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Marson c. R., 2024 QCCA 1380

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COURT OF APPEAL

2024 QCCA 1380 (CanLII)

CANADA
PROVINCE OF QUEBEC
REGISTRY OF MONTREAL

No.: 500-10-700039-223
(500-01-216705-217)

DATE: October 15, 2024

CORAM: THE HONOURABLE JOCELYN F. RANCOURT, J.A.
STÉPHANE SANSFAÇON, J.A.
CHRISTINE BAUDOUIN, J.A.

ANDREW MARSON
APPELLANT – Accused
v.

HIS MAJESTY THE KING
RESPONDENT – Prosecutor

JUDGMENT

WARNING: Order restricting publication: On October 25, 2022, the Court of Quebec (the Honourable Flavia K. Longo), District of Montreal, made an order under s. 486.4 *Cr.C.* directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way.

[1] The appellant is appealing a guilty verdict rendered on October 25, 2022 by the Court of Québec, Criminal and Penal Division (the Honourable Flavia K. Longo), relating to a sexual assault committed against the complainant on September 11, 2016 in her dorm room in a university residence.

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[2] He raises numerous grounds of appeal, mainly to the effect that the judge erred in her assessment of his credibility, notably in connection with the tendering into evidence of a series of text messages preceding the events and with his testimony in Court. The appellant also submits that the judge erred in law by admitting third party testimony that was irrelevant and constituted hearsay.

[3] As is often the case in sexual assault matters, the judge had to deal with diametrically opposed versions of the events that took place in the complainant's dorm room. Although some parts of her analysis were imprecise, the Court is of the opinion that her reasons are sufficient, and that intervention is not justified in this case.

THE FACTS

[4] In September 2016, the appellant and the complainant both attended the McGill University fitness centre and noticed each other there. On September 7, 2016, the appellant contacted the complainant via the Facebook Messenger platform, having located her through a *Powerlifting* group. All the exchanges on that platform were tendered at trial by the prosecution.

[5] During that discussion, they exchanged phone numbers. Their communications continued via text messaging, both on September 7 and on the day they met on September 11. Among other things, they talked about going for coffee to get to know each other.

[6] The appellant tendered a copy of the text messages at trial, but in a fragmentary and incomplete manner. The appellant acknowledged that some of the messages that he had written and sent were missing. He explained that he had essentially chosen to preserve those that he felt were relevant and to set aside many others, leaving blanks in the transcript of the conversation, after having learned that the complaint had met with police in connection with the September 11 events.

[7] On September 11, the day they had planned to meet over coffee, the complainant was not feeling well. She was hungover. Preferring to stay home rather than going out, she invited the appellant to come and meet her at the student residence. At around 4 P.M., the appellant showed up at the main entrance, where the complainant greeted him. They then went up to complainant's dorm room located on the 6th floor.

[8] The complainant's dorm room was cramped and essentially contained a bed, a desk and a chair. The appellant sat at the foot of the complainant's bed, on the chair of her desk. They talked for about a half an hour before getting closer to each other. The appellant took the complainant in his arms, laid her on the bed, placing himself over her, and they kissed. It is not disputed that she was consenting up to that point. However, the versions differ radically on what happened next.

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[9] There is no need to recount their respective versions in detail. The judge provided a comprehensive summary thereof, which is fully consistent with the testimony given at the hearing. We simply point out that according to the complainant, although she had told him that she did not want to go any further than kissing, the appellant ignored her. He would have removed his clothes, then hers, and penetrated her vaginally with his penis for about five minutes, while putting his hand on her mouth. Being under him, and given the appellant's heavy build, she could not move and just froze, fearing both that he would hurt her and being heard by her neighbours. She finally managed to break free, would have pushed the appellant away, telling him that it was over.

[10] As for the appellant, he recounted rather, in much detail, a consensual sexual activity, lasting quite a bit longer than that described by the complainant, during which the latter displayed obvious signs of pleasure. It was clear in his mind that the complainant consented to what he had done since she was responsive and took numerous initiatives. He claimed to have respected the complainant's choice a first time, when she expressed her refusal to be vaginally penetrated. The sexual activities continued, however, and he made a second attempt to penetrate her. She purportedly said no once again, after which he claimed to have answered "all right" and got dressed.

