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# In the Alberta Court of Justice

**Citation: R v Despins, 2025 ABCJ 139**

**Date:** 20250812
**Docket:** 240711648P1
**Registry:** Edmonton

2025 ABCJ 139 (CanLII)

Between:

**His Majesty the King**

Crown

- and -

**Christopher Travis Despins**

Accused

**Reasons for Decision of the Honourable Justice J.J. Moher**

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## Introduction

[1] Christopher Travis Despins ["Mr. Despins" or "Accused"], is facing six allegations on Information 240711648P1 all arising August 13, 2024. The allegations include aggravated assault, criminal hit-and-run with bodily harm, driving while prohibited, as well as three allegations of breaching a December 18, 2023 release order. Mr. Samuel Lomong ["Mr. Lomong" or "Complainant"] was a pedestrian, who following a brief confrontation with the driver of a truck at the intersection of 106A Avenue and 96 Street, was struck by the truck, sustaining serious injuries including a 10 cm avulsion injury to his head and significant trauma to his left leg, necessitating amputation of his left leg below the knee.

## Procedural History

[2] The Trial was originally scheduled for five days, March 24 to 28, 2025. Mr. Jodie Holder was counsel for Mr. Despins until he was discharged on the morning of the sixth day, March 31, 2025. In accordance with an order granted in the Alberta Court of Justice Self-represented Accused Trial Confirmation ["SRL"] Court on February 11, 2025 and the Supreme Court of Canada's guidance in the case of *R v Kahsai*, 2023 SCC 20, Mr. Holder was appointed *amicus curiae* for the balance of the criminal proceedings.

[3] At the outset, the Accused challenged the voluntariness of two statements made by the Accused to Edmonton Police Service ["EPS"] Cst. John Saunders ["Cst. Saunders"] on August 17, 2024, that the Crown sought to adduce in the trial proper. As well, the Accused filed a *Charter* notice alleging breaches of sections 7, 8, 9, 10(b) and 12 of the *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 91(24) ["*Charter*"]. and seeking exclusion of the two statements pursuant to section 24(2).

[4] The Crown closed its case on March 31, 2025, following rulings in the voluntariness and *Charter voir dire*. We heard from 12 Crown witnesses and a total of 14 exhibits were entered without contest. The Crown exhibits included three security videos from nearby properties, depicting the scene of the collision preceding and subsequent to the motor vehicle collision ["MVC"] as well as the MVC itself. The "Morgan video" (Exhibit 6) is a security camera video recording, in color, date and time-stamped with audio, of the MVC from the front living room

window of the residence surrounded by a wooden fence where the MVC occurred, 9614 106A Avenue.

[5] Two EPS officers, Cst. Saunders and Cst. Sean DeZoeten ["Cst. DeZoeten"], testified in a consent blended voluntariness/*Charter voir dire*. At the outset of the Trial, Counsel agreed that any admissible evidence following the *voir dire* would be admitted in the trial proper.

[6] In the voluntariness *voir dire* ruling, the two statements made by Mr. Despins to Cst. Saunders were found to be voluntary. At the conclusion of the *voir dire*, in a separate decision, no *Charter* breaches were found. In accordance with the agreement of Counsel, all of the evidence from the blended *voir dire* was entered into evidence in the trial proper.

[7] Mr. Despins discharged Mr. Holder as counsel on the morning of the sixth day of trial. Mr. Holder was Mr. Despins' fourth or fifth lawyer since his arrest. Mr. Despins was in SRL Court for months in early 2025. After I allowed Mr. Holder's application to be removed as counsel, I appointed Mr. Holder as *amicus curiae* with adversarial functions in accordance with the February 11, 2025 *amicus* order. Mr. Despins indicated that he wanted to represent himself, as is his right, but on the afternoon of the sixth day, Mr. Despins indicated he wanted a new lawyer. Expedited transcripts were ordered and delivered to Mr. Despins. Mr. Despins was provided with both paper and electronic disclosure.

[8] Given Mr. Despins' professed intention to retain new counsel, the trial was adjourned after the Crown closed its case. Two additional days were scheduled, July 23 and 24, 2025, with the hope and expectation that Mr. Despins' new counsel would be ready to conclude the trial on those dates. A trial readiness confirmation date was scheduled for June 13, 2025. At that time, Mr. Despins advised he was unable to retain suitable counsel, would call 13 witnesses in his defence and required five additional days for trial. Mr. Despins was steadfast in his intention to represent himself at his criminal trial. Two additional dates were scheduled for June 23, 2025 and later July 18, 2025, to address issues raised by Mr. Despins.

[9] After the June 23, 2025 appearance, Mr. Despins delivered approximately 12 envelopes and large packages of *ex parte* communications to Alberta Court of Justice Judges' Chambers. As well, Mr. Despins filed a notice of motion alleging *Charter* breaches related to the police investigation. The *ex parte* communications were opened in court in the presence of the Crown, the *amicus* and the Accused on July 18, 2025 and reviewed in my absence. When we reconvened, there was consensus that only seven of those *ex parte* communications were properly before the Court as Defence applications. The balance of the *ex parte* communications were sealed and marked as Exhibit A.

[10] Although there was considerable overlap, the Defence applications included applications for a directed verdict of acquittal; a reprise of the *Charter* application; various applications regarding disclosure; an application for forensic examination or further forensic examination of the seized truck, bloody clothing and biological material from the scene of the collision; and an application for real/physical exhibits seized by the police, including a truck valance panel found at the scene and the airbag control module from the truck to be adduced at trial. All of these applications were adjudicated in the course of the Defence case.

[11] On June 13, 2025 when we convened to discuss defence trial readiness, Mr. Despins represented that he would be calling 13 witnesses. He also represented that he would not be recalling the nine police officers who testified as part of the Crown's case. When we reconvened

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on June 23, 2025 in order to add the five additional days of trial requested by Mr. Despins, Mr. Despins indicated he would only be calling 12 witnesses. When the trial convened on July 23, 2025, one month later, he had subpoenaed 51 witnesses, including 20 members of the EPS.

[12] A further material issue by way of introduction includes an application on behalf of EPS to quash 20 subpoenas issued in respect of members of the EPS, including nine EPS members who testified in the Crown's case. The application was brought by EPS in the Court of King's Bench before Justice Nathan Whitling on July 22, 2025. Justice Whitling quashed two of the subpoenas. See: *R v Despins* 2025 ABKB 444.

**Crown Evidence**

[13] The Crown called 12 witnesses: the Complainant, Mr. Lomong; eight EPS members; and three civilians.

[14] Mr. Lomong, a 47-year-old man, resided near the site of the MVC on 96 Street and 106 Avenue for the previous seven years. On August 13, 2024 he was struck by the truck as he walked home. Although he remembered little about the impact, he did see the truck driver. He also testified as to the nature and extent of his injuries and rehabilitation in the aftermath of the MVC. He denied owning or carrying a gun and he denied pointing a gun at anyone that evening. Mr. Lomong's medical records related to the injuries sustained in the collision were entered as Exhibit 1 and included a series of graphic photographs of his left leg prior to surgical amputation.

[15] Mr. Dylan Morgan ["Mr. Morgan"] testified that he and his wife owned rental property located at 9614 106A Avenue. The residence was empty and surrounded by a four-foot fence with posts cemented into the ground. At the material time, they had a security camera mounted in their front window pointed towards the street. The security camera captured the MVC, and the video is in color, date and time stamped with audio (Exhibit 6).

[16] Det. Seojin Lee ["Det. Lee"] obtained a video recording from a security camera from the Ali residence (Exhibit 9) which captured the MVC from the opposite side of the street.

[17] Raymond Chorney ["Mr. Chorney"] lived on 96 Street and 106A Avenue. He recognized Mr. Despins as the 40-something-year-old man who resided with his girlfriend on 96 St. and 106A Avenue, two doors down from where he resided with his fiancée. Mr. Chorney heard a commotion outside on the evening of August 13, 2024, went outside onto his front step, and saw a truck, he recognized and described in detail, back off a body and flee down the street. He described Mr. Despins as the exclusive driver of the truck and a red Chevrolet Malibu. Mr. Chorney described himself as a 'big car head' and he was able to describe unique features of the truck involved in the collision: a gold 2001 (*sic*) Chevrolet quad cab, two-wheel drive truck with a headache rack, the fifth wheel tailgate and the rusty wheels. He testified that he recognized the truck backing off a body as that exclusively driven by his neighbour for four-to-five months before the MVC. He did not see the truck again after August 13, 2024.

[18] In terms of the police officers testifying, the Crown called Cst. Ryan Moroz ["Cst. Moroz"] and Cst. Eric Howard ["Cst. Howard"], who were the two officers who were half a block away responding to a call at the Mustard Seed Church. Both officers ran toward what they described as loud, aggressive vehicle manoeuvres, saw the truck intentionally accelerate and strike the fence surrounding the Morgan property, and chased after the truck as it fled. Both

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police officers can be observed running after the truck in the videos. Cst. Moroz radioed EPS dispatch as he chased the truck detailing the make, model, and color (gold) and the first three letters of the Alberta licence plate: “CSW”. Cst. Moroz and Cst. Howard then returned to the Morgan residence where in the debris of the fence, they located Mr. Lomong. Cst. Moroz took three photographs which were entered as Exhibit 5 and included a photograph of Mr. Lomong lying in the fence debris with his macerated left leg, the Morgan property including the extensively damaged wooden fence, and a photograph of Mr. Lomong’s face and torso in the ambulance during transport to the Royal Alexandra Hospital [“RAH”]. Cst. Moroz accompanied Mr. Lomong in the ambulance to the RAH arriving at 10:47 PM, requesting updates from hospital staff which were then relayed to investigators at the scene.

[19] Cst. Saunders was the police officer in charge of the investigation, a member of the EPS Major Collision Investigation Section [“MCIS”]. He attended the scene of the collision arriving at 11:14 PM. He detailed his observations at the scene of the collision as well as the investigative efforts undertaken by himself and other members of the EPS. After reporting to Cst. Saunders, Cst. Howard went to the RAH.

[20] Members of the MCIS investigative team interviewed neighbours, obtained videos from nearby houses and later Radius Community Health [“Radius Health”]. Cst. Gundeep Brar [“Cst. Brar”], another member of the MCIS, took photos of the scene and seized a truck valance panel located at the scene. The next day Cst. Saunders went to the RAH to see Mr. Lomong and have him sign a consent for medical records which was included in Exhibit 1. On August 16, 2024 he received search results listing all Alberta 1999 to 2002 Chevrolet/GMC trucks with a licence plate commencing with “C” and “CSW”. There were only two trucks with a licence plate starting with “CSW”, which were the first three letters of the licence plate radioed in by Cst. Moroz as he chased the fleeing truck. One of the trucks was “CSW 8171”, a light truck owned by a company, and the other, a 2002 gold GMC Sierra with licence plate “CSW 4694” owned by the Accused’s father, Ronald Lawrence Despins [“Mr. Ronald Despins”].

[21] Mr. Chorney had described the truck parking on his street and that the sole driver lived two doors down from him at 9631 106A Avenue. Police searches revealed that Mr. Despins was associated with that address. The police had a suspect truck that matched the description provided by Cst. Moroz and was as depicted in the security videos which had been collected to that point in the investigation.

[22] On the morning of August 17, 2024, Cst. Saunders attended at the seniors’ residence listed as the address for the registered owner of the suspect truck, Mr. Ronald Despins. Nosed into a corner of the parking lot at the seniors’ facility Cst. Saunders found the suspect truck, examined the truck and observed front-end damage consistent with the MVC, as well as unique details matching the truck in the videos recording the collision [“Despins’ Truck” or “Truck”]. As Cst. Saunders sat in his police vehicle filling out seizure documentation for the Truck, the Accused drove into the seniors’ facility parking lot driving a red Chevrolet Malibu. The Accused made a spontaneous statement to Cst. Saunders.

[23] Cst. Liv Vors [“Cst. Vors”] was responsible for photographs, seizure continuity and arranging towing for the Truck. She also assisted with the identification of the valance part seized from the scene of the collision, consulting with Jamie Combrinck [“Mr. Combrinck”], a GMC parts man. Cst. Saunders downloaded the data from the Crash Data Recorder [“CDR”],

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commonly referred to as the ‘black box’, and Cst. Richard Haekel [“Cst. Haekel”] prepared a report summarizing that data (Exhibit 12).

[24] The Crown also adduced 11 Exhibits including the medical records for Mr. Lomong related to the MVC, a Certificate of Disqualification for the Accused, a certified and exemplified copy of the material release order, photographs taken by a variety of police officers related to the investigation, surveillance videos from the Morgan and Ali residences as well as from Radius Health, the CDR report prepared by Cst. Haekel, and the audio and video recorded interview of the Accused by Cst. Saunders on August 17, 2024 following his arrest.

[25] Mr. Despins made two ‘mixed’ statements to Cst. Saunders on August 17, 2024. Both statements were found to be voluntary and not obtained in breach of any of Mr. Despins’ *Charter*-protected rights and therefore admitted as evidence at Trial on the application of the Crown.

[26] The first statement was made by Mr. Despins immediately upon approaching Cst. Saunders in the seniors’ residence parking lot where Cst. Saunders found the Despins’ Truck. Mr. Despins spontaneously volunteered, “No point in running. The guy deserved to die. He pulled a gun on me in the alley.”

