidence paints.
190. In summary, I find that based on the
191. inference that sane and sober people generally
192. intend the natural consequences of their actions,
193. Mr. Mantla's intent to kill both victims can be
194. inferred from the persistence and force used in
195. the attack.
196. I find that in addition to that common
197. sense inference, there is other evidence that
198. corroborates that this was indeed his intent.
199. And, finally, considering that the level
200. of intoxication that can raise a doubt about
201. specific intent is advanced intoxication as
202. defined in *Daley*, the evidence of intoxication,
203. in my view, is extremely weak, and it does not
204. raise anything reasonable in my mind.

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# IV) PLANNING AND DELIBERATION

1. The last issue I need to deal with is
2. the issue of planning and deliberation. I must
3. consider whether the Crown has proven beyond a
4. reasonable doubt that this murder was planned and
5. deliberate.
6. The meaning of planned and deliberate is
7. well-established in law. A planned murder is one
8. that was conceived and carefully thought out
9. prior to being committed. The plan may be very
10. simple, but it has to be carefully thought out.
11. Deliberate means more than intentional.
12. Intentional is what makes a murder a murder, as
13. 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
14. drawn from the evidence is that the murder of
15. Mr. Lafferty was planned and deliberate. The
16. Crown does not have to prove beyond a reasonable
17. doubt every individual fact it relies on in
18. support of its conclusion, but the fact that the
19. murder was planned and deliberate has to be the
20. only rational conclusion that can be drawn from
21. the facts found.
22. The other important thing to remember is
23. that while one of the phrases used to describe
24. deliberation is "not impulsive," it would be an
25. error to approach this as an either/or question.
26. What I mean by this is that just because an act
27. is not impulsive does not mean it is planned and
28. deliberate. That point was made in *Turningrobe*
29. as well at paragraph 156. Deliberation does not
30. need to have taken place over a lengthy period of
31. time as long as the accused had sufficient
32. opportunity in which to decide what to do,
33. consider the consequences of doing so, and
34. decided to act on the plan that had been
35. formulated.
36. As Chief Justice Fraser put it:
37. It does require that the reasoning for the killing, as well as some form
38. of method to accomplish this goal, be developed thoughtfully and not simply
39. be responsive to passion or impulse. Deliberation involves a
40. cold-bloodedness that is more than simply having the intent to kill.