[11] Both the complainant and the appellant claimed that after the events, he suggested that they eventually get together for coffee, an invitation which the complainant purportedly declined, simply saying that she was about to meet up with a friend. They took the elevator together to the ground floor and left each other at that time.

[12] The complainant spoke of the events to her mother and a friend in the month that followed. On October 13, 2016, the complainant required that friend's assistance to call the police and file a complaint.

THE JUDGMENT IN FIRST INSTANCE

[13] After reiterating in detail the events recounted by both protagonists, the judge focussed on presenting the fundamental legal principles relating to the burden of proof in criminal law and the requirement that the prosecution prove, beyond a reasonable doubt, all the essential elements of the offence charged. She summarized the Supreme Court's teachings in *R. v. W.(D.)*, [1991] 1 S.C.R. 742 and then recalled the elements of the sexual assault, as to both the *actus reus* and the *mens rea*: *R. v. Ewanchuck*, [1999] 1 S.C.R. 330 and *R. v. Barton*, 2019 SCC 33.

[14] Before applying those principles to the facts in issue, the judge rightly rejected four submissions advanced by the appellant in his oral argument aimed as discrediting the complainant's version, holding that those submissions were based on myths and stereotypes. The judge rejected the following submissions: "1) At the end of the event, both parties dressed themselves in the complainant's room and she made no attempts to

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escape or save herself; 2) They left the room together after the event and they walked down the hall. Why did she not scream or yell? 3) They took the elevator together and she made a conscious choice to be alone with the accused who just raped her. It is striking that there was no overt reaction and it does not fit with what the complainant portrayed as having happened; and 4) The complainant's version could be the truth but there is no DNA evidence and no independent witness to confirm her story." On appeal, the appellant does not question the rejection of those submissions.

[15] The judge then turned to the appellant's testimony by first noting that he negated the *actus reus* of the sexual act alleged by the complainant, i.e., that of having engaged in vaginal penetration, although he admitted having attempted to do so twice. She then noted that the appellant claimed that his testimony was logical and that there was no reason to dismiss it, given the existence of "flirtatious text message exchanges." According to the appellant, there was no reason not to accept his testimony which was consistent with the text message exchanged with the complainant before the events. Even if those messages did not concern the elements of the offence charged *per se*, the appellant acknowledged that they were material to the analysis of his credibility and that of the complainant, since they demonstrated the unequivocal nature of their respective intentions.

[16] It should be noted that, at trial, the appellant requested permission to tender the text messages exchanged between him and the complainant, even though they were incomplete and truncated. Although Crown counsel objected to their admissibility on the basis that some were missing and could be misleading for the complainant who, six years after the events, did not have a copy thereof, the judge decided that the exchanges were admissible, while deferring the task of assessing their probative value when the time came, in light of all of the evidence. The appellant did in fact testify about them at length.[1]

[17] It is against this backdrop that the judge considered the appellant's testimony. She began by summarizing his version of the events that occurred at the student residence, which she characterized as being "very elaborate, (…) detailed and precise". She noted that even though the appellant had not been shaken in cross-examination and that he had maintained his version, his testimony lacked sincerity and seemed to have been rehearsed. She then turned to the testimony about the series of text messages between the appellant and the complainant, which she reproduced in its entirety in her judgment.

[18] The judge pointed out that, according to the appellant, those messages had been preserved by way of the screenshots that he had taken from his cellular telephone when he heard through a friend that the complainant had filed a police report. He had chosen which messages, in his view, best captured the "mood" of the conversation, that is to say those that were "flirty and jovial". He thus decided which messages, among the whole, should be set aside or preserved based on their relevance.

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[1] The issue of the applicability of s. 276 *Cr.C.* in this context was not raised before us.

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[19] She then noted the substantial difference between his detailed account of the sexual act that took place and his evasive and sometimes equivocal answers regarding his intentions conveyed in some of the text messages sent to the complainant. In this regard, the judge quoted four text messages by way of example and carefully assessed the appellant's responses.