[27] The second statement was an audio-video-recorded interview at the Northwest Police Station after Mr. Despins was *Chartered*, cautioned, and exercised his right to counsel twice (Exhibit 14 A). In the second more fulsome statement lasting in total approximately 40 to 45 minutes, Mr. Despins stated, *inter alia:*

> So, when I come home, turn into the fucking alley, and some guy flips a sign at my fucking truck because the fucking whole fucking neighbourhood is under new construction. Then I get out, fucking try to fight him because he just fucking obviously picked a fucking fight by throwing a sign at my truck. ...Then I get out to fucking fight him and he goes in behind his back and pulls a gun on me? Where is the video? Show me this video that shows that because if you have it on video you’ll see him pulling a gun on me. ...He pulled a fucking gun on me. Then he walked up the alley, ditched it, and came back. And I fucking smashed him into a fence. …
>
> Then he came back. So after seeing the fucking gun and him coming back, what else do you do? You fucking shoot at a vehicle while it’s driving away. So I fucking rammed him, ‘kay, because I didn’t wanna to get shot.

[28] The two out-of-court statements made by the Accused to EPS contain both incriminatory and exculpatory statements and both voluntary “mixed statements” are admissible in accordance with *R v Rojas*, 2008 SCC 56 at para 37; *R v Buecken*, 2025 ABKB 155 at paras 19-21. As with any witness, I can accept or believe none, all, or any part of the statements, whether inculpatory or exculpatory.

**Defence Evidence**

[29] Mr. Despins testified in the trial proper. He denied any involvement in the MVC. He recanted his statements to Cst. Saunders. He was not involved; he was not driving his father’s truck; and there was no man who pulled a gun on him.

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[30] The Defence also called 15 additional witnesses regarding a variety of issues including the disclosure and contents of Mr. Lomong's medical records, the authenticity of the residential and business security videos, and seizure and examination of the Despins' Truck. Three of the witnesses were police officers and two were civilians who testified and were cross examined in the Crown's case.

[31] Youssoufa Mekou ["Mr. Mekou"], the Alberta Health Services health information and management professional who compiled and disclosed Mr. Lomong's medical records (Exhibit 1), testified that **only** Mr. Lomong's medical records relating to the MVC on August 13, 2024 were included in the disclosed medical records. Mr. Mekou provided a full explanation for the reference to "UNK-Date, Winnipeg" and a different Medical Record Number ["MRN"]. He described these as placeholders, a solution to the problem that record-keeping must begin immediately for unconscious or critically ill patients requiring medical attention. As a solution, the Alberta Trauma Service creates a fictitious MRN as well as a fictitious name, allowing record-keeping to commence before the patient is identified. The trauma team can then focus on providing medical intervention. When the patient is subsequently identified, the 'two' medical records are merged. As such, Mr. Mekou undermined Mr. Despins' contention that the Exhibit 1 included the medical records of two persons, one of which may have been Mr. Lomong and a stranger who may or may not have had their leg amputated.

[32] Dr. Taryn Brown, an emergency room physician from the RAH, was asked questions about Mr. Lomong's medical records but it was clear that she had no recollection of treating him on August 13, 2024. Peter Ezezhor, a FOIP advisor, was questioned about Mr. Lomong's medical records and the disclosure thereof, but could not provide any relevant or material information. Melissa Francis, a nurse from the RAH, was known to Mr. Despins from his emergency visit in the fall of 2024 but was not involved with Mr. Lomong's care. Nathan Hay, a sales manager from TELSCO security systems, provided basic information regarding residential and business security systems. but nothing material to the Trial exhibits.

[33] Graham Dick ["Mr. Dick"] had over 50 years' experience in the automotive industry. He conceded he never saw the Despins' Truck. Mr. Dick reviewed the Vehicle Identification Number ["VIN"] search results for the Truck, reading that the manufacturer's color for the 22-year-old Truck was listed as 'pewter'. He opined that the Despins' Truck was probably worth $3,500; the valance panel depicted in the EPS photos would fit a 2002 truck; and if the valance panel were ripped off in a collision, the bolt holes would likely be torn. It was not clear from the EPS photos whether the seized valence panel bolt holes were intact. A close examination of the valance panel brought to Court by Cst. Vors, which Mr. Despins entered as a physical exhibit at trial, revealed that seven of the nine central holes in the valance panel were indeed torn.

[34] The Accused adduced a total of 16 exhibits including: Mr. Lomong's criminal record, the one-page EPS mechanical vehicle inspection report for the Truck dated September 3, 2024, a supplemental report prepared by Cst. Haekel dated November 16, 2024, a five-page GMC* search result for the Truck's VIN, a five-page search result from GM Workbench Plus with respect to the valance panel for the Truck, seven pages of log notes from the security video from the Ali residence, the EPS' Informations to Obtain and search warrants for the Despins' Truck and cell phone data (granted August 17 and August 19, 2024 respectively).

[35] Following a hearsay *voir dire*, a single-page handwritten statement provided by Hubert Wilson ["Mr. Wilson"] approximately 45 minutes after the MVC at 11:14 PM to Cst. J. Rondeau

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and a 10-minute audio recorded interview of Mr. Wilson by Det. Andrew Furman ["Det. Furman"] were entered collectively as Exhibit 24 by the Accused. The Crown conceded necessity, and in the unique circumstances of this case, I concluded that threshold reliability had been established. In terms of ultimate reliability and the weight which can be attributed to the Wilson statements, Mr. Wilson was an eyewitness to the incident, watching from a nearby residential balcony at 96 Street and 106A Avenue. He described the argument between the driver of the truck, "Sam hit the truck with hand" (sic), the driver of the truck as "mad", and that "Sam" walked away down the alley. He watched as the "mad" man got back into the truck, reversed and then drove towards the pedestrian at "very speed" (sic), "like he's driving on a highway", "goes straight to Sam, and "hitting the house". The truck then fled ["in speed run away" (sic)]. This is consistent with the videos except the videos show that Mr. Lomong pushed a construction barricade towards the truck. Some of the details of Mr. Wilson's description are unreliable including details about the truck and his recollection regarding the time of the MVC; the residential and business videos are real contemporaneous evidence. Similarly, his "feeling" that there were two occupants in the vehicle is unreliable given the whole of the evidence.

[36] Many of the witnesses called by Mr. Despins did little to assist him in his defence. In fact, some of the witnesses called by the Accused provided evidence undermining Defence evidence and the Defence theory. For example, Cst. Vors brought the valance panel seized by Cst. Brar at the scene of the MVC, and as depicted in some of the EPS photos, to Court at the behest of the Accused. It had been Mr. Despins' contention that the panel was undamaged and the holes through which the panel was attached to the bumper were intact, arguing the panel was 'planted' by Cst. Saunders at the scene of the MVC. The seized valance panel was entered as a physical exhibit at trial (Exhibit 25). A careful examination of the valance panel revealed that seven of the nine central holes used to affix the valance panel to a bumper with clips or bolts were completely torn through, with the tear to the centre hole extending approximately one-quarter to one-third of the way down the front of the panel. Mr. Despins maintained the Despins' Truck sitting in the parking lot at the seniors' residence did not have brakes and the transmission had been removed. Defence witness Matthew Nachbaur ["Mr. Nachbaur"], the journeyman mechanic responsible for the mechanical inspection of the Truck, inspected the Truck and testified about his examination and observations regarding the brakes and transmission in the Despins' Truck, which was seized from that parking lot on August 17, 2024.

**Issues**

[37] The overarching issue to be determined is whether the Crown has proven the six remaining allegations beyond a reasonable doubt. These was some consensus regarding the specific issues to be determined in this trial: (1) police misconduct, (2) credibility and reliability of the evidence including with respect to the False confession defence, (3) identity of the driver, the truck and the Complainant, and, (4) self-defence in respect of count one, the aggravated assault allegation contrary to s. 268 of the *Criminal Code of Canada*, RSC, 1985 c C-46 ["*Criminal Code*"] .

[38] The first determinative issue relates to whether Mr. Christopher Despins was the driver of the truck, and whether he was driving the 2002 GMC Sierra truck bearing Alberta licence plate "CSW 4694" on August 13, 2024 at 10:30 PM when a truck intentionally struck Mr. Lomong, propelling him into the fence at 9614 106A Avenue, and causing multiple injuries including a crush injury to his lower leg necessitating amputation below the knee.

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[39] One of the central issues is credibility. Given the Accused testified and evidence was presented by the Defence, I am mindful that I am not to choose between the evidence of the Accused/ Defence and the evidence of the Complainant/Crown see: *R v Vuradin,* 2013 SCC 38 at para 21. I am also mindful to avoid uneven scrutiny, and I will **not** assess credibility of the accused and the Complainant differently, using "different measuring sticks". See *R v Strathdee,* 2020 ABCA 306 at paras 4 *et subseq*.

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**Applicable Legal Principles**

[40] Mr. Despins is presumed innocent. The presumption of innocence is the cornerstone principle of our Canadian criminal justice system. The Crown bears the legal burden of proving the essential elements of each offence beyond a reasonable doubt. This is a very high standard.

[41] In *R v Lifchus*, 1997 CanLII 319 (SCC), at para 36 the Supreme Court of Canada defined 'reasonable doubt', noting it is based on reason and common sense. It does not involve proof to an absolute certainty and is logically connected to the evidence or absence of evidence. In *R v Starr*, 2000 SCC 40 at para. 242, the Supreme Court held that "proof beyond a reasonable doubt" is closer to an absolute certainty than to a reasonable probability.

[42] The trier of fact may believe some, none or all of the testimony of any witness see: *R v JHS*, 2008 SCC 30 ["*JHS*"] at para 10, *R v SH*, 2011 ONCA 215 ["*SH*"] at para 8 and more recently *R v LBC*, 2019 ABCA 505 ["*LBC*"] at para 22. If the trier of fact is unsure of whom to believe, a reasonable doubt arises.

[43] The challenge in the case before me was that there were different versions of key aspects of the events of August 13, 2024, raising significant issues of credibility. Mr. Despins denies that he was the driver of the truck involved in the MVC. He denies driving his father's truck on the date and time of the MVC and he maintains that the Despins' Truck was not operable on August 13, 2024. In respect of the defence of self-defence raised by the Defence in the two statements Mr. Despins made to Cst. Saunders on August 17, 2024, Mr. Despins described the 'man' who "pulled a gun on me" in the alley before the MVC and that his actions were in defence of his person.

[44] The evidence is to be assessed in accordance with the three principles enunciated by the Supreme Court of Canada in the *R v WD*, 1991 CanLII 93 (SCC), [1991] 1 SCR 742 ["*WD*"], wherein Justice Cory stated as follows:

> ...A trial judge might well instruct the jury on the question of credibility along these lines:
>
> > First, if you believe the evidence of the accused, obviously you must acquit
> >
> > Second, if you do not believe the testimony of the accused but you are left in reasonable doubt by it, you must acquit.
> >
> > Third, even if you are not left in doubt by the evidence of the accused, you must ask yourself whether, on the basis of the evidence which you do accept, you are convinced beyond a reasonable doubt by that evidence of the guilt of the accused.

[45] The first and second steps must be addressed in the context of all of the evidence, the evidence of the accused, Defence witnesses or arising from the Crown's case, not only the evidence called on behalf of the Defence. In *R v Ryon*, 2019 ABCA 36, as subsequently clarified in *R v Achuil*, 2019 ABCA 299 at para 17-18, again in *R v SMC*, 2020 ABCA 19 at para 22, the Alberta Court of Appeal reiterated that reasonable doubt is to be assessed in the context of **all** of the evidence.

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**Credibility and Reliability**

[46] In assessing the testimony of the witnesses testifying in this trial I am to consider the reliability and credibility of their evidence. Reliability generally refers to the accuracy of evidence. Credibility refers to the honesty or veracity of a witness's testimony.

[47] In *R v HC*, 2009 ONCA 56, at para 41, Watt J.A. noted that reliability engages a witness' ability to accurately observe, recall and recount evidence. It may be affected by factors such as the circumstances in which observations were made, the condition of the witness at the time of the observations, traumatic circumstances, and the general limitations and frailties of recollection: *Pelletier v Ontario*, 2013 ONSC 6898, [2013] OJ No 5271 at para 64.

[48] As the trial judge, I can rely on "reason and common sense", "life experience", and "logic" in making credibility assessments: *R v Delmas*, 2020 ABCA 152 at para 31, affirmed 2020 SCC 39. It is rare for a witness' testimony to be flawless. The trier of fact may believe some, none or all of the testimony of any witness see: *JHS* at para 10, *SH* para 8 and more recently, *LBC* at para 22.

***WD* Analysis**

[49] Moving then to the *WD* analysis, I have carefully considered all of the exculpatory evidence, including the evidence of the Defence and arising from the Crown's case.

[50] In terms of the credibility or honesty and reliability of Mr. Despins' testimony, there were both internal and external inconsistencies with respect to significant issues negatively impacting both his reliability and credibility.

[51] Mr. Despins was evasive and argumentative on cross examination regarding his use of the Despins' Truck for work, regarding whether the neighbourhood where he stayed with his girlfriend was a "nightmare neighbourhood", and whether he was confronted by a person with a firearm every week as described in his police statement or whether he "never had a gun pulled on me" as he claimed in cross examination.

[52] In terms of the Defence position at trial with respect to identity, Mr. Despins denied that he was the driver of the Truck on the night in question, maintaining that the truck involved in the MVC was not the 2002 gold GMC Sierra with Alberta licence plate "CSW 4694" owned by his father.

[53] There is overwhelming, compelling, and reliable evidence that Mr. Despins' father's truck was involved in the MVC and that the Accused was the driver of his father's truck when Mr. Lomong was struck.

[54] First, Mr. Chorney lived on 96 Street and 106A Avenue. He recognized Mr. Despins as the '40-something' year-old man who resided with his girlfriend at 9631 106A Avenue, two

doors down. That night, Mr. Chorney heard a commotion, went outside and from his front step saw a truck he recognized as being driven exclusively by the Accused, backing off of a body. He recognized the truck, which he described in detail including several unique features, as that exclusively driven by his neighbour for the four to five months before the MVC. He did not see the truck again after August 13, 2024.

