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R v Flett, 2026 ABKB 296

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Court of King's Bench of Alberta

Citation: R v Flett, 2026 ABKB 296

Date: 20260417
Docket: 240291385Q1
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2026 ABKB 296 (CanLII)

Between:

His Majesty the King

Crown

- and -

Kylar Flett and
Dominic Mills-Bruno

Accused

Reasons for Judgment
of the
Honourable Justice N.E. Devlin

Overview

[1] The Royal Canadian Mounted Police (RCMP) in Fort Chipewyan received a call that Snapchat videos of men brandishing a handgun in a vehicle were circulating in the small community. Police viewed the videos, believed they knew the men involved, identified a suspect

vehicle, found the car within minutes, extracted the occupants, who were dressed identically to the men seen on the video, and located the gun under the rear passenger seat.

[2] The men inside the car were charged with numerous offences related to the gun's presence. The video's ostensible maker, Jimmy Houle, has since passed away. The driver, Bruce George Lepine, failed to appear for trial. The alleged holder of the gun, Kylar Flett, and the man who was seated beside him at the time of arrest, Dominic Mills-Bruno, stood trial before me.

[3] The defence challenged the admissibility of the Snapchat videos on several related grounds. I provided a summary mid-trial ruling that the videos were admissible and indicated I would give full written reasons for that decision. These are those reasons, together with my decision on the trial itself.

Facts

[4] Around noon on April 5, 2024, the RCMP in Fort Chipewyan received a call for service from a community member who reported that certain known individuals were driving around with a gun and had posted their misadventures on Snapchat. Sgt Davison and Constable Borowdaka went directly to the caller's home, only a short distance from their detachment.

The videos viewed and recorded

[5] At the caller's home, the officers viewed the Snapchat videos and made screen recordings of them playing on the caller's phone. The three short clips, which appeared to be Snapchat stories, showed four men in a car, sometimes masked. The rear seat passenger was waving what looked like a semi-automatic pistol in his left hand, and flashing signs with the other. Prominent tattoos were visible on both of his hands. The person seated beside him held a bottle of alcohol and also flashed signs with his hands, while a third individual video-taped the frivolities from the front passenger seat. In the video, the driver could be partially seen, wearing a blue sleeved garment. The two rear-seat passengers were unmasked in the third clip.

[6] Loud rap music was blaring in the videos, and the scene was constructed in the style of urban American gangbangers, acting tough and waving weapons. Consistent with selfie-videos of this sort, the recording is laterally inverted (ie: the scene and the people in it are seen reversed left to right).

[7] The officers identified the gun-holder as Kylar Flett, and the man filming the videos as Jimmy Houle. This latter identification was bolstered by the fact that the Snaps had a username of "Jim 2times". The officers knew "Jimmy Two Times" to be Mr. Houle's nickname. Based on the information they gleaned from the videos, taken together with information from the caller, the police came to the conclusion that the car involved likely belonged to George Lepine, as they had had their own extensive dealings with him and his vehicle.

[8] Constable Borowdaka, who had the longest connection to the community, also believed he recognized Mr. Mills-Bruno as the other backseat passenger from a portion of the videos.

[9] In the phone-to-phone screen capture, a clock display in the top left corner of the original screen being recorded reads "11:48". As the police made their screen recording of the caller's phone sometime shortly after noon, officers testified that this was the time displayed on the caller's phone when he screen-recorded the original Snapchat videos.

2026 ABKB 296 (CanLII)

[10] Also visible on the recordings, as part of the captured Snaps, were the words “24 minutes ago” beneath the username “Jim 2times” on two of the clips, and “34s ago” on the final clip. These times were interpreted by the witnesses (consonant with judicial notice I would take as to how short-video story postings work on most social media platforms) as signifying that the stories had been posted 24 minutes, and 34 seconds, prior to the times they were recorded by the caller, respectively. The officers took this, together with what they learned from the complainant, to mean that the images had been recently broadcast.