[20] To better grasp her reasoning, it is helpful to reproduce some excerpts of the judgment in that regard:

> [63] When the accused responded to the prosecutor's questions about the meaning of « **What u doing tonight?** » he was non-committal and evasive. Here are some of the answers that he gave as possible explanations: he might have wanted to see her, he might have been asking her if she was free, it is possible that he wanted to see her but he does not remember his intention at the time, maybe he was making small talk, the missing message or messages would not necessarily help him remember, it is possible that the missing messages could be about his interest in having sexual intercourse with the complainant.
>
> [64] The Court does not believe that he did not remember his true intentions at the time. He chose to tender the text messages into evidence, and considering that he was so precise in his testimony about the sexual activity that took place with the complainant on September 11, 2016, it is unbelievable that he would not know what his intentions were on September 7 when he asked her what she was doing at 11:06 pm. Moreover, what makes it more unbelievable is that in the same minute before that, he told her that she could use his face as a seat whenever she wanted. This is a clear allusion to sexual activity and it is obvious that he sent her that message because he wanted to see her in person.
>
> [65] If the accused preserved only the messages that he deemed to be relevant, the Court does not understand why he would not preserve a message or messages that showed his interest in having sexual relations with the complainant unless he felt that the missing messages would jeopardize his credibility.
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> […]
>
> [68] The first conversation recorded on September 11 came from the complainant who said « **You can come over if you want but yeah** ». The accused confirmed that in that message, she was probably responding to a message that he sent her.
>
> [69] The Court does not understand why his message which prompted her to invite him over would not be relevant since the purpose of the invitation, according to the accused, was to spend time together, make out and possibly to engage in sexual activity. The Court deems he manipulated the string of text messages and decided what should be disclosed and what should not be disclosed to suit his own purpose.

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> […]
>
> "**Doesn't mean I'm not gonna try though**", text message of September 11, 2016
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> [73] When he was cross-examined about the meaning of this message, the accused responded by saying that he could have meant that he was trying to woo her or make her laugh or try to make out with her. He stated that the message is a little ambiguous. He could have been alluding to making a move romantically and was not necessarily a reference to sex.
>
> [74] The Court does not believe his version that the message was ambiguous and that he did not know what he meant to say when he sent it. The message came from him and it is a part of a string of messages that he exchanged with the complainant. It defies logic that he would be uncertain about its meaning when he was so precise about his version of what happened in the dorm room on the same day that he sent her that message.
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> [Emphasis added; references omitted]

[21] The judge also noted a number of inconsistencies in the appellant's testimony. For example, after he had recounted that there was chemistry between him and the complainant, both during the exchange of text messages and at a certain time during the sexual activity, he stated the opposite in cross-examination when he spoke of the moment when the parties left each other after the events. The judge also pointed out that the appellant had characterized the sexual events in the complainant's dorm as "minor sexual interaction", whereas in her view, qualifying the interaction as "minor" in that context, was an attempt to minimize what in fact took place.

[22] In sum, she considered that the appellant's version "lacked sincerity and seemed rehearsed as though he feared making a mistake", that it was contrary to common sense that he should recall so clearly the acts in question, and yet so vaguely and imprecisely his intentions behind the text messages, and that the missing messages were no doubt wilfully omitted because the appellant was concerned that they could undermine his credibility. For those reasons, the judge did not believe the appellant and his version of the events did not raise a reasonable doubt in her mind.

[23] The judge undertook the same exercise in assessing the complainant's testimony, which she characterized as being sincere, honest and credible. She noted that the fact that the complainant showed an interest in the appellant and that she flirted with him did not affect her credibility as to her version of what transpired in her dorm room.

[24] After assessing all of the complainant's testimony, including her intentions behind the text messages, the judge noted that there was nothing suspicious in her testimony, and that it was delivered in a sincere, honest, credible and frank manner. The judge also found that the complainant had not exaggerated any facts, that her account of events was complete and straightforward, leaving no doubt regarding the credibility and the reliability

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of her testimony. In sum, the judge believed the complainant when she stated that there was vaginal penetration which she did not consent to and that the accused had put his hand over her mouth during the unprotected sexual activity.

[25] After completing her analysis, the judge held that the evidence assessed as a whole did not raise any reasonable doubt. She rejected the appellant's testimony and found him guilty of having sexually assaulted the complainant on September 11, 2016.

ANALYSIS

[26] The appellant raises numerous grounds that take on various forms depending on whether one reads his notice of appeal, his motion for leave to appeal mixed questions of fact and law,[2] or his brief. Once analysed, these grounds can be summarized as follows: 1) the judge erred in her analysis of the appellant's and the complainant's credibility; 2) the judge erred in drawing inferences that were not supported by the evidence; and 3) the judge erred in law in admitting third-party testimony.