[55] Second, both Cst. Moroz and Cst. Howard witnessed the MVC. Cst. Moroz contemporaneously radioed a description of the truck to dispatch, describing a truck identical to the Truck with the first three letters of the Alberta licence plate matching the Truck. Cst. Moroz saw and immediately radioed a detailed and exacting description of the truck at the scene of the MVC as it sped away, fleeing the scene. His description was entirely consistent with the Truck located by Cst. Saunders. The Canadian Police Information Centre ["CPIC"] search ordered by Cst. Saunders revealed only two GMC/Chevrolet Sierra/Silverado trucks in Edmonton with a licence plate starting with 'CSW', and only the Truck matched both Cst. Moroz's description and Cst. Saunders' assessment having viewed the videos. Cst. Saunders reviewed the two residential security videos (Exhibits 6 and 9) and was confident that the truck he located in the seniors' residence on the morning of August 17 was the truck in the videos. Cst. Saunders noted that the truck in the videos and the Despins' Truck both had an after-market fifth wheel tailgate and a headache rack behind the truck cab window.

[56] Third, the security videos, including the Morgan video which is in color and time and date stamped with audio, provide objective reliable evidence of the date, time, and location of the MVC and the involved truck and the driver.

[57] Fourth, Mr. Despins testified that his father's truck was not operational on August 13, 2024. It was not drivable as the transmission had been removed following a MVC on July 17, 2024 and the Truck sat in the parking lot of his parents' seniors' residence thereafter. It had no transmission and no brakes. This is inconsistent with the mechanical inspection of the Despins' Truck and the evidence of the mechanic, Mr. Nachbaur, called by the Accused, who testified that he examined the transmission and the brakes, tested the transmission fluid levels, and examined the master brake cylinder and measured the brake pads. The transmission and brakes were in place in the Despins' Truck when it was seized on August 17, 2024.

[58] Fifth, Cst. Saunders used the GM key seized from Mr. Despins' pocket at the time of the frisk search on August 17, 2024, to start the seized Despins' Truck two days later. In fairness, this is not conclusive proof that the Despins' Truck was drivable but is some evidence to be weighed along with everything else. It also speaks to Mr. Despins having 'care and control' of the Despins' Truck as he was in personal possession of the key for the Despins' Truck when he was arrested.

[59] Sixth, the photos taken by Cst. Vors on August 17, 2024 when she attended then parking lot of Mr. Ronald Despins' seniors' residence, evidenced front end damage to the Despins' Truck. There was significant front-end damage to the drivers' side of the Despins' Truck as evidenced in Cst. Vors' photos and her testimony at trial. I find the damage to the Despins' Truck is consistent with MVC depicted in the three videos.

[60] Further, in the second statement made by Mr. Despins to EPS, he stated that the man he confronted at the rear of his truck showed him a handgun then "ditched it", presumably leaving the gun in the alley. He then stated that he hit Mr. Lomong as he was afraid that the man was going to shoot at the truck. No gun was found on Mr. Lomong's person. Mr. Lomong denied

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possession or use of a weapon or gun; no gun was located in the immediate vicinity of the MVC. No gun was found in the search by several police officers of the two-block perimeter cordoned off by police immediately after the MVC. There was no report of a gun located at the scene of the MVC in the two weeks subsequent to the MVC.

[61] Mr. Despins was adamant that after the discussion at the rear of the truck, Mr. Lomong crossed 106A Avenue, 'stashed' the handgun somewhere and then came back, presumably to confront Mr. Despins again. Several police officers testified that the area was cordoned off immediately after the MVC and an extensive ground search was undertaken. Several police officers testified that no weapon, no handgun, and no knife was ever located in the search of the cordoned off area. No gun was found or surrendered after the date of the MVC.

[62] Next, Mr. Despins was dishonest several times during his interactions with EPS. During the second statement, the audio-video-recorded statement, he denied residing in the immediate vicinity of the MVC. Later in the same interview, Mr. Despins indicated that he was driving 'home'. The alley where the altercation occurred leads directly to the rear of 9631 106A Avenue where police searches indicated Mr. Despins was living at the material time. It is also inconsistent with the evidence of Mr. Chorney, which I believe to be credible and reliable, regarding his neighbour, who lived two doors down, and the truck. Mr. Chorney was able to positively identify Mr. Despins at trial as a neighbour he was 'close' to and as the exclusive driver of the truck in the four-to-five months before the MVC. Mr. Chorney did not see the truck again after the MVC on August 13, 2024.

[63] Finally, in his statement to Cst. Saunders, Mr. Despins maintained that a black handgun was "pulled" on him by a man he confronted at the rear of his truck regarding "flipping" the construction barricade. Mr. Lomong denied having any weapon on the night of the MVC. He denied owning or possessing a gun. He readily acknowledged his criminal record (Exhibit 4), but there are no convictions whatsoever after January 2018 and the last conviction involving a weapon was in 2011. No weapon was located by police on Mr. Lomong's person; he was taken to the RAH within minutes. A large area surrounding the MVC was cordoned off by EPS and was extensively searched including combing through the rubble at the scene, and no weapons, specifically, no guns were found. Two weeks after the MVC, Cst. Saunders initiated inquiries and no weapons were located at or surrendered from the scene in the two weeks after the MVC.

[64] To be clear I am **not** choosing the evidence of Crown witnesses over that of the Accused/Defence, rather I am highlighting inconsistencies in the Defence evidence in light of common sense, human experience and the evidence I do believe.

[65] All of the foregoing discrepancies, the inconsistencies, reveal Mr. Despins' careless and indifferent attitude about the difference between what he knows and what he does not know, what is true and what is not. I do not believe that Mr. Despins has truthfully recounted what happened that night. Rather, he was endeavoring to deny any involvement as part of his need to deflect responsibility, first towards Mr. Lomong and thereafter towards the police and other justice system participants as in the recantation and his trial testimony.

[66] In light of the foregoing issues in the context of the whole of the evidence at Trial, I cannot and do not accept the exculpatory evidence including the Defence evidence, the evidence of the Accused and evidence arising from the Crown's case and would not acquit on the basis of the first aspect of the *WD* test.

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[67] Moving to the second aspect of the *WD* analysis, having considered the whole of the evidence including that arising from the Crown's case and the Defence case, I am not left with a reasonable doubt regarding the identity of the driver or the Truck on August 13, 2024. I reject the exculpatory evidence and, in the context of the evidence which I do accept, I am not left with any reasonable doubt in my mind regarding Mr. Despins' role in the offences before the Court.

[68] Further, I reject Mr. Despins' recantation as the basis for a false confession. I reject without doubt the assertion that his recorded August 17, 2024 statement to EPS is a false confession.

[69] However, that does not end my inquiry. The threshold question is and remains whether the Crown has proven the essential elements of each of the allegations beyond a reasonable doubt.

[70] In terms of the evidence of the EPS police officers, each testified in a frank, honest, and forthright manner and I have no difficulties accepting their evidence as honest and reliable. I was impressed with each officer's ability to recall details. Cst. Moroz testified twice, first in the Crown's case and then he was called by Mr. Despins. I was very impressed with Cst. Moroz's recall of the evening of the MVC. It was clear that he had a clear memory of the events. Csts. Saunders, Brar, DeZoeten; Detective Lee and Furman, and Sgt. Jonathan Metivier, were very experienced police officers, each with more than 10 years of policing experience and their evidence was candid and fair to the Accused.

[71] The reliability of Mr. Lomong's testimony is compromised by the physical impact, the injuries and shock, and the trauma, associated with the MVC. His ability to recall details was compromised, including errors with respect to the date and time of the MVC, perhaps the number of times he was struck by the truck, and what day Cst. Saunders attended at the RAH to have the medical consent signed. The honesty or credibility of Mr. Lomong's evidence is not undermined, but some of the surrounding details are unclear given his injuries. I accept as truthful Mr. Lomong's evidence that he did not have a gun or other weapon.

[72] In terms of the reliability and credibility of each of the civilian witnesses, each testified honestly and with candor and none of them had any interest in the outcome of the proceedings. The specific details provided by the civilian witnesses, specifically Mr. Chorney, are supported by confirmatory evidence compiled by the EPS during their investigation, including the security videos and EPS photographs.

[73] I have no difficulty accepting the evidence of the police witnesses as credible and reliable. The evidence of the civilian witnesses is honest and trustworthy. The reliability of some of their evidence relating to details including date, time, the color and vintage of the truck, is impacted by poor lighting conditions and the exceedingly short duration of the incident on the evening of August 13, 2024.

[74] The three security videos (Exhibit 6 Morgan residence, Exhibit 9 Ali residence and Exhibit 7 Radius Health parking lot), the 66 photographs of the MVC scene taken by Cst. Brar on the evening of the collision, the seven photos of damage to the Truck taken by Cst. Vors on August 17, 2024, and the three photos taken by Cst. Moroz of Mr. Lomong as he lay in the fence debris, in the ambulance and the damage to the Morgan fence, are all reliable, objective and compelling evidence.

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[75] I unequivocally reject the Defence allegation that the videos or any of the EPS photographs were ‘photoshopped’ or modified in any way whatsoever. This is a spurious allegation and part of the Accused’s ‘worldview’, his underlying mental model of how the world works; he was framed by the EPS and that his neighbour Mr. Chorney was “jealous”, so he identified the truck for the police.

[76] The evidence of the police and civilian witnesses and the real time evidence in the residential and business security videos is clear, compelling and objective evidence of what happened on the night of August 13, 2024.

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**Facts**

[77] The underlying factual matrix is straightforward and based upon the evidence which I accept, I find the facts as follows.

[78] On August 13, 2024, the Accused was bound by a release order out of Stony Plain (Morinville) dated December 18, 2023, $2,000 no cash deposit with eight conditions (Exhibit 3). The material conditions for the purposes of this Trial are: #1) keep the peace be of good behaviour [Count 4], #7) not to be behind the steering wheel of a motor vehicle without a valid driver’s licence, registration, and insurance [Count 5], and #8) not to be in a motor vehicle without the registered owner being present [Count 7].

[79] On August 13, 2024 Mr. Despins was a prohibited driver as evidenced in the Certificate of Disqualification signed on January 22, 2025 on behalf of the Registrar of Motor Vehicles (Exhibit 2). The Certificate was admitted pursuant to *Criminal Code* ss. 320.32(6) and (7) without contest.

[80] The three security videos (Exhibit 6 Morgan residence, Exhibit 9 Ali residence and Exhibit 7 Radius Health parking lot), the photographs taken by EPS and the evidence of the witnesses who heard and/or saw the MVC was consistent and reliable in all material aspects.

[81] On August 13, 2024, at 10:30 PM, two uniformed EPS officers, Cst. Howard and Cst. Moroz were on proactive patrol as members of the downtown patrol. They were engaged with Emergency Medical Services [“EMS”] with a possible overdose near the Mustard Seed Church at the intersection of 96 Street and 106A Avenue in Edmonton, Alberta. The attention of both officers was drawn to loud vehicle acceleration approximately half a block to the west. Cst. Moroz described hearing “harsh, aggressive steering inputs”. Both officers ran toward the noise, towards the truck.

[82] Cst. Howard and Cst. Moroz watched as the truck abruptly reversed out of the alley, then manoeuvred to line up perpendicular to the four-foot wooden fence surrounding the home. The truck then accelerated rapidly, driving over the curb, swerving slightly left, and deliberately crashing into the fence at the Morgan residence at 9614 106A Avenue. Cst. Moroz described hearing and observing harsh, aggressive steering inputs including accelerating, reversing and fleeing.

[83] Both officers chased after the truck on foot, shouting for the driver to stop. Cst. Moroz directed his flashlight into the cab of the truck, while he shouted at the driver. Cst. Moroz immediately used the police radio on his person to communicate with EPS dispatch, describing the truck: 1999-2007 gold GMC Sierra/Silverado, Alberta plate starting with the letters “CSW”.

The truck fled westbound on 106A Avenue then northbound on 97 Street. Within less than a minute, other police officers and police cars arrived and began looking for the truck.

[84] When Cst. Howard and Cst. Moroz turned their focus to the broken fence surrounding the residence at 9614 106A Avenue, they located Mr. Lomong laying on the ground in the debris of the MVC. He had been struck by the truck.

[85] All of this is as depicted in the three videos.

[86] Cst. Moroz triaged Mr. Lomong. Cst. Moroz observed Mr. Lomong's left leg was severely injured with muscle and bone exposed and minimal connective tissue from the foot to the knee remaining (see Exhibit 5 photos taken by Cst. Moroz and also Exhibit 1 photos taken at the RAH). Cst. Moroz directed Cst. Howard to alert EMS, who were in the immediate vicinity responding to the initial call. After alerting EMS, Cst. Howard returned and used his flashlight to assist Cst. Moroz who applied a tourniquet to Mr. Lomong's leg.

[87] EMS arrived at the scene of the MVC and took over Mr. Lomong's care. Cst. Moroz accompanied Mr. Lomong in the ambulance to the RAH arriving at approximately 10:47 PM. While in transit Cst. Moroz noted a laceration to Mr. Lomong's forehead extending from his left eyelid to his forehead (Exhibit 5 photograph 3). At the RAH Mr. Lomong was assessed and it was determined that his lower left leg was not viable; it was too damaged to save. At approximately 12:20 AM on August 14, 2024, Mr. Lomong underwent surgery to amputate his left leg below the knee and to suture the avulsion injury to his head from his left eyelid across his forehead up to his hair line.

[88] At the scene, Cst. Moroz took three photographs (Exhibit 5): (1) Mr. Lomong's left leg as he lay in the debris of the fence immediately following the MVC, (2) the scene of the MVC including the damage to the fence, and (3) Mr. Lomong as he lay on a spine board in the ambulance, including the bleeding laceration to Mr. Lomong's forehead extending down to his left eye.