[11] The prompt “Send a chat” in the text-entry bar at the bottom of the recorded screen further identifies the original screen recording as being from the Snapchat app.

Events on the ground

[12] Deeply concerned that the dangerous conduct depicted in the videos was ongoing in real time in their community, the police immediately set out to find the suspect vehicle. Constable Borowdaka knew that Mr. Lepine’s vehicle was a black Hyundai Kona, which he described as being unique in Fort Chipewyan.

[13] By way of relevant background, Fort Chipewyan is a small town on the southwestern corner of Lake Athabasca, near the confluence of the Peace and Slave rivers. Its population is just upwards of 800 and the hamlet covers a small, compact geographic area. It is inaccessible by road between spring breakup and the opening of the ice roads in the winter and would have been isolated from outside vehicular traffic at the time of these events. Consequently, the police had strong reason to infer that the dangerous acts being filmed in the vehicle were happening contemporaneously in the community. They immediately left the caller’s residence in search of the vehicle.

[14] The Hyundai and its occupants were not hard to find. Sgt Davison and Constable Borowdaka spotted the vehicle moments after leaving the caller’s home, driving down the town’s main road. They radioed ahead to their backup officer, Corporal Phillips, and the suspect vehicle passed him moments later as he exited the detachment.

[15] Corporal Phillips pulled in behind the Hyundai and initiated a traffic stop. The vehicle turned off the main road and parked in the lot of a housing development. Corporal Phillips pulled up behind it, and Sgt. Davison and Constable Borowdaka’s vehicle arrived moments later.

[16] The RCMP officers exited their vehicles with rifles drawn and executed a high-risk takedown. Through verbal commands they directed the men in the Hyundai to exit the vehicle one by one. Their emergence and arrest was captured with clarity by the dash camera of Corporal Phillips’ cruiser.

[17] The first to exit, from the rear passenger seat of the Kona, was Kylar Flett. He was wearing the same black hoodie with white writing, and grey baseball cap with a distinctive white logo, appearing to be that of the Blue Jays, seen in the Snapchat video. He visibly responded to his name when it was used in verbal commands, and walked backwards to the police cars, as directed.

[18] As he approached the officers, Mr. Flett pulled up his balaclava to cover his mouth and nose, precisely as had been seen in the video. He also behaved in a flippant manner by taking out his cell phone while re-donning the balaclava. He can be heard on the video yelling about why he was being arrested and saying “where’s the weapon” somewhat sarcastically.

2026 ABKB 296 (CanLII)

[19] Mr. Flett did not comply with the physical arrest procedure. Sgt Davison had to use force, and required the assistance of Constable Borowdaka, to take Mr. Flett to the ground and secure him in handcuffs. This behaviour is the genesis of the resisting charge laid against him as Count 15. It was not captured on the dashcam video as it occurred behind Corporal Phillips' cruiser.

[20] The second man to exit, again from the same seating position he occupied in the video, being the rear driver's side seat, was Mr. Mills-Bruno. He also wore the same attire seen in the video: a grey hoodie and a black ball cap featuring a distinctive white star logo. He cooperated and was taken into custody.

[21] The next man to exit the car was the front seat passenger. It was, as predicted by the video, Jimmy Houle. He also wore the same clothing as in the video, specifically a grey hoodie and a grey baseball cap with a black rim and a distinctive circular black and white logo. He was taken into custody without incident.

[22] Finally, the driver, George Lepine, exited the vehicle. He was wearing blue sweatpants and a matching sweater, consistent with the small glimpses caught of his extremities on the Snapchat video. He was also arrested without incident.

[23] The vehicle was then searched. It was messy. The rear bench seat, on the passenger side, was visibly detached from the vehicle's frame. In the resulting gap, Corporal Phillips found a handgun. The hammer of the gun was cocked when it was located. The gun was photographed as found *in situ*, before being proven safe. It was loaded and had a round chambered. In total, two unfired rounds were ejected from the gun.