[27] The third ground is suitably addressed immediately, since it significantly differs from the others in that it does not raise issues going to the credibility or to the direct evidence of either one of the parties. At the hearing, C.J., a friend of the complainant, described the latter's state when she decided to file a police report in October 2016. According to the appellant, that testimony was inadmissible and irrelevant, because it was meant to establish the contemporaneity of the complaint, constituted hearsay and was not captured by the narrative exception, given that C.J. was simply corroborating the complainant's testimony, without adding anything to the factual framework. Recall that the Supreme Court, in *R. v. Dinardo*, 2008 SCC 24, stated that prior consistent statements are generally inadmissible because they lack probative value and because they "constitute hearsay when adduced for the truth of their contents". For its part, the respondent argues that C.J.'s testimony fell within the narrative exception[3] and was thus permitted, to inform the judge of the complainant's psychological state when she told C.J. about the assault and when she accompanied her to call the police.

[28] C.J.'s testimony was short and focused on the complainant's distress at the two precise moments identified and on the complainant's inability to call the police without her help. C.J. did not recount what the complainant had told her about the assault. Neither was she cross-examined by counsel for the appellant. A reading of the judgment does

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2 This application has been referred to the panel that will be hearing the appeal on the merits.

3 See Hamish C. Stewart, *Sexual Offenses in Canadian Law*, Toronto, Thomson Reuters, 2018 (loose-leaf, update no. 2, July 2024), no. 6:16 citing, *inter alia*, *R. v. F. (J.E.)*, (1993) 85 C.C.C. (3d) 457, p. 474, 1193 CanLII 3384 (C.A. Ont.); *R. v. Dinardo*, 2008 SCC 24, para. 38; *R v. Khan*, 2017 ONCA 114, paras. 43-44, application for leave to appeal to the Supreme Court dismissed, August 3, 2017, no. 37534. See also S. Casey Hill, David M. Tanovich and Louis P. Strezos, *Mcwilliams's Canadian Criminal Evidence*, 5th Ed., Toronto, Thomson Reuters, 2013 (loose-leaf, update no. 2, July 2024) no. 11:30.

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not suggest that her testimony served to corroborate that of the complainant about the assault, but rather to establish, in a limited manner, the narrative surrounding those facts, and appeared moreover to have been of little or no relevance in the judge's analysis. The Court finds no error in the admissibility of C.J.'s testimony for that purpose.

The grounds relating to the appellant's and the complainant's credibility

[29] The grounds for appeal advanced by the appellant essentially consist of three propositions taken from his brief and can be summarized as follows: 1) the judge erred by using a double standard in the analysis of the text messages to assess his credibility and that of the complainant; 2) the judge erred in her assessment of the appellant's credibility with regard to the degree of detail of his testimony about the facts that occurred in the dorm room and its ambiguity about his intentions behind the text messages sent; and 3) the judge erred in finding that even if he had not been shaken on cross-examination about the events that occurred in the dorm, the appellant's version at trial lacked sincerity and appeared rehearsed. These grounds will be discussed in turn.

[30] The appellant submits first that the judge did not assess his testimony and that of the complainant regarding the messages that they exchanged with each other on the same standard and that she failed to consider the messages sent by the complainant in her analysis. Had she done so, she would have found an inconsistency between the complainant's messages and her testimony at trial. Contrary to what the complainant submits, it is obvious, in his view, that she "was [also] looking for sex", whereas she testified, rather, that the message exchanged were simply "a little bit sexual", "flirting", reflecting the "mood" and disavowed any intention on her part of having sex with the appellant.

[31] According to the Crown, not only did the judge not apply a double standard in the case at bar, but there was no inconsistency in the complainant's testimony.

[32] A trial judge who applies a double standard or engages in so-called "uneven scrutiny", commits an error of law.[4] This occurs when the judge applies a double or asymmetrical standard that leads to an erroneous and misleading view of the value and respective weight of the testimonies heard. Such unequal and biased consideration of the testimonies must appear clearly in the record and must not be invoked lightly, or, as Moore, J. noted in *Gauthier c. R*., 2020 QCCA 714, para. 114, [TRANSLATION] "[b]e mere rhetoric designed to disguise an attempt to review all the evidence and ask the Court to substitute its assessment for that of the trial judge."