[89] Neither officer was able to identify the driver of the truck. Cst. Moroz and Cst. Howard both denied seeing any weapon or firearm at the scene of the MVC. Cst. Howard cordoned off the scene, creating a secure perimeter, and conducted a thorough search of the area to ensure the scene was safe for the arrival of other officers including MCIS.

[90] Cst. Saunders testified he searched in a two-block radius of the scene including sifting through the rubble and stated he "absolutely" did not see any firearms, no weapons at the scene. Further, having carefully studied the three photos taken by Cst. Moroz immediately after the MVC (Exhibit 5) and the 66 photos taken by Cst. Brar within hours of the MVC (Exhibit 11), no weapon or firearm can be seen.

[91] Mr. Lomong testified that he was walking on the sidewalk on 96 Street and 106A Avenue. He was on his way to buy groceries at the Lucky 97 Supermarket. He heard a vehicle accelerate, but did not pay it any attention as he was walking on the sidewalk. He was not sure which direction the vehicle came from. He did not see the vehicle until the moment before impact. His memory of the impact is unclear, he does not describe an argument with anyone, and he described the vehicle striking him twice.

[92] It is clear from the three security videos (Exhibits 6, 7, 9) that the truck reversed, then manoeuvred to line up directly with Mr. Lomong, accelerated rapidly forward toward Mr. Lomong, swerving or steering to the left to point directly perpendicular to Mr. Lomong. The

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truck accelerated, striking Mr. Lomong. After the truck struck Mr. Lomong, he was propelled into the four-foot wooden fence. The truck then aggressively reversed again onto 106A Avenue, then headed northbound toward 97 Street. The truck was chased by Cst. Moroz and Cst. Howard, both of whom can be seen running after the truck. The truck did not stop at the scene of the MVC nor return to the scene in the hours police were at the scene in the aftermath of the MVC.

[93] The road was dry and paved. There was some construction in the area as evidenced in the scene photographs and the videos; the sidewalks were being replaced. There was some loose gravel on the roadway. At the material time it was dark—10:30 PM at night—and the street lighting was described by both officers as poor.

[94] Cst. Moroz observed the truck to be an older, gold-coloured model of a GMC Sierra or Silverado, noting the first three letters of the licence plate being "CSW".

[95] Cst. Moroz had radioed this information as he chased the fleeing truck so that other units could attempt to locate the truck. Cst. Saunders, a member of EPS MCIS and the member in charge of the investigation, was also made aware of these observations.

[96] Police seized security video from two residences, the Ali residence on 96 Street and 106A Avenue (across the street from the scene of the MVC), and the Morgan residence located on 96 Street and 106A Avenue (the scene of the MVC). Later, security video was seized from the Radius Health rear parking lot, kitty corner from the Morgan residence (Exhibit 7). These videos depict an interaction between the driver of the truck and a man on foot carrying an orange or red grocery bag at the entrance to the alley on 106A Avenue. The Morgan residence is on 106A Avenue, adjacent to the alley in question and between the Radius Health rear parking lot and the Ali and Chorney residences.

[97] The videos show a tall man walked across the Radius Health rear parking lot, walking northbound up the centre of the alley towards 106A Avenue. A truck entered the alley facing southbound and in order to pass by the truck, the man pushed a construction barricade towards the front of the truck. The driver of the truck exited the truck, and the two men argued at the rear of the truck. From inside his home Mr. Chorney heard "yelling", which can be heard on the Morgan video. The only discernible speech on the Morgan residence video is one man yelling very loudly. The pedestrian walked away, crossing 106A Avenue continuing north in the alley. The driver of the truck stood at the rear of the truck for a period of time watching the pedestrian retreat but continued to gesture at the man before he threw something, perhaps a lit cigarette, at the man and then re-entered his truck.

[98] The truck then aggressively reversed onto 106A Avenue and executed a three-point manoeuvre to direct the truck westbound. The truck turned northbound on 106A Avenue swerving to the left to aim directly at Mr. Lomong, who was walking from the alley onto the sidewalk in front of the Morgan residence, immediately adjacent to the alley and bordering 106A Avenue.

[99] The videos depict the truck then rapidly accelerating towards Mr. Lomong, going up the curb, striking Mr. Lomong and then propelling him backwards into the fence. The truck then backed away from the point of impact onto 106A Avenue and fled rapidly westbound on 106A Avenue towards 97 Street. The videos depict the two police officers, Cst. Moroz and Cst. Howard, running towards the fleeing vehicle and Cst. Moroz' flashlight can be seen illuminating the rear of the truck.

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[100] The videos show a significant number of EPS members attended to look for the truck and assist in the investigation. Members of the EPS MCIS also attended. The scene was cordoned off and photographs were taken by Cst. Brar. While examining the scene, Cst. Brar saw and seized a truck part from the road immediately in front of the Morgan residence, believing that it had come off the truck during the MVC. The truck part, a valance panel, was seized, marked, and securely stored as an exhibit until it could be examined and identified.

[101] Back at the scene of the collision, EPS officers canvassed businesses and residences in the area of the collision. Civilian witnesses were interviewed.

[102] Among the civilians interviewed was Mr. Chorney who had resided on 96 Street and 106A Avenue for approximately three years. He testified that he did not see who the driver was at the time of the collision, but he was familiar with the truck and its usual driver. The truck was typically parked a few houses down and the regular driver resided two houses down at 9631 106A Avenue. The description of the truck Mr. Chorney provided was a gold 2001 (*sic*) Chev Silverado type truck in rough shape with a quad cab, a headache rack and old, rusted fenders and rims that was exclusively driven by a neighbour living two houses away, a middle-aged, 5'4" male with short hair that was shave-faded on the sides. Mr. Chorney told Cst. Saunders that the neighbour also drove a newer model red Chevrolet Malibu.

[103] On August 14, 2024, Cst. Vors retrieved the vehicle part that was seized from the scene by Cst. Brar from an EPS secure exhibit locker. Cst. Vors then attended at Capital GMC Buick located at 9751 34 Avenue NW and spoke with Assistant Parts Manager, Jamie Combrinck, who used the part number stamped on the back of the part and relying on a parts database by searching the part number that was stamped on the back of the part, confirmed it was a "valance panel" that would fit *inter alia* a 1999-2000 Chevrolet Silverado (1500, 2500 and 3500 models) and/or 1999-2002 GMC Sierra (1500, 2500, and 3500 models). Cst. Vors returned the valance panel to the secure evidence locker and relayed her findings to MICS Cst. Saunders.

[104] On August 16, 2024 the EPS investigation revealed considerable information with respect to the suspect truck and its regular driver including: a detailed description of both the truck and its regular driver from a neighbour; security video footage of the MVC; the description of the truck and first three letters of the licence plate from Cst. Moroz; and the confirmation of the compatible makes and models associated with the valence panel found at the scene of the MVC.

[105] Cst. Saunders obtained a CPIC list of all 1999 to 2002 Silverado and Sierra trucks registered in Edmonton with first letters "C" on their licence plates. The CPIC list revealed only two vehicles with the first three letters of the licence plate being "CSW": one 2000 grey GMC Sierra registered to a company (CSW 8171) and one gold 2002 GMC Sierra registered to Mr. Ronald Despins who resided at 12720 111 Avenue (CSW 4694). Upon searching EPS Niche UA database, Cst. Saunders determined that Mr. Christopher Despins had a listed address as Suite #9, 9631 106A Avenue which is on the same street as the collision, two doors down from Mr. Chorney's residence.

[106] The EPS investigation had revealed a suspect truck, the Despins' Truck, and a suspect driver, the Accused.

[107] On August 17, 2024, at approximately 10:13 AM, Cst. Saunders attended alone in an unmarked police vehicle at 12720 111 Avenue, Mr. Ronald Despins' address, hoping to locate the suspect truck. Upon arrival at the large parking lot, he observed an older model gold GMC

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Sierra truck with a fifth wheel tailgate parked at the NW corner of the parking lot. The vehicle matched that of the one he observed in the videos, had front end damage consistent with the collision, and the licence plate was "CSW 4694". Having located the Despins' Truck, Cst Saunders parked his police vehicle behind it and began completing seizure documents. Cst. Saunders notified Cst. Vors that he located the Truck. Cst. Saunders planned to wait with the Truck for continuity until her arrival.

[108] At approximately 10:34 AM, Cst. Saunders observed a newer model red Chevrolet Malibu enter the parking lot of the seniors' residence where he was seated in the parked police vehicle. The red Malibu initially parked some distance away from the Truck, then moved closer. The driver of the red Malibu parked closer to the Truck and exited the Malibu, allowing Cst Saunders to identify the driver as Christopher Travis Despins, relying on Mr. Despins' ECIB photo.

[109] Cst. Saunders illuminated the lights of his unmarked police vehicle and waved at the individual saying only, "Hi Chris". Mr. Despins spontaneously volunteered, "No point in running. The guy deserved to die. He pulled a gun on me in the alley".

[110] At 10:35 AM, Cst. Saunders arrested Mr. Despins for prohibited driving on August 13 and 17, 2024, and aggravated assault, hit and run, and various breaches arising August 13, 2024. Cst. Saunders placed Mr. Despins in handcuffs and performed a "frisk" search before placing him into the back of the police vehicle. During the frisk search, Cst. Saunders located a Samsung cell phone and keys, one of which was a GM key that he used two days later to unlock the Truck's driver's side door. Cst Saunders *Chartered* and cautioned Mr. Despins, and he was taken to the Northwest Police Station for processing and ultimately an audio video recorded interview.

[111] The Truck was seized for forensic examination, and the CDR was removed. Cst. Haekel, a senior member of EPS MCIS, prepared a report (Exhibit 12) after Cst. Saunders downloaded the data from the CDR. The report detailed information regarding the operation of the Truck in the seconds before the collision in terms of speed, braking, and throttle. I have some concerns regarding the reliability of the data given the CDR cannot be located and I attribute very little probative value to the data and conclusions in the report.

[112] The residential and Radius Health videos are compelling in terms of proof of intention at the time of the impact with Mr. Lomong given the rapid acceleration and the aiming of the Truck directly at Mr. Lomong. As well, Mr. Morgan, the homeowner, described the fence as 'obliterated' and noted that the fence posts were sheared off, "snapped out" of the concrete.

[113] Cst. Vors took photos of the Despins' Truck on August 17, 2024 when the Truck was seized from the parking lot at Mr. Despins' father's seniors' residence (Exhibit 13 and Exhibit 20). Several of the photos depict driver's side front end damage. Cst. Saunders described the front-end driver's side damage as moderate from his experience as a police officer and working with EPS MCIS. Cst. Vors described the damage to the Truck as including a crumpled hood which was buckled away from the Truck body, the front bumper gaping away from the body of the Truck, the head lamp pushed in and separated from the grill, and the front grill was cracked.

[114] The injuries sustained by Mr. Lomong are graphically evidenced in the photos (Exhibits 1 and 5) and as described in the RAH medical records (Exhibit 1). In addition to the amputation, Mr. Lomong required a second surgery to remove more of his knee. His recovery and rehabilitation were difficult and protracted. Mr. Lomong described learning to walk again and

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ongoing difficulty with his gait, which was readily apparent in court. He also described difficulty seeing properly out of his left eye.

**Analysis**

**Wrongful Police Conduct**

[115] The overarching focus of Mr. Despins in defending the criminal allegations is that he was wrongly targeted by the EPS and that the police tampered with and planted evidence to frame him for these offences. Mr. Despins maintains that the police seizure of the Despins' Truck constituted theft. He argued that the videos seized by the EPS from residences and business in the immediate vicinity of the MVC exhibited at trial were altered by the EPS. He also argued that the photographs taken by members of the EPS specifically Cst. Moroz, Cst. Vors, and Cst. Brar of the Complainant in the immediate aftermath of the collision, the scene of the MVC and the Despins' Truck were 'photoshopped' to incriminate him.

[116] Mr. Despins also argued that the medical records entered as Exhibit 1 were not those of the Complainant, Mr. Lomong; rather they relate to two persons, neither of whom were actually injured in the MVC. This was refuted by a Defence witness, Mr. Mekou. Mr. Despins expressed disbelief that "anyone lost their leg", arguing that Mr. Lomong can be seen running away in one of the videos. The photos (Exhibit 5) taken by Cst. Moroz in the immediate aftermath of the collision depicting Mr. Lomong lying *in situ* in the midst of the fence debris and in the ambulance accompanied by Cst. Moroz as he was transported to the RAH are reliable evidence which I accept accurately depict Mr. Lomong's injuries immediately after he was struck by the Truck and propelled into the fence.

[117] As well, Mr. Despins argued that Cst. Saunders, the MCIS member in charge of the investigation, 'planted' the valance panel at the scene on August 13, 2024 in order to target him or alternately, Cst. Saunders used tools to remove the valance panel from the Truck parked in the parking lot of his parents' seniors' residence on the morning of August 17, 2024. This is illogical and defies common sense given pictures were taken by Cst. Brar of the valance panel at the scene before he seized it late on August 13, 2024 or in the early morning of August 14, 2024.

[118] Further, Mr. Despins was adamant that the search warrant sought by EPS and granted by Justice of the Peace W. Faulkner on August 17, 2024 with respect to the Despins' Truck and its black box data and the search warrant sought by EPS and granted by Justice R. Bodnarek on August 19, 2024 with respect to the Despins' cell phone data were forgeries, reading sections of *Criminal Code* relating to forgery into the record during his submissions.

[119] I reject as unfounded and speculative the Defence allegation that Cst. Saunders planted the valance panel to the scene of the MVC. As depicted in Cst. Brar's photos and the videos, the scene of the MVC was literally 'swarming' with police officers and the Defence suggestion that Cst. Saunders brought the valance panel with him and placed it as the scene of the MVC is fanciful. Similarly, the contention that the search warrants comprised as part of Exhibits 22 and 23 are 'forgeries' is also without foundation and rejected.