[24] The weapon was a 1911-style Chiappa, chambered in .22 calibre. The frame and the slide were made of black anodized metal and showed significant finish wear. The grip was adorned with a reddish-brown textured material, sporting the Chiappa logo, screwed onto the frame.

The gun seen in the video compared to the one found in real life

[25] The Crown produced enlarged freeze-frames from the Snapchat videos. One image (at page 4) shows the gun in Mr. Flett's hand relatively clearly. It is possible to discern brown colouration on the grip. Wear marks on the muzzle and along a curve in the slide can be seen in the video frame, where the finish has rubbed off the metal. These exactly match what is seen on photos of the gun seized in the vehicle.

[26] The gun was found with the grip facing into the vehicle, the hammer towards the top corner of the seat opening, and the barrel pointing towards the back of the vehicle. This orientation is consistent with the rear passenger holding the gun in their inboard (left) hand, reaching down, and tucking it under the seat.

[27] Both a fresh and a spent .22 cartridge were found in the front passenger area, one along the door sill and the other along the centre console, both lying in plain sight.

The parties' positions on admissibility of the videos

[28] The Crown sought to admit the videos on the basis that they provided compelling evidence of the accused's guilt, showing them openly committing the offences charged at times closely proximate to their arrest. This evidence, the Crown alleged, was seminally relevant to the accused's state of knowledge regarding the firearm at the time it was recovered from the vehicle.

2026 ABKB 296 (CanLII)

[29] Relying on ***R v Bulldog***, 2015 ABCA 251 at para 37, the Crown argued that the videos were "authenticated" by the circumstantial evidence of what the police found in real life very shortly after viewing them.

[30] The defence strenuously opposed admissibility of the videos. They argued that they were not properly authenticated, there was no evidence of where, when, how, or under what circumstances they had been created, and that alteration or outright falsification had not been disproven.

2026 ABKB 296 (CanLII)

Principles of admissibility of social media videos

[31] Whether a video is admissible, versus whether it provides reliable evidence of what it depicts that should be accorded weight in the trial, are two different and discrete inquiries. The first is conducted by the trial judge on an admissibility *voir* dire, the second is part of the trier of facts' core function. The governing principles of these analyses are helpfully summarized in Gerald Chan & Susan Magotiaux, *Digital Evidence*, 3rd ed (Toronto: Emond Publishing, forthcoming) Part III.

[32] The first stage in assessing the admissibility of a video (or any electronic document) is "authentication". The name of this step, while deeply ingrained in the common law and relevant statutes, is misleading. This step is neither a determination of the document's ultimate authenticity, nor of whether it should be "believed" and accorded weight in the trial. Rather, it is a preliminary inquiry into whether there is evidence capable of proving that the video in fact shows what it is advertised to show, and may thus go to the trier of fact to evaluate, accept, or reject: ***R v CB***, 2019 ONCA 380 at para 78. This step might be better called "threshold authenticity".

Threshold authenticity

[33] For electronic documents, this step is governed by s 31.1 of the *Canada Evidence Act*, RSC, 1985, c C-5. This provision codifies the common law requirements for "authentication":

> Authentication of electronic documents
>
> 31.1 Any person seeking to admit an electronic document as evidence has the burden of proving its authenticity by evidence capable of supporting a finding that the electronic document is that which it is purported to be. [emphasis added]

[34] Critically, answering this question does *not* determine conclusively whether the document *is* what it purports to be. The party tendering social media videos does not have to prove that they are "real" for them to be admissible: ***SJ c R***, 2024 QCCA 253 at para 87. At this stage, the Court is only deciding whether the trier of fact *would* have a basis to find that the videos accurately depict their purported contents, not whether they *should* make that finding.