[33] This is therefore a weighty burden on an appellant claiming uneven scrutiny as a ground for appeal, since it is obvious that a careful assessment of inconsistent testimonies

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[4] The Supreme Court having failed to recognize or identify this theory as a distinct and independent ground of appeal. See *R. v. G.F.*, 2021 SCC 20, paras. 98-101; *Méhari v. R*., 2020 SCC 40, para. 1.

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can take on various forms and does certainly not require a qualitatively and quantitatively equal or standardized yardstick.[5]

[34] In this case, the appellant failed to point to any error of law or palpable and overriding error in the judge's assessment of the evidence. The judge held that the complainant's testimony was clear and unambiguous, both as to her intentions during the exchange of messages and during her meeting with the appellant. The complainant frankly acknowledged that there was flirting between her and the appellant and that she responded to the appellant's sexual innuendos during their exchanges.

[35] This was not true of the appellant, however, whose testimony the judge found out to be ambiguous, far-fetched, sometimes giving explanations that made no sense, or qualified as being illogical, "unbelievable", "non-commital and evasive", among other characterizations.

[36] Whereas the appellant gave a very precise and elaborate account of the events that took place in the complainant's dorm room, the judge noted that his testimony seemed rehearsed and lacked sincerity. She also contrasted that finding with the fact that at the hearing, he hesitated, remembered little or with difficulty his intentions behind the messages sent to the complainant, when these were explicit, and the content of those that he deliberately chose not to preserve. Therefore, this first ground must fail. The judge did a thorough evaluation of all the testimonies and we fail to see any asymmetrical standard applied.

[37] The appellant further argues that his testimony should not have been excluded on the basis of facts that were peripheral to the genuine issue of the case.

[38] Here is how the judge addressed and summarized her assessment of the appellant's credibility, after having scrutinized some of the appellant's messages in light of the answers he provided at the hearing:

> [88] The accused's testimony in chief was very elaborate. Although he was not shaken in cross-examination regarding what took place in the dorm room, his version lacked sincerity and seemed rehearsed as though he feared making a mistake.
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> [89] It is contrary to common sense that he would recall every move he made in the dorm room but when confronted with missing parts of his text messages, he delved into possibilities and was unable to give explanations with certainty.
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> [90] The accused's version on the core aspects of the incident was detailed and precise. He had control over the string of text messages and chose which ones to disclose and which ones should be set aside. He chose to set aside six of his own

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5 See *Figaro c. R.*, 2019 QCCA 1557.

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> messages and did so as soon as he found out that the complainant had gone to the police.
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> [91] He claimed that the messages that were not contained in the screenshots were not relevant. The Court does not believe that he set aside messages because they were not relevant. The missing messages were wilfully held back by the accused because he was concerned that his responses could undermine his credibility.
>
> [92] Although there are no internal inconsistencies in the accused's story regarding what transpired in the dorm room, when his version is evaluated with reference to the whole of the evidence, it is not believable and does not raise a reasonable doubt as to his guilt. Therefore, the Court rejects his testimony.

[39] The judge correctly considers that the appellant's evasive and vague answers about his intentions of having sex with the complainant, compared to the explicit content of the text messages sent, as well as the discrepancy in precision between that part of his testimony and that where he recounts in much detail the events that occurred in the dorm room, adversely affect his credibility. The same is true with his explanations regarding the missing messages which the judge presumably did not accept.

[40] Such an assessment is within the exclusive province of the trial judge. The appellant has failed to satisfy the Court that the judge made an error justifying its intervention when in fact she engaged in a detailed and rigorous review of the evidence and assessed it as a whole.[6] Her findings are properly explained and are certainly supported by the evidence.

[41] Finally, as to the third ground, although it is risky for a trial judge, as the appellant submits, to rely on the appearance that testimony was prepared to conclude that it is not credible, this is not what the judge did. Obviously, judges may take into account a witness's demeanor and the way he or she testifies as part of their analysis, but they cannot base their assessment of the witness's credibility solely on this observation, or rely unduly on the impression left by the witness's demeanor.[7] Indeed, while the apparently rehearsed character of testimony can be taken into account by the trial judge in assessing credibility, this consideration must coexist with the recognition of the accused's right to fully prepare his or her trial and cannot be the sole basis for rejecting the testimony.