[120] Any suggestion that there was tampering with the videos or photographs is rejected as unfounded and speculative. Mr. Despins argued that 'everyone' knows that videos and photos can be altered and police misconduct resulted in him becoming a suspect. Similarly, Mr. Despins contends that he was wrongfully targeted in the EPS investigation without reasonable grounds,

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and that the seizure of the Truck and the Despins' cell phone found on his person on August 17, 2024 was not lawful.

[121] It also must be stated that during the trial, Mr. Despins accused the Crown of misconduct, most notably "witness tampering" and altering documents. These accusations are baseless and unfounded.

[122] Over the course of three days from August 13, 2024 at 10:30 PM when the MVC occurred until the morning of August 17, 2024 when Mr. Despins was arrested, the EPS undertook an exhaustive, comprehensive and methodical investigation searching for the driver and the truck involved in the MVC. It was fortuitous that Cst. Moroz and Cst. Howard was approximately half a block away, heard the aggressive driving and ran towards what would be the scene of the collision. Cst. Moroz and Cst. Howard both saw the MVC which is as depicted in the videos entered as exhibits and Cst. Moroz can be seen in the videos running towards the fleeing truck flashlight in hand. He contemporaneously radioed EPS, providing dispatch with the make, model, colour and first three letters of the Alberta licence plate for the truck involved in the collision. It was the presence of those two police officers and EMS, attending to an overdose at the Mustard Seed Church half a block away, which allowed for Mr. Lomong's injuries to be assessed and treated with dispatch; the MVC occurred at 10:31 PM, Mr. Lomong was first assessed by EMS at the MVC scene at 10:33 PM and Mr. Lomong arrived at the RAH at 10:45 PM.

[123] Cst. Saunders, the member in charge of the investigation, searched for the suspect Truck using Cst. Moroz's description, the partial licence plate, the videos depicting unique features of the truck involved in the MVC including the fifth wheel tailgate and the headache rack, a review of the videos obtained from nearby residences and businesses, and interviews with homeowners in the community. Fortuitously, when Cst. Saunders attended Mr. Ronald Despins' seniors' residence on 127 Street and 111 Avenue at the start of his shift on August 17, 2024 the Accused drove into the parking lot in the red Chevrolet Malibu he was known to drive, which led to his arrest, the seizure of the truck, and the seizure of the cell phone as offence related property in accordance with section 489(2) of the *Criminal Code* , provincial legislation and the common law. Valid search warrants were obtained by EPS, on August 17, 2024 with respect to the Despins' Truck and on August 19, 2024 with respect to the Despins' cell phone data.

[124] I reject as speculative and unfounded Mr. Despins' contention that there was misconduct on the part of the EPS, including that he was targeted and framed by members of the EPS, and that evidence compiled by the police in the course of their investigation was altered or modified in order to affect that purpose.

**Defence of False Confession**

[125] Mr. Despins testified in the trial proper. First, he read into the record a seven-page undated, unsigned typewritten 'Recantation' of the audio-video-recorded statement he made to Cst. Saunders following his arrest on August 17, 2024. A copy of the 'Recantation' was delivered to Alberta Court of Justice, Judges' Chambers on July 15, 2025 in an envelope with a return address setting out Mr. Despins' name and the Edmonton Remand Center address and is appended to this Decision as Appendix A.

[126] In the recantation letter and his testimony, Mr. Despins denied any involvement in the MVC on August 13, 2024, maintaining he was not driving his father's truck that night, the truck

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was inoperable with no transmission and no brakes, the truck was parked in the St. Andrew's Church seniors' residence parking lot at 12720 111 Avenue from and after July 17, 2024, and he neither knew nor did he have any dealings with Mr. Lomong. He stated he "exaggerated and lied through his teeth" in the interview, maintaining Cst. Saunders coached, prepped and manipulated him, telling him what to say in exchange for which he would "get a fine and a PTA". In his Recantation, Mr. Despins seeks a full acquittal and the withdrawal of his charges on the basis of the false and coerced confession.

[127] The Recantation included language which I would characterize as used by 'freemen on the land' and as described by then Associate Chief Justice J.D. Rooke in *Meads v Meads*, 2012 ABQB 571 as "organized pseudo-legal commercial argument". Mr. Despins invoked the monarchy and Superior Courts and purports to recant his confession, stating he lied to Cst. Saunders. Mr. Despins also alleges he was manipulated and coached by Cst. Saunders, promised a "Promise to Appear" if he cooperated, and he was threatened by Cst. Saunders that his father would be charged if he did not cooperate. Mr. Despins claims the audio-recorded statement was made under duress and was influenced by sleep deprivation and emotional distress.

[128] The first statement was immediate and unprompted. Cst. Saunders said only: "Hi Chris" and spontaneously, without any further discussion, and before he knew why Cst. Saunders was present, Mr. Despins said, "No point in running. The guy deserved to die. He pulled a gun on me in the alley."

[129] Mr. Despins accuses the police of altering the video evidence and misidentifying the Despins' Truck and him as driver, maintaining the Despins' Truck was inoperable at the material time. He testified it had been written off in a MVC on July 17, 2024 after which time it remained parked in the St. Andrew's Church seniors' residence parking lot at 12720 111 Avenue. The transmission was removed. The truck had no brakes. Mr. Despins seeks a full acquittal and the withdrawal of his charges on the basis of the false and coerced confession.

[130] In terms of the voluntariness *voir dire* decision at Trial, Mr. Despins was represented by counsel at trial throughout the Crown's case. The Crown sought to adduce both statements in the trial proper and accordingly the evidence of Cst. Saunders and Cst. DeZoeten was heard in a consent blended *voir dire*. Cst. Saunders was cross examined extensively regarding the whole of his interaction with the Accused from his arrest until the audio-video-recorded statement was concluded at 2:55 PM. The Defence presented no evidence during the *voir dire*. There was no mention of the spectre of a false confession nor the indicia thereof until the Recantation was delivered to Justice Chambers less than 10 days before the start of the Defence case.

[131] Considering the whole context of Mr. Despins' interaction with police on August 17, 2024, the totality of the evidence called by the Crown in the *voir dire*, and the lack of any defence evidence in the *voir dire*, I was convinced beyond a reasonable doubt that both the first statement made by Mr. Despins to Cst. Saunders immediately upon seeing Cst. Saunders near his father's truck at 10:35 AM and the second statement, the 45-minute audio-video-recorded interview commencing at 2:15 PM and concluding at 2:55 PM, were voluntary and admissible. I reject Mr. Despins' implausible argument that he was driven around the city by Cst. Saunders for six hours, presumably after the first statement in the parking lot at 10:35 AM and before the start of the audio -video- recorded statement at the police station at 2:15 PM.

[132] Pursuant to Counsel's agreement at the outset of the Trial, all of the evidence in the voluntariness *voir dire* was admitted in the trial proper, including the two statements made by

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Mr. Despins to Cst. Saunders. The admissibility of the statements was subject to any *Charter* breach proven and any exclusion ordered at the conclusion of the *Charter voir dire*. Following the *Charter voir dire*, no breaches were found and accordingly the statements went into the trial proper as evidence.

[133] Canadian case law refers to the "phenomenon of false confessions". The British Columbia Court of Appeal in *R v Ball*, 2019 BCCA 32, commencing at para 53 noted:

> *False Confessions*
>
> [53] A confession is an out-of-court statement made by an accused to a person in authority, often a police officer. Presumptively inadmissible unless proven voluntary, confessions are a particularly powerful and damning form of evidence. This is true, at least in part, because it seems inherently unlikely that an innocent person would incriminate himself or herself by falsely confessing to a crime in response to police questioning. People do not normally confess to crimes they have not committed: *Pearce* at paras. 48-53; *R. v. Hart*, 2014 SCC 52 at para. 102. As Justice Iacobucci put it in *R. v. Oickle*, 2000 SCC 38 at para. 34, the proposition that a confession is false is "counterintuitive".
>
> [54] However, false confessions can and do occur for a variety of reasons in a wide range of circumstances. When admitted as evidence, they can lead to miscarriages of justice because they have a significant impact on the decision-making process undertaken at trial. An accused can be convicted on the basis of a confession alone, despite the absence of any confirmatory evidence whatsoever: *R. v. Singh*, 2007 SCC 48 at para. 29. And judges and juries tend to disbelieve *ex post facto* recantations by those who have previously confessed: *Pearce* at paras. 48-53, 129.
>
> [55] In *Oickle*, Justice Iacobucci discussed the phenomenon of false confessions in the context of considering the common law confessions rule. After noting the close relationship between false confessions and wrongful convictions, he emphasized the importance of understanding why they occur:
>
> > [37] Ofshe & Leo (1997), *supra*, at p. 210, provide a useful taxonomy of false confessions. They suggest that there are five basic kinds: voluntary, stress-compliant, coerced-compliant, non-coerced-persuaded, and coerced-persuaded. Voluntary confessions *ex hypothesi* are not the product of police interrogation. It is therefore the other four types of false confessions that are of interest.
>
> [56] In reviewing the four types of possibly involuntary false confessions, Justice Iacobucci stated that proper police interrogations rarely produce a false confession. As a result, the common law confessions rule is well-suited to protect against them, particularly as concepts of voluntariness and reliability overlap to a significant extent: *Oickle* at paras. 45, 47. Nevertheless, not all false confession claims can be properly adjudicated by applying the common law confessions rule and excluding those that are not proven voluntary. Although rare, even admissible confessions may be false: *Pearce* at para. 60.

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> [57] In *Pearce*, Justice Mainella conducted a thorough and thoughtful review of the phenomenon of false confessions and the related risk of wrongful convictions. In addition to the common law confessions rule, he identified residual judicial discretion to exclude evidence and appropriately informed fact-finding as available safeguards against both. As to the latter, he observed that accused persons sometimes adduce expert evidence regarding their "distinctive behavioural characteristics" and vulnerabilities to help explain why their voluntary confession is nevertheless false or unreliable and he noted that experts and academics say factors such as mental illness, significant personality traits and intoxicant withdrawal may cause false confessions. However, he stated, the admissibility of expert evidence on these matters must be determined on a case-by-case basis and it is subject to the *Mohan* criteria. He also stated that, where a false confession defence has an air of reality, a trial judge should instruct the jury about the phenomenon of false confessions and relate the essential evidence on the point to the defence so that jurors can appreciate its value and effect: *Pearce* at paras. 56, 59-64, 81, 104-105, 118; *R. v. Phillion*, 2009 ONCA 202 at para. 217.
>
> [58] As I have already discussed, the extent to which a judge should review and relate the evidence to the live issues when instructing a jury is also case-specific. In cases involving a purportedly false confession, the content and form of an appropriate jury instruction is a discretionary matter for the judge based on the exigencies of the case. That said, in my view, in addition to cautioning the jury generally about the phenomenon of false confessions, the judge should review the accused's explanation for allegedly confessing falsely, relate the salient evidence to the false confession defence and review the extent to which the confession's details are consistent with or conflict with independently verifiable circumstances. In doing so, the judge should avoid expressing any personal disbelief, direct or inferential, in the accused's ex post facto recantation. Overall, the instruction will be adequate so long as it dispels the common assumption that nobody would confess falsely and it provides the jury with necessary assistance to evaluate the reliability of the confession in conducting the fact-finding process: *Pearce* at paras. 118-120, 127-135; *Colpits* at 753.

[134] There is a series of Manitoba cases involving Michael Lynn Pearce, where the false confession defence figured prominently. The Manitoba Court of Appeal, in its decision ordering a new trial *R v Pearce*, 2014 MBCA 70, adopted a common sense, pragmatic approach to false confession defences. At paras 117-120, the court stated:

> [117] A trial judge has no obligation to instruct the jury about the potential of a confession being false absent an air of reality to such a claim (*Kelsey* at p. 226; *French v. The Queen*, 1979 CanLII 49 (SCC), [1980] 1 S.C.R. 158 at 163-64; and *R. v. Welsh*, 2013 ONCA 190 at para. 114, 115 O.R. (3d) 81, leave to appeal to S.C.C. ref'd, [2013] S.C.C.A. No. 383 (QL)).
>
> [118] Based on the testimony of the appellant at trial recanting his confession, there was an air of reality to his claim that he gave police a false confession (*Colpitts v. The Queen*, 1965 CanLII 2 (SCC), [1965] S.C.R. 739 at 752). When a claim of a false confession does have an air of reality, in addition to outlining the

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> theory of the defence to the jury, the trial judge is required to relate the essential evidence to the claim of false confession so that the jurors may appreciate the value and effect of that evidence in arriving at a just conclusion (*Colpitts* at p. 752-53).
>
> [119] As explained in Kelsey (at p. 226) and *Rustad v. The Queen*, 1965 CanLII 53 (SCC), [1965] S.C.R. 555 at 561-63, the nature of the accused's narrative of their commission of the crime in the confession is important to its probative value and the substance of an accused's claim of false confession.
>
> [120] Whether an accused's narrative in their confession is consistent with or conflicts with the independently verifiable circumstances of the crime is important for a trial judge to review with the jury (*Rustad* at p. 562; and *Colpitts* at p. 756). The trial judge should also direct the jury to any evidence from the trial as to the accused's knowledge of the crime and the source(s) of that knowledge (*Osmar* at para. 77). Relevant is whether the accused's knowledge of the crime, as set out in his or her confession, is information only the real perpetrator would know, or alternatively, is information the accused may have learned from the police, the media or some other source before the confession, thereby decreasing the potential probative value of the confession.