1

* 1. Intoxication, as I was saying before, is
  2. relevant to assessing whether the accused formed
  3. the specific intent to kill. It may also have
  4. relevance in considering the issue of planning
  5. and deliberation. That is, by reason of
  6. intoxication, the accused did not plan and
  7. deliberate the murder.
  8. That is not, in this case, the Defence's
  9. primary line of argument. Defence's main point
  10. is that the evidence overall does not support a
  11. conclusion beyond a reasonable doubt that
  12. Mr. Mantla's action that night were planned and
  13. deliberate within the meaning of those terms in
  14. law.
  15. I repeat, because it is important, that
  16. after-the-fact conduct is of no help at all to
  17. prove planning and deliberation. I suppose in
  18. certain circumstances, it could be, such as if
  19. someone somehow written out a detailed plan which
  20. included steps to be taken after the murder, and
  21. the evidence showed that those steps were, in
  22. fact, taken after the murder. But there would
  23. have to be very specific linkages between the
  24. conduct after the fact and the evidence of the
  25. plan, and there was no such evidence here. So
  26. 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
28. weakens the suggestion that Mr. Mantla formed a
29. plan ahead of time to do this.
30. As I noted when I was dealing with the
31. circumstantial evidence, I am not convinced that
32. the exact words used to utter the threat matter.
33. What was said and the effect it had show that it
34. was a serious threat, and it says something about
35. Mr. Mantla's state of mind. At the same time,
36. not all threats are made with an intention to
37. carry them out. In fact, many threats are made
38. but not carried out.
39. Mr. Mantla's continued perception that
40. Ms. M. was cheating on him and his words to that
41. effect to Mr. Wetrade and in the phone call after
42. he arrived do demonstrate his state of mind about
43. the situation. And the steps he took to come to
44. Yellowknife are consistent with an intention to
45. confront Ms. M. and Mr. Lafferty.
46. The Crown's position, essentially, is
47. that Mr. Mantla made his plan to kill them, in
48. Gamètì, that he deliberated about that plan
49. during the plane ride and throughout the evening
50. at Mr. Wetrade's house. But there is no evidence
51. about anything he said or did while on the plane
52. or anything he said or did that evening at
53. Mr. Wetrade's house that assists with the theory
54. that throughout this period, he was brooding and
55. deliberating about what he was about to do.
56. I accept that the inference that the
57. Crown is asking me to draw is available on the
58. evidence. The more difficult question is: Is it
59. the *only* rational inference that can be drawn
60. from the evidence? Because to convict on the
61. basis of circumstantial evidence, it has to be.
62. The knife issue is not determinative,
63. because Mr. Mantla was familiar with the Lanky
64. Court residence. If he had brought the knife, it
65. would, of course, assist the Crown. The fact
66. that he did not bring a weapon with him does not
67. necessarily eliminate the possibility that he had
68. a plan, because his plan could have been to use a
69. knife from that residence.
70. The biggest difficulty I have come
71. across in considering the issue of planning and
72. deliberation is the uncertainty about how things
73. unfolded in the house that night. That is not
74. anyone's fault. None of the witnesses, under the
75. circumstances, could be expected to have a
76. play-by-play account of what took place. But on
77. my review of the evidence, I am not convinced
78. that it establishes what the Crown has put
79. forward in submissions, that Mr. Mantla entered,
80. went directly to the bedroom and began his
81. attack. How things unfolded in the house is not
82. that clear.
83. I do not find that Ms. M.'s account of
84. the sequence of events is reliable for reasons I
85. have already mentioned. The same goes for
86. Mr. and Mrs. Lafferty.
87. In the final analysis, the most reliable
88. account is that of the children, even taking into
89. account the chaotic circumstances and their age.
90. K. testified that when she woke up to
91. her mother screaming, Mr. Mantla was stabbing
92. her. Her video statement and her trial evidence
93. are pretty consistent in that regard. But L.'s
94. account is different. It seems clear she woke up
95. before her sister. She heard this noise at the
96. door. It is not clear if she went completely
97. back to sleep after that or not.
98. My understanding of her video statement
99. and of her trial testimony is that during both of
100. these, at some point, she talked about her mother
101. arguing with Mr. Mantla, and perhaps more
102. importantly, she talked about Mr. Mantla going to
103. the kitchen before he stabbed Ms. M. I think in
104. the video interview, she said he got the knife in
105. the kitchen, and she was not as specific at
106. trial, but she did talk about him going to the
107. kitchen. The Crown was careful to clarify this,
108. and L. did confirm that Mr. Mantla went to the
109. kitchen *before* he stabbed Ms. M. And she had
110. talked about this argument or yelling having
111. happened beforehand.
112. L.'s account is not completely
113. internally consistent or clear because there are
114. other points where she said she saw her mother
115. standing when she first saw her, and at another
116. point, she said she was already on the floor. So
117. perhaps she got mixed up, and that is hardly
118. surprising. But she did say more than once that
119. she heard her mother screaming, that there was
120. arguing, and that Kevin went to the kitchen, and
121. that Ms. M. was stabbed after that.
122. I have reviewed this testimony carefully
123. as well as my notes from when the video statement
124. that was played, and I do not think the sequence
125. of events is entirely clear. I did not find this
126. to be an issue as far as the identification issue
127. is concerned, but it does matter on this element
128. of the offence, because there is a difference
129. between Mr. Mantla breaking in, immediately
130. getting the weapon in the kitchen, and going
131. straight to the bedroom to start his attack, and
132. a scenario whereby there are other interactions,
133. something else that happens before he gets the
134. knife from the kitchen.
135. 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
136. that the Crown invites me to draw on this is
137. available on the evidence, I am not satisfied
138. that all other possibilities are excluded.
139. I am easily able to find that Mr. Mantla
140. was jealous and angry, that he threatened Ms. M.
141. and Mr. Lafferty, that he wanted to intimidate
142. and scare them, and even that he came to
143. Yellowknife with some confrontation in mind. I
144. have also no difficulty finding that based on the
145. evidence as a whole, Mr. Mantla was not animated
146. by good or innocent intentions when he went to
147. the Lanky Court apartment that night. But in the
148. final analysis, I am not sure that he formulated
149. a plan ahead of time to attend the house and do
150. this, that he deliberated about this throughout
151. the day and that his attendance at Lanky Court
152. was the execution of a carefully thought out
153. plan.
154. I have reasonable doubt about when
155. Mr. Mantla decided to actually kill them. I am
156. not sure if he formulated his plan, waited, and
157. gave it the careful consideration that
158. Chief Justice Fraser talks about in *Turningrobe*.
159. I am left unsure about that because of certain
160. gaps in the evidence, including the lack of
161. clarity about how things unfolded after he got in
162. the house. So in the final analysis, I am left
163. with a reasonable doubt about whether this was a
164. planned and deliberate murder.
165. Mr. Mantla, stand up, please. For the
166. reasons I have given, Mr. Mantla, I find you
167. guilty of the second degree murder of
168. Elvis Lafferty; I find you guilty of the
169. attempted murder of E. M.
170. You can sit down.
171. There will be a judicial stay of
172. proceedings on the aggravated assault charge
173. because it is based on the same facts as the
174. attempted murder count.

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# 2 CERTIFICATE OF TRANSCRIPT

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1. I, the undersigned, hereby certify that the
2. foregoing pages are a complete and accurate
3. transcript of the proceedings produced from the
4. stenographic notes of Karilee Mankow, Court Reporter,
5. in shorthand and transcribed from audio recording
6. to the best of my skill and ability.
7. Dated at the City of Edmonton, Province of
8. Alberta, this 10th day of September, 2018.

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1. Certified Pursuant to Rule 723
2. of the Rules of Court

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1. Karilee Mankow
2. Court Reporter

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