[42] Applied to the facts here, the judge's remark as to the apparently rehearsed character of the appellant's testimony is not an error, since a reading of the judgment shows that the latter's credibility was assessed under many angles, as discussed above, and the rehearsed character of that testimony appears to be but one factor among others

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6 *R. v. Kruk*, 2024 SCC 7, para. 63 [*Kruk*].

7 *Foomani c. R.*, 2023 QCCA 232 para. 118; *L.L. c. R.*, 2016 QCCA 1367, paras. 88-90.

in that assessment. Furthermore, the Court owes deference to the judge's findings and the remark quoted by the appellant is not an error of law justifying intervention.

The judge erred in law in drawing a negative inference that was not supported by the evidence

[43] According to the appellant, the judge erred in law in speculating on the reason why certain text messages had been excluded from the screenshots, with no evidence demonstrating any intention to mislead on his part. In his view, the fact that the judge held that such an exercise was the result of a voluntary choice and that the missing messages "were willfully held back by the accused because he was concerned that his responses could undermine his credibility" had no basis in the evidence.

[44] The appellant, in fact, is criticizing the judge for drawing an inference going to the credibility of his testimony. Although he explained the reasons that led him to delete some messages, the judge did not have to believe him and could certainly decide otherwise and reject that version of events. It was indeed open to the judge to draw common sense inferences to the extent that they [TRANSLATION] "can be reasonably and logically based on the evidence led at trial."[8]

[45] In the case at bar, it appears that the appellant attempted to set forth an account in which the complainant showed a definite sexual interest in him, prior to their meeting, to support his version of events. That attempt was made by submitting a truncated version of their exchanges in that regard. The inference thus drawn was reasonable, based on logic and human experience and was a permitted assessment of the probative value of his testimony.

[46] As the Supreme Court has recently held in *Kruk*, *supra*, the governing standard applicable to findings of credibility and reliability is well established: absent a recognized error of law, such findings are entitled to deference unless a palpable and overriding error can be shown:

> [83] Trial judges have expertise in assessing and weighing the facts, and their decisions reflect a familiarity that only comes with having sat through the entire case. The reasons for the deference accorded to a trial judge's factual and credibility findings include: (1) limiting the cost, number, and length of appeals; (2) promoting the autonomy and integrity of trial proceedings; and (3) recognizing the expertise and advantageous position of the trial judge (*Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235, at paras. 12-18). In light of the practical difficulty of explaining the constellation of impressions that inform them, it is well-established that "particular deference" should be accorded to credibility findings (*G.F.*, at para. 81). Appellate courts are comparatively ill-suited to credibility and reliability assessment, being restricted to reviewing written transcripts of testimony and often

[8] *M.G. c. R.*, 2024 QCCA 28, para. 27; *R. c. Leblanc*, 2021 QCCA 1283, para. 131.

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> focussing narrowly, even telescopically, on particular issues as opposed to seeing the case and the evidence as a whole (*Housen*, at para. 14, citing R. D. Gibbens, "Appellate Review of Findings of Fact" (1991-92), 13 *Advocates' Q.* 445, at p. 446).

[47] The Court finds no palpable and overriding error in the judge's global and detailed analysis, and it is not the Court's role to substitute its opinion in this case.[9]

CONCLUSION

[48] The appellant has failed to demonstrate that the judge erred in her global assessment of the evidence and in the application of the principles set out in *W.(D.)* which she moreover followed rigorously in finding the appellant guilty. The judge did not believe the appellant's testimony after having conducted a thorough exercise and assessed the flaws, the deficiencies, and the inconsistencies in his testimony. She was of the view that his testimony did not raise a reasonable doubt, for reasons that she explained properly. She also specified why she accepted the complainant's testimony that conflicted with that of the appellant. Such an assessment was again within the trier of fact's sole authority and does not justify the Court's intervention in this case.

FOR THESE REASONS, THE COURT:

[49] **GRANTS** the motion for leave to appeal mixed questions of fact and law;

[50] **DISMISSES** the appeal;

[51] **ORDERS** the appellant to report to prison authorities within 72 hours of this judgment.

JOCELYN F. RANCOURT, J.A.

STÉPHANE SANSFAÇON, J.A.

CHRISTINE BAUDOUIN, J.A.

[9] *Kruk*, *supra,* note 6.

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Mtre Joël Girard
SCHNEIDER, GIRARD & ASSOCIÉS
For the Apellant

Mtre Julien Fitzgerald
DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS
For the Respondent

Date of hearing: April 18, 2024

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