[135] In the retrial decision reported at *R v Pearce*, 2016 MBQB 14, the trial judge at para 68 reminded himself that in terms of assessing the reliability of a confession, a multifactorial approach is needed:

> [68] This is a very difficult case. It suffers from the passage of time, the lack of physical evidence against Mr. Pearce, and strange peculiarities surrounding his confession. In the end, for many reasons, Mr. Pearce's statements and all the evidence must be thoughtfully scrutinized for objective, reliable telltale signs pointing to either a false or a reliable confession. Much of this scrutiny must revolve around points that only the killer would know but also the nature of the morning interview and afternoon interrogation. This analysis need be done considering the onus of proof, the meaning of proof beyond a reasonable doubt as described in *R. v. Lifchus*, 1997 CanLII 319 (SCC), [1997] 3 S.C.R. 320, a *WD* analysis, prior inconsistent statements and the irrefutable phenomena of false confessions - all matters I will not set out in any detail but which I bear in mind.

[136] I have considered the Accused's recantation in the context of the whole of the evidence and am mindful of the onus of proof. There is no air of reality to the false confession defence. It was first raised by Mr. Despins shortly before the July 24, 2025 trial continuation. There was no evidence of "independently verifiable circumstances" that tended to support a claim that the admissions in the police statement were fabricated. Rather, there was direct and independent evidence that supports the veracity of what he had told the police.

[137] The first statement was volunteered without any inquiry by Cst. Saunders and without any discussion whatsoever about the MVC. It was apparently not recanted by the Accused.

[138] The second statement, which was audio and video recorded (Trial Exhibit 14A), was provided by Mr. Despins after a very short interview. After approximately 40 minutes with Cst. Saunders, Mr. Despins admitted that he "smashed" him into the fence with his truck. I reiterate

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the findings of fact in the voluntariness decision regarding the two statements made, including the lack of threats, promises or inducements, the lack of oppression or duress, the absence of police trickery and the clear choice Mr. Despins made to admit driving his father's truck into the 'man' and the fence. I reject the *amicus curiae* argument that that Mr. Despins' "mental health flags" including ADHD and a so called "suicidal" statement make the confessions unreliable.

[139] Mr. Despins has not met the evidentiary threshold to raise the defence of false confession, as no properly instructed jury, acting reasonably would acquit if it believed the evidence to be true. See: *R v Cinous*, 2002 SCC 29 ["*Cinous*"] and *R v Effert*, 2021 ABCA 388 ["*Effert*"]. As there is no air of reality to the defence of false confession raised by Mr. Despins, I will move on to consider whether the Crown has proven the identity of the driver and the truck beyond a reasonable doubt.

**Identity of the Driver and the Truck**

[140] In terms of the identification of the truck, there is overwhelming credible evidence that the truck involved in the MVC is the Despins' Truck. I accept Cst. Moroz evidence, including his detailed description of the truck he saw strike Mr. Lomong and his contemporaneous notification to EPS dispatch of the truck details as he chased the truck, including the first 3 letters of the licence plate. I believe Mr. Chorney's testimony regarding his familiarity with the truck prior to the MVC and its exclusive driver. I accept his description of the truck including that it was a Chevrolet quad cab, two-wheel drive with a fifth wheel tail gate and headache rack and his recognition of the truck as it backed off of Mr. Lomong's body. Cst. Saunders was certain that he had found the truck involved in the MVC given his review of the residential videos of the truck and compilation of other information regarding the Despins' Truck over the 3 days since the MVC. The videos and Cst. Vors' photographs are also important in terms of identification of the Truck. The so-called inconsistencies regarding the color of the Despins' Truck highlighted by Mr. Despins and the *amicus* are nuances, subtle differences in the color of a very old metallic colored truck and consistent with human experience.

[141] Next, in terms of the evidence regarding the identity of the driver of the truck, none of the eyewitnesses to the MVC were able to positively identify the driver of the truck. It was dark, the street lighting was poor and the entire interaction between the driver of the truck and Mr. Lomong occurred over less than five minutes. It is not possible to positively identify the driver of the truck from any of the videos in terms of a *R v Nikolovski*, 1996 SCC 158 identification by the trial judge. However, having observed Mr. Despins in court for hours each day during the Trial, the driver of the truck as depicted in the videos, is similar in height, stature, body habitus with some mannerisms and gestures similar to the Accused.

[142] In terms of compelling, credible evidence regarding the identity of the driver, I have weighed Mr. Chorney's evidence, the statements made by Mr. Despins to Cst. Saunders on August 17, 2024, Mr. Despins' connection to the Truck including his possession of the key for the Truck on August 17 when it was located by Cst. Saunders along with the other trial evidence.

[143] The *Amicus* argued that in terms of the identity of the truck and the driver, there were inferences consistent with innocence, citing *R v Villaroman*, 2016 SCC 33 ["*Villaroman*"]. However, the test in *Villaroman* and subsequently in *R v Metzger*, 2023 SCC 5 ["*Metzger*"] is whether there are *reasonable* inferences other than guilt. Cromwell J. in *Villaroman* at para 37 stated that the Crown "...certainly does not need to 'negative every possible conjecture, no matter how irrational or fanciful, which might be consistent with the innocence of the accused'..."

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(citations omitted). He continued: " 'Other plausible theories' or 'other reasonable possibilities' must be based on logic and experience applied to the evidence or the absence of evidence, not on speculation".

[144] The Crown's case regarding identification of the truck and its driver is overwhelming and compelling. The whole of the evidence is not capable of supporting a reasonable inference consistent with innocence. In the light of human experience and common sense, the guilt of the Accused is the only reasonable conclusion based upon the totality of the evidence, see: *Metzger* at para 11 and 16.

[145] Having carefully considered and reviewed the whole of the evidence adduced at trial, including the *viva voce* evidence and all of the exhibits, I am satisfied beyond a reasonable doubt that on August 13, 2024 at 10:30 PM Christopher Travis Despins was the driver of a gold-colored 2002 GMC Sierra truck bearing Alberta licence plate "CSW 4694" registered to his father, Ronald Lawrence Despins.

[146] I am also satisfied beyond a reasonable doubt that the Accused intentionally drove the Despins' Truck at Mr. Lomong, aiming directly at Mr. Lomong, striking Mr. Lomong, and then forcefully propelling him into the four-foot wooden fence surrounding the Morgan residence, causing serious, life altering injuries.

Count 1: Aggravated Assault – s 268 of the *Criminal Code*

[147] In respect of Count 1 on the Information, the aggravated assault allegation, I am satisfied beyond a reasonable doubt that the Accused intentionally drove his father's truck striking Mr. Lomong. I am also satisfied beyond a reasonable doubt that Mr. Despins intended to wound maim or disfigure or endanger the life of Mr. Lomong, given his aggressive driving manoeuvres, the rapid acceleration of the Despins' Truck directly towards Mr. Lomong and the serious nature of Mr. Lomong's resultant injuries. Mr. Despins' chilling statement, "He deserved to die" is also material in terms of Mr. Despins' intention. Both the *actus reus* and *mens rea* component of the offence of aggravated assault are proven beyond a reasonable doubt. Self-defence will be addressed separately.

Count 2: Criminal Hit and Run with Bodily Harm – s 320.16(2) of the *Criminal Code*

[148] With respect to Count 2 on the Information, the allegation that Mr. Despins fled the scene of a MVC without providing contact information or rendering assistance when he knew or was reckless as to whether the collision resulted in bodily harm, I have considered the whole of the evidence adduced at trial including the *viva voce* evidence and exhibits. The videos and the evidence of Cst. Moroz, Cst. Howard and Mr. Chorney establish that the driver of the truck immediately and rapidly fled, accelerating away from the scene of the MVC. Mr. Chorney described seeing a body underneath the truck and the truck back off of a body from his vantage point on his front step. Mr. Morgan described the fence as 'obliterated'. The videos make it undeniable that Mr. Despins aimed the truck directly at Mr. Lomong and closed the distance rapidly. After the MVC, Mr. Despins failed to fulfill all, or any one of the statutory duties: he did not stop the truck, he did not provide demographic or contact information, and he did not render assistance to the injured person.

[149] I find it is proven beyond a reasonable doubt that Mr. Despins knew or was reckless as to whether Mr. Lomong had sustained bodily harm. This is based upon the clear and unequivocal evidence in the three security videos which depict the truck intentionally and deliberately

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accelerating towards Mr. Lomong and directly impacting with his person, crushing him against the four-foot wooden fence. The force of the impact, the obvious damage to the fence, and the extent of the injuries sustained by Mr. Lomong are all strong evidence to support that finding. As well, I accept the evidence of Mr. Chorney that he observed the Truck back off Mr. Lomong's body as he lay prostrate on the ground in the debris of the fence.

[150] Police were present for hours at the scene of the MVC. Mr. Despins left the scene speeding away in the Despins' Truck and at some point, moved the Despins' Truck to his father's seniors' residence with the damaged driver side front in the corner of the parking lot adjacent to two fences. He did not contact the police until Cst. Saunders found the Despins' Truck on August 17, 2024. Accordingly, I am also satisfied beyond a reasonable doubt that Mr. Despins neither remained at the scene, nor did he return to the scene to provide demographic information or render assistance.

[151] I find that Mr. Despins' failure to fulfil the statutory duties was based on his apprehension associated with the criminal liability or repercussions for what he had done including driving while prohibited and striking a pedestrian. He fled to avoid police involvement; he fled to escape the consequences of his actions if he remained at the scene to render assistance to Mr. Lomong. It cannot have escaped Mr. Despins' notice that two uniformed police officers were chasing after his truck on foot, one with a flashlight shining into the cab and both shouting at him to stop. It is obvious from the videos that these police officers were close behind the truck, certainly close enough to allow Cst. Moroz to be able to discern the color, make, model, approximate vintage and first three letters of the licence plate.

Count 3: Driving While Disqualified – s 320.18 of the *Criminal Code*

[152] Turning then to Count 3 on the Information, the prohibited driving charge, I am satisfied beyond a reasonable doubt that Mr. Despins was a disqualified driver on August 13, 2024. As set out in Exhibit 2, the Certificate of Disqualification, notice of which was acknowledged at trial, he was prohibited from driving any conveyance. He was driving the Despins' Truck at the material time and accordingly is guilty of driving while disqualified contrary to s 320.18 of the *Criminal Code*.

Counts 4, 5, 7: Fail to Comply – s 145(5)(a) of the *Criminal Code*

[153] Turning then to Counts 4, 5 and 7 on the Information, I am satisfied beyond a reasonable doubt that on August 13, 2024 Christopher Travis Despins was bound by an Alberta Court of Justice release order dated December 18, 2023. The material release order (Exhibit 3) was a $2,000 promise to pay which included eight conditions including Condition 1 to keep the peace and be of good behaviour, and Conditions 7 and 8 setting out driving restrictions on Mr. Despins. I am satisfied that on August 13, 2024 Mr. Despins failed to comply with release order conditions binding him at the material time when he drove his father's truck without a driver's licence and without his father present, hitting Mr. Lomong and as such is guilty of Counts 4, 5 and 7 on the Information.

**Defence of Self-Defence**

[154] Regarding Count 1, I am satisfied that the elements of the offence of aggravated assault are established. However, the Accused submits that he should be found not guilty of aggravated assault by virtue of s 34 of the *Criminal Code*:

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**Defence — use or threat of force**

**34 (1)** A person is not guilty of an offence if

> **(a)** they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;
>
> **(b)** the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and
>
> **(c)** the act committed is reasonable in the circumstances.

[155] An accused has an evidential burden to show there is an air of reality on each of the three parts of the test: *Cinous*; *Effert*. This requires the Court to consider whether the evidence before it is such that, if believed, a properly instructed jury, acting reasonably, could base an acquittal on it: *Cinous* at para 47.

[156] Once an accused has established an air of reality to all three requirements, the Crown must disprove the defence, which it can do by disproving any one of the three elements beyond a reasonable doubt: *R v Khill*, 2021 SCC 37 ["*Khill*"] at para 125. The Crown has the burden of proving beyond a reasonable doubt that the accused did not satisfy the elements of self-defence under s 34(1) of the *Criminal Code*: *Khill* at para 166.

[157] In his police statements Mr. Despins raised the defence of self-defence, claiming he is not guilty of the aggravated assault offence outlined in Count 1 as he acted in defence of his person. First, there must be an air of reality to the defence. The 'air of reality' is a very low evidentiary threshold, and I am satisfied the threshold is met given Mr. Despins' statements to Cst. Saunders both prior to his arrest and in the audio-video-recorded interview regarding the man pointing a handgun at him during the altercation with at the rear of his father's truck which was stopped in the entrance to the alley leading to his home. Mr. Despins maintained in the statements to Cst. Saunders that the man he struck with the truck, "pulled" a gun on him in the alley during the altercation at the rear of the truck. This is "some" evidence which, if believed**,** a properly instructed jury acting reasonably could acquit. At this stage, I am not to assess credibility or weigh the evidence, rather I take the Defence case at its highest.

[158] Once there is an air of reality to the defence, I must then consider whether the Crown has disproven any one of the s 34 criteria. I have considered the whole of the evidence including but not limited to the evidence of the Complainant and the Accused, including the statements made by the Accused to Cst. Saunders both immediately prior to his arrest and during the audio and video recorded interview. As well, I have reviewed the three security videos: the Morgan residence where the collision occurred; the Ali residence across the street and a few houses down from the point of impact; and the extended video from the Radius Health rear parking lot at the material times.

[159] Each of the videos could be slowed down to watch, repeatedly, and moment by moment, the exact and detailed sequence of events leading up to the altercation between Mr. Lomong and Mr. Despins and to the to the point where the Despins' Truck fled the scene of the collision. This ability to examine or dissect the exact sequence of events was invaluable in terms of assessing the series of events leading up to the collision: (a) the interaction between the two men starting when Mr. Lomong walked across the Radius Health rear parking lot, (b) when the Despins'

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Truck pulled into the alley, (c) when Mr. Lomong roughly moved the construction barricade towards the front of the Despins' Truck to allow him to pass and continue on his way, (d) Mr. Despins' rapid exit from the Truck to confront Mr. Lomong, (e) the movements and body language of the two men as they interacted at the rear of the Despins' Truck, (f) the rapid escalation of Mr. Despins' behaviour as Mr. Lomong left and continued on his way northbound in the alley, and, (g) the Despins' Truck's driving pattern from the moment Mr. Despins re-entered the truck until the Truck fled the scene of the MVC.

[160] In the second statement to Cst. Saunders Mr. Despins claimed Mr. Lomong 'ditched' the gun in the alley and then returned later with the gun. It's hard to rationalize how or why, based upon reason and common sense, Mr. Lomong could have gone into the alley to hide the gun, but returned with the gun to shoot at the Despins' Truck. It is implausible that both are true. I accept Mr. Lomong's evidence that he did not have a gun. An extensive search of the secure perimeter around the site of the collision produced no gun.

[161] The Accused maintained from first police contact three days after the collision until his recantation that when he got out of his truck to fight the man who 'flipped' a barricade at his truck, the man "pulled a gun on me". There is no credible or objective evidence that Mr. Lomong had a gun. All of the evidence inexorably leads me to conclude there was no gun. I do not believe that Mr. Lomong had a gun when confronted by Mr. Despins at the rear of the Despins' Truck.

[162] In terms of self-defence, I have also considered s 34 of the *Criminal Code*, as well as recent case law including *Khill*, *R v Hodgson*, 2024 SCC 25 ["*Hodgson*"], *R v Jeremschuk*, 2024 ABCA 268 ["*Jeremschuk*"] and *R v Deverze*, 2025 ABCA 71 ["*Deverze*"]. As established in s 34, clarified in *Khill* and affirmed in *Hodgson*, the three requirements for self-defence under s 34(1) are (1) the catalyst; (2) the motive; and (3) the response.

[163] Once there is an air of reality to the defence, the Crown must disprove at least one of the three requirements beyond a reasonable doubt, or the Accused is entitled to acquittal. I will address each of the three requirements in turn.

**Catalyst: s 34(1)(a) of the *Criminal Code***

[164] The 'catalyst' in s 34(1)(a) considers the accused's subjective state of mind and perception of event that led them to act. The belief regarding force or a threat must be on reasonable grounds. The standard is modified objective considering what a reasonable person with the relevant characteristics and experiences of the accused would perceive: see *Khill* at para 52.

[165] The SCC in *Hodgson* stated at para 74:

> First, under s. 34(1)(a), the accused must have subjectively believed that force or a threat thereof was being used against their person or against that of another (*Khill*, at para. 52). However, the accused's belief must also be held on reasonable grounds. In order to assess the reasonableness of the accused's belief, the trier of fact will apply a modified objective standard that takes into account what a reasonable person with the relevant characteristics and experiences of the accused would perceive (*Khill*, at para 57).

[166] A careful review of the three videos of the entire interaction between the Complainant and the Accused clearly reveals that throughout it is Mr. Despins who was the aggressor,

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initiating and continuing the interaction between himself and the Complainant. It was the Accused, incensed that the Complainant 'flipped' the barricade at his truck, who saw this as an invitation to fight and exited his truck solely to fight the Complainant. This is consistent with the Accused's second statement to EPS. The Complainant tried to disengage with the Accused, including by walking away, north up the alley. Even when the Complainant was across the avenue and continuing on his journey up the alley, the Accused remained standing at the rear of the truck, still animated and gesturing at the Complainant. He can be seen throwing something, perhaps a lit cigarette, at the Complainant as the Complainant walked away.

[167] I do not accept Mr. Despins' subjective expression of intent, his subjective assertion of motivation. In the statements, Mr. Despins claimed he was acting in self-defence when he drove his truck into Mr. Lomong, however Mr. Despins' intent can be inferred from his actions. As is often the case, the accused's state of mind can only be inferred from his actions, measured against the surrounding circumstances. All of the circumstances are relevant, including that Mr. Despins was driving a truck and Mr. Lomong was a pedestrian.

[168] Mr. Despins continued to engage with Mr. Lomong, after the "gun was pulled on" him, including facing and moving towards Mr. Lomong as Mr. Lomong walked away from Mr. Despins across 106A Avenue and northbound into the alley. This is also directly relevant to whether he was acting in self-defence, or for some other purpose including vengeance or anger. As I do not accept Mr. Despins genuinely believed he was "in peril", this inference cannot be drawn from all the evidence. I find beyond a reasonable doubt that Mr. Despins did not have the requisite subjective belief that Mr. Lomong was using force or threatening to use force against him. I cannot accept he was acting in self-defence when he drove the truck at Mr. Lomong.

[169] The Crown has disproven the catalyst as set out in s 34(1)(a) of the *Criminal Code* beyond a reasonable doubt.

**Motive: s 34(1)(b) of the *Criminal Code***

[170] The 'motive' set out in s 34(1)(b) of the *Criminal Code* considers the accused's personal purpose in committing the act that constitutes the offence. It must be to defend or protect oneself or others from the use or threat of force. The inquiry is subjective considering the whole of the circumstances: see *Khill* at para 59.

[171] In *Hodgson* at para 75, the Supreme Court of Canada set out:

> Second, under s. 34(1)(b), whether the accused committed the act that constitutes the offence for the purpose of defending or protecting themselves or others from the use or threat of force depends upon the accused's subjective state of mind; if the purpose is not to defend or protect, then the whole basis of self-defence falls away. Indeed, for this second element, a failure to consider the accused's personal purpose, a subjective inquiry which goes to the root of self-defence, would have been an error of law (*Khill*, at para 59).

[172] Based on the statements and actions of the Accused as revealed in the evidence, I am persuaded beyond a reasonable doubt that the Accused did not have a defensive purpose as required by s 34(1)(b) of the *Criminal Code* when he struck the Complainant with his truck. In making this finding, I am cognizant that an accused is not precluded from a defence of self-defence because he is also angry or has an aggressive purpose if he also has a defensive purpose (see *Deverze* at para 19; also see *Jeremschuk* at paras 27-30). However, in this case, I am

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convinced beyond a reasonable doubt that the requisite defensive purpose did not exist for Mr. Despins.

[173] The actions as depicted in the three videos and statements made by the Accused, taken in totality, are wholly inconsistent with him employing force for the purpose of defending or protecting himself. In terms of examining Mr. Despins' motive the following are material considerations:

1) Retaliation/punishment – The Accused expressly stated to Cst. Saunders upon his arrest "He deserved to die. He pulled a gun on me in the alley." The threat that the Accused described in his police statement occurred in the alley while the two men were outside of his truck. Approximately one minute later, the Accused turned his back on the man in the alley, re-entered his truck, and turned his truck around so that he was heading in the opposite direction from his nearby home. The truck was then facing towards the direction the man walked northbound up the alley. Cst. Moroz and Cst. Howard described the truck swerving left to aim directly at Mr. Lomong. There were multiple discrete steps between the time of the alleged threat or display of the gun by Mr. Lomong and Mr. Despins' striking Mr. Lomong with the truck. Mr. Despins drove over the curb and swerved his truck to hit the Complainant. This is clear from the videos exhibited at trial. When the behaviour and the statements of the Accused are considered in totality, the only reasonable inference for the Accused using force at the time was not to protect himself rather that he wanted to harm the Complainant. In his second statement to police Mr. Despins stated, "He deserved every fucking minute of this, man."

2) Anger – The Accused in his police statement is clearly angry and frustrated about drug users, "junkies", in his neighbourhood, the number of times that he was threatened with weapons in the neighbourhood, and the fact that the man in the alley 'flipped' a construction barricade at his truck. In the second interview he specifically stated, "Then I get out, fucking try to fight him because he just fucking obviously picked a fucking fight by throwing a sign of my truck". He also stated, "How do you fucking get in your truck and drive away, man? There's no anger management." At para 59 *Khill* refers to retaliation and vigilantism not being self-defence motives.

3) Racism – The Accused used a racial epithet, the 'N' word, in his police interview to describe the person with the handgun. While this is not determinative, it is an indication of negative animus or anger towards the man. Mr. Lomong is a man of color.

4) Not fear for his safety – The actions and behaviour of the Accused in the videos is inconsistent with the Accused's assertion that he was afraid. The Accused indicated that when he exited the truck, the man in the alley showed a handgun to him. However, in the videos the Accused does not back away or retreat during this time, and there is no evidence of him being visibly startled, which would be common reactions if a handgun were pointed. The Accused stood at the rear of the truck watching the man walk away, continuing to gesture broadly at the man. The Accused then threw something at the man and turned his back on the man to get back into his truck, which would support an inference that he was not afraid of being shot at that time. In all of the circumstances it would have been easier and safer for Mr. Despins to drive away from the scene if he were genuinely afraid of Mr. Lomong.

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[174] Having considered the whole of the evidence, the Crown has disproved that the Accused's subjective motive was to defend or protect himself beyond a reasonable doubt. Taken together, the Accused's motive was any one or all of the foregoing (anger, retaliation or vigilantism), but not self-defence or protection. I have no reasonable doubt that his motive was self-defence; his purpose was not a defensive or protective purpose, in part because I do not accept that there was a handgun.

**Response: s 34(1)(c) of the *Criminal Code***

[175] The 'response' in s 34(1)(c) considers the conduct, the accused's response, in terms of what would be expected of a reasonable person in the circumstances of the Accused. Reasonableness involves a context specific assessment of the relevant circumstances of the person, the other party, and the act to achieve "an appropriate balance ... between respecting the security of the person who acts and security of the person acted upon". See: *Khill* at para 62.

[176] It is not the reasonableness of each factor in s 34(2) of the *Criminal Code* individually, but the relevance of the factor to the ultimate question of the reasonableness of the act. No single factor is determinative, and the exercise is "global and holistic": *Khill* at para 69.

[177] In *Hodgson* at para 76 the Supreme Court of Canada had this to say about the third factor:

> Third, s. 34(1)(c) requires that "the act committed is reasonable in the circumstances", and s. 34(2) provides a list of nine non-exhaustive factors for the court to consider in making this determination. Parliament expressly structured how a decision maker ought to determine whether an act of self-defence was reasonable in the circumstances. What is called for is an assessment of the overall reasonableness of the accused's conduct according to the statutory factors. Reasonableness is measured according to "the relevant circumstances of the person, the other parties and the act" (*Criminal Code*, s. 34(2); see also *Khill*, at para. 64). When a factor is relevant it becomes a mandatory consideration, as s. 34(2) provides that the fact finder "shall" consider all factors set out in paras. (a) to (h) that are relevant in the circumstances of the case (*Khill*, at para. 68). **This objective determination, with its focus on what a reasonable person would have done in comparable circumstances, strikes the appropriate balance between respecting the security of the person who acts and the security of the person acted upon. It also underscores that the law of self-defence "cannot rest exclusively on the accused's perception of the need to act"** (*Khill*, at para 2; see also paras 62 and 65).
>
> [Emphasis added]

[178] After the altercation at the rear of the Despins' Truck, where the man allegedly "pulled" a gun on the Accused, the man turned away from the Accused and continued walking northbound up the alley. The Accused continued to gesture widely, obviously angry at the man, eventually getting back into his truck. At that point, the Accused had numerous reasonable choices open to him. He could have stayed in his truck and called for assistance. A reasonable response would be to continue southbound in the alley turning right in a few meters towards his home. It would have been reasonable for the Accused to drive away from the man in the alley. Indeed, if the Accused was afraid that the man might shoot him or shoot at his truck as alleged, it is puzzling

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why he would spend additional time to turn his truck around, reversing onto 106A Avenue, rather than continuing to drive in the direction that he had initially intended to go.

[179] Moving to the 9 enumerated factors:

(a) *The nature of the threat:* The Accused claimed that Mr. Lomong possessed a black handgun which he removed from the rear of his pants and "pointed at" him. After the confrontation at the rear of the Despins' Truck, Mr. Lomong walked across the avenue and continued northbound into the alley, away from Mr. Despins and the truck. Mr. Despins' contention that Mr. Lomong was going to shoot at him or his truck or that Mr. Lomong 'stashed' the handgun in the alley are contradictory and neither is reasonable in the circumstances. Mr. Lomong had walked some distance away. It is reasonable that he was done with Mr. Despins and was going about his business. There was no longer a threat.

(b) *The extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force:* There was no imminent threat and there were several other means available to respond to the alleged use of force. When Mr. Despins drove his truck at Mr. Lomong, there was no longer any threat. Mr. Lomong had walked away. It was open to Mr. Despins to leave, going home by continuing down the alley or heading in either direction back down 106A Avenue. It was also open to Mr. Despins to stay in his truck and call for assistance.

(c) *The person's role in the incident:* Mr. Despins was the aggressor. He exited his truck, reportedly to fight the fellow who pushed the barricade towards his truck. Mr. Despins reversed the truck, manoeuvring so that the truck was pointed directly at Mr. Lomong. He then drove the truck intentionally and aggressively accelerating directly at Mr. Lomong. This is evidence of a clear and undeniable intention to hurt Mr. Lomong: "he deserved to die". The rapid acceleration was heard by Cst. Moroz, Cst. Howard and Mr. Chorney. It is clear from both the videos and the testimony of both Cst. Moroz and Cst. Howard that Mr. Despins manoeuvred the truck, aiming directly at Mr. Lomong. Mr. Lomong was on foot and Mr. Despins was in a moving vehicle.

(d) *The use or threatened use of a weapon:* Mr. Lomong was alleged to possess a black handgun which he removed from the rear of his pants and showed to Mr. Despins. This is inconsistent with all of the other evidence including but not limited to Mr. Lomong's denial of possession or use of any weapon, the lack of any weapon being found during the extensive search of the scene of the MVC or in the weeks thereafter, and Mr. Despins lack of a fear reaction to the man he was arguing with at the rear of the truck. There was no startle, no retreat, no backing away evidenced in the video. I find that Mr. Lomong did not have a gun at the time.

(e) *The size, age, gender and physical capabilities of the parties to the incident:* This is not relevant given both men are roughly of comparable in size when they are engaged at the rear of the Despins' Truck, however when the Accused gets into his truck intent upon striking Mr. Lomong who has walked away, the physicality of the parties becomes immaterial. It has become a truck, a moving vehicle, against a pedestrian.

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(f) (f.1) *The nature, duration and history of any relationship between the parties to the incident and any history of interaction or communication between the parties to the incident*: This is irrelevant as the two men were strangers to each other.

(g) *The nature and proportionality of the person's response to the use or threat of force*: As discussed, Mr. Despins' response was not temporally connected, not reasonable nor proportionate to any display of a handgun when Mr. Despins confronted the man at the rear of his truck. The man who pushed the construction barricade towards his truck had moved away, but Mr. Despins continued to 'dog' him. In *Hodgson* at para 78 the court indicated that the inquiry is: What a reasonable person would have done in a comparable situation? A reasonable person would have disengaged, driven away, and/or called for assistance. These reasonable and obvious alternatives lead to my conclusion that the Accused had other reasonable means open to him and that the force used was in excess of what would have been reasonably required.

(h) *Response to use or threat of force that the person knew was lawful*: This is not applicable.

[180] The Crown has proven beyond a reasonable doubt that the Accused's response was unreasonable having considered the relevant factors in s 34(2) of the *Criminal Code* in a global and holistic way.

[181] In conclusion, having carefully considered the whole of the evidence, in the circumstances facing Mr. Despins when he made the decision to drive his truck into Mr. Lomong as he walked on the sidewalk, the defence of self-defence is not available to Mr. Despins. There is strong evidence that disproves all three of the factors in s 34 of the *Criminal Code*; the Crown has proven beyond reasonable doubt that the Accused did not act in self-defence.

**Conclusion**

[182] I listened to and carefully reviewed the whole of the evidence tendered by both the Crown and the Accused in this trial. For all the foregoing reasons and based upon the evidence which I accept as credible and reliable I find that the Crown has proven all essential elements of the six remaining charges against Mr. Despins beyond a reasonable doubt. The Crown has disproven self-defence with respect to Count 1 beyond a reasonable doubt.

[183] Accordingly, I find Mr. Christopher Travis Despins guilty of aggravated assault when he unlawfully wounded, maimed and endangered the life of Mr. Lomong by intentionally driving his truck at Mr. Lomong, striking Mr. Lomong and propelling him into the fence. The force of the collision is readily apparent from videos, the extent of damage to the fence, and the severity of the injuries to Mr. Lomong's left leg as depicted in the photographs and detailed in the medical records. I have no doubt whatsoever that Mr. Despins intentionally drove his truck directly at Mr. Lomong as he stood by the fence, wounding, maiming and endangering the life of Mr. Lomong contrary to s 268 of the *Criminal Code*.

[184] Further I find that Mr. Despins is guilty of criminal hit-and-run when he failed to fulfill any of the three statutorily prescribed duties, without any excuse, and when he knew or was reckless as to whether the pedestrian he struck with the Truck had sustained bodily injury contrary to s 320.16(2) of the *Criminal Code*.

[185] With respect to Count 3 on the Information, Mr. Despins was prohibited from driving as is evidenced by Exhibit 2, the Certificate of Disqualification signed January 22, 2025. I have no

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doubt that Mr. Despins was driving his father's truck when he struck Mr. Lomong propelling him into the Morgan fence and as such the Crown has proven Mr. Despins is guilty of driving while prohibited, the Crown having proven all essential elements of that offence beyond a reasonable doubt.

[186] Finally, Mr. Despins was bound by a December 18, 2023 release order out of St. Albert (Morinville), a $2,000 promise to pay release order with eight conditions. He was a prohibited driver (Exhibit 2). A certified and exemplified copy of the release order binding Mr. Despins at the material time was entered by the Crown as Exhibit 3. Mr. Despins was breaching conditions #1 to keep the peace and be of good behaviour (Count 4), and conditions #7 and #8 with respect to driving restrictions (Count 5 and Count 7), when he drove his father's truck alone, striking Mr. Lomong. Accordingly, Mr. Despins is guilty of Count 4, Count 5 and Count 7 on the Information, the Crown having proven beyond a reasonable doubt that Mr. Despins was breaching specific enumerated release order conditions that he was bound by on August 13, 2024.

[187] Mr. Despins is guilty of all six remaining offences arising August 13, 2024 on Information 240711648P1.

Heard on the 24th, 25th, 26th, 27th, 28th and 31st days of March, the 13th and 23rd days of June, the 18th, 23rd, 24th, 25th, 28th, 29th, 30th and 31st days of July, and the 11th and 12th days of August 2025.

Dated at the City of Edmonton, Alberta this 12th day of August, 2025.

J.J. Moher
A Justice of the Alberta Court of Justice

**Appearances:**

Sandra Christensen-Moore
Holly Strohschein
for the Crown

Christopher Travis Despins
Accused

Jodie Holder
Defence (March 4, 2025 to March 31, 2025)
*Amicus curiae* (March 31, 2025 to present)

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**Appendix A**

Recantation of Christopher Travis Despins
Video & Audio Recorded Interview with Constable Saunders
Saturday, August 17th 2024.
Started @ 2:15pm

I Christopher Travis Despins born June 13th 1984 of Edmonton Alberta did unlawfully lie to Mr. Saunders and give false evidence throughout the entirety of the video and audio recorded interview while in the custody of the Edmonton City Police Service. This recantation statement is in account to a video and audio recorded statement provided by me on August 17th 2024 between the hours of 2:00pm and 3:00pm at the Northwest Division Edmonton Police Station.

In the vehicle on the way to the police station constable Saunders told me that a pedestrian threw a sign at a truck and was pushed through a fence by the truck after an argument with the driver and that he ran away but the fence was badly damaged and he believes either my father or I were involved. He led the evidence and provided me with the information to say in the statement, mean while saying that he's certain that he found the right truck so it's either me or my dad going down for this fence and how he wouldn't let his dad take the fall for something he did or didn't do. He asked me if I love my dad. Said he wouldn't let his old man go down for a hit and run whether it's a ticket or not. Saunders said if you admit to what I'm telling you in a video statement at the station we'll let you go on a Promise to appear. This isn't even serious but I do have this driving charge I can book you on so it's up to you and if you

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don't co-operate I'll charge your dad for hit and run. We had a talk about guns and people pulling guns on people in the car. We talked about homeless doing drugs in the bus stops. We spoke about how to make the video believable, how to show a little bit of aggression in the video. Talk about your pervious times in remand and show a little bit of hostility when you do. He told me to talk about the issues we talked about in the car. Told me not to bring up how id been fighting with my wife at the time and wasn't around her place for several days. I had nothing to do with this incident btw and there's no truth to any of this statement. I think the cops fathomed the evidence to the whole situation after the statement was made. My wife talked to other neighbours and man are their stories of some event that took place in the neighbourhood in August ever different from this story. Saunders mentioned a promise to appear and this just being a ticket for a hit and run on a fence and how id get a ticket for hit and run and be released on a promise to appear for moving the car in the parking lot for my father and for the fence on the 13th. I know nothing about any of this and wasn't involved. Nothing was mentioned and no comment was ever made at the time of the arrest about any gun being pulled on anyone or anybody deserving to die, that's bullshit. I was in the parking lot on private property moving the car to a different stall for my elderly father when I looked over and there was a blue SUV behind my dads truck and a guy breaking stuff off my dads truck so I video taped him for half an hour and then I rolled up on him, parked right beside the truck and asked him what he was doing under the truck. No lights were ever turned on and he wasn't in his vehicle, he was under

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my dad's truck. Saunders was breaking the bumper off my dad's truck on Saturday August 17th. I caught him and video taped him for half an hour. Nothing was said about a gun or anyone deserving to die in an alley that's bullshit. Look at Saunders police notes from the 846/663 file from the Malibu, nothing was said about a gun or anyone deserving to die. There are 2 files to this. Saunders prepped me for this interview. In the car on the way to the station. Lucky it wasn't his head. Now there's a head wound come on. That happened in Red Deer in 2009. I was told to say that.

This Lomong guy constable metievier (form 1 and inet viewer) found to play the victim at 1131pm clearly wasn't I.D'd at 1030pm and already had a previous head wound on the left facial area from red deer in 2009. Ems doesn't fill out there report till 1139pm (bet it took 8 minutes to fill that out). Ems is on the front street by the MCIS bus at 1131pm. Where are the time stamps on the radius videos? That's a business camera it's supposed to have time and date stamps. So all of those were altered? Actually all the videos were altered. EMS were waiting in the front street till the police found there victim that ran away after being pushed through a fence by someone in a gold truck? Was the truck gold or was it Green? Several witnesses and neighbours say that they saw a green truck feeing the area that day. I was told to say every thing I said in the interview by Saunders who promised this wasn't serious and that I'd get a PTA, nothing was said about getting set up like this. My dads old truck was parked under a church video camera for a month

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prior to being taken by Saunders and it was written off with no transmission or brakes, I have a judges order for this video btw.

I recant my statement under the rule of the king. Nothing about it is true. I was prepped in the car about what to say in the interview. I was up for a 6 days after my wife kicked me out and was running on 6 days of sleep deprivation at the time of the statement and Saunders got me some upset with his lies so I figured Id set him up the way he's setting me up. I was told by Saunders don't say anything until after I pull you out to the phone room. Chris if you don't cooperate your dad is going to go down for the damage on this fence. So I said too much and I exaggerated and lied through my teeth in the interview room because I was worried about my dad. Not! I knew that my dad got in a collision a month prior to this with the gold truck and an Audi in Windermere. My dad wrote off the old work truck on July 17th 2024. All I know is that the truck was sitting there smashed with no transmission and no brakes in the parking lot of the church under video surveillance for a month before I was arrested. My dad got into a collision with an Audi on July 17th when the mater cylinder went in the truck and he rear ended the lady in the Audi, and since the trucks been written off my cousins taken the transmission out of it. This is why I gave the statement on August 17th. On August 13th the gold truck in my parents parking lot didn't even have a transmission in it and it was parked there since July 17th when my dad got in an accident with an Audi because the brakes failed in the truck and he rear ended some lady in an Audi. This isn't the right truck. There are lots of old gold trucks. This truck you guys arrested

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me for was sitting in the corner of my parents parking lot already smashed by my dad in July. It has no brakes and no transmission in it. I was prepped and manipulated to make this statement by Saunders. I wasn't staying at 9631 106A Ave in August because my girlfriend kicked me out. My girlfriend lives there. I hadn't been there in a month. I got arrested in June 2024 and charged in the west end with that gold truck while at a Tim Hortons with my dad so when the cops ran my name at 9631 it came up that I have ties to a Gold Chevy truck. So they went to my Dad's looking for me as a suspect and seen the old broken gold truck and assumed I had something to do with this. The cops did not get a plate number at all or a make or a model. This was all over the news and no plate number or partial plate number or make or model was caught at the scene. Watch the news clippings. I was wrong. Very wrong for going along with this now after all this is said and done I don't even believe that anyone even lost there leg In the first place and feel kidnapped and very betrayed and set up by the government,the eps, the crown, the media, the courts, I feel like all the lawyers are in on it. This is fucking bullshit. The truck you guys took is a broken down smashed piece of shit work truck with no transmission and no brakes waiting to be picked up by the kidney foundation and neatly parked at a seniors complex on CCTV video. The cops got no plate number at the scene. They ran my name and assumed its me because I live on that block and have previous ties to a GMC truck a few months back.

"I RECANT MY STATEMENT UNDER THE RULE OF THE KING"

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*I LIED AND WAS MANIPULATED BY THE EPS "TOLD WHAT TO SAY IN THAT VIDEO AND TOLD THAT I'D BE GIVEN A PROMISE TO APPEAR IF I CO-OPERATED IN GIVING A STATEMENT"
"No comment was ever made at the time of arrest about anyone deserving to die BTW, and Saunders was the only one who was very chatty on the way to the station. Trying to convince me of what to say so he could alter up all this B.S"

"I HAVEN'T NEVER SEEN THAT "Lomong Guy" ANYWHERE BEFORE IN MY LIFE"

"UNDER THE RULER OF GREAT BRITAIN AND THE KING!!!"
"I CHRISTOPHER TRAVIS DESPINS - D.O.B 06/13/1984"
HEIRBY:
"I RECANT MY STATEMENT'

I did 50-70 Basement Development Quotes last summer and I've planned the whole time to Sue THE PANTS OFF OF Saunders for assuming shit about me. There was NO MAKE OR MODEL OF THE VEHCILE & NO PLATE # OR PARTIAL PLATE NUMBER on the news, JUST AN OLD GOLD TRUCK WITH HEAD ACH RACK AND FRONT END DAMAGE
The cops set me up, and so I went with it and set them up too
I ASK FOR A FULL AQUITTAL & FOR MY CHARGES TO BE WITHDRAWN UNDER THE RULE OF THE KING OF GREAT BRITTIAN
THE KINGS BENCH & THE KING HIMSELF
& I RECANT MY STATEMENT AND IM SORRY FOR LIEING THIS VERY DAY

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UNDER THE RULE OF THE KING!!!

Please take note that I asked and I begged and I demanded and I was granted a Judges order for the video footage that shows that the old gold chevy that was parked in the same spot at my parents building was broken down and not moved and inch since July 17th. These same videos would show that it never moved one single inch on August 13th 2024. I got a judges order to prove this and the crown took credit for the video requests and let Saunders get his greasy hand on it. Saunders has since altered the dates and the addresses on the requests for the videos, the Judges orders I fought so hard to get.

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