[35] Ultimate authenticity of the video, and assessment of what, if any weight should be accorded to it, are questions for the trier of fact: ***CB*** at para 72; ***R v Martin***, 2021 NLCA 1 at para 49; ***R v Oland***, 2015 NBQB 245 at para 56, citing *Watt's Manual of Criminal La*w (Carswell, 2015) notes at p. 1088.

[36] Threshold authenticity is a modest evidentiary requirement: ***CB*** at para 67-68: ***SJ*** at para 84. All that must be shown is that evidence *exists* which is *capable* of proving that the document

is what it is said to be: ***CB*** at paras 66-68. The *voir dire* judge does not make a final determination on the veracity and value of the corroborative evidence any more than on the accuracy and worth of the video itself. Rather, the task is to determine that admissible evidence exists that *could* satisfy the trier of fact that the video is an accurate depiction of what it is said to be. As stated in *Digital Evidence*, "Authentication is, therefore, nothing more than a threshold test requiring that there be some basis for leaving the evidence to the fact-finder for ultimate evaluation."

[37] Logically, the standard of proof required to meet this "not onerous" threshold is less than balance of probabilities. In my view, the question is best conceptually addressed in similar fashion to the function of a committal judge at a preliminary hearing. Where direct evidence is proffered that the video is what it purports to be, its threshold authenticity is proven and the evidence goes to the trier of fact, subject to any other admissibility issues. For instance, if a witness says: "I was there and that's what it looked like", threshold authenticity is satisfied.

[38] There is equally no question that the threshold authenticity of a video may be established through circumstantial evidence: ***Bulldog*** at para 37. Where the corroborative evidence is circumstantial, the Supreme Court's refinement of the "some evidence" requirement applies: ***R v Arcuri***, 2001 SCC 54 at para 23, and the judge may engage in limited weighing of the inference being advanced and any competing evidence undermining it. It is important, however, that a judge performing this function does not trench on the trier of fact's domain by slipping into an ultimate determination of authenticity: ***R v Jackson***, 2016 ONCA 736 at para 26.

[39] Just as at a preliminary inquiry, any other applicable admissibility requirements need to be met. For instance, in cases where a mere viewer of the video (as opposed to someone who could compare it to their own real-life experiences) purports to identify individuals in the video, the principles for such identification articulated in ***R v Leaney***, 1989 CanLII 28 (SCC), [1989] 2 SCR 393 would apply. Where an accused person's statement to an individual in authority is relied on for authentication, the requirements of voluntariness would apply, etc.

Authentication in this case

[40] The videos in this case purport to be a series of social media stories showing the accused in a car, waving a handgun, acting like wanna-be gangsters. The evidence offered as capable of showing that the videos in fact accurately depict this, is that the officers located, within minutes, the very vehicle and occupants seen in the videos, dressed the same and seated in the same positions, sitting atop a handgun matching the one shown in the video, found exactly where one would expect if the person brandishing it in the video had tucked it in the under-seat hiding spot.

[41] The complete similarity of the real-life findings to what is seen on the videos is evidence capable of confirming what the video shows. This convergence of real-life circumstances provides ample evidence from which a trier of fact could decide that the videos accurately depict their advertised content. This evidence meets the threshold standard of proof, however defined.

[42] The defence focus on the quality of the identification of the men *from the video* is a red herring. The officers' belief that they knew who was in the videos is peripheral to the real issue. In this somewhat unique case, the mechanism of authentication is that the police found, in the flesh, the exact scene depicted in the videos, moments after watching them.

2026 ABKB 296 (CanLII)

[43] In short, identification of the accused flows *from* their definitive identification when arrested in real life, *to* establish that they were the men seen in the video, not the other way around. I accept the officers' evidence that they knew the men in the car from their work in the community, and specifically identified them as they exited the vehicle and were arrested.

[44] This is a case where someone who did not make the visual representation at issue, or even have any firsthand knowledge of its production, can identify it as accurately depicting something they do have firsthand knowledge of in real life: ***R v George***, 2023 ONCJ at para 23.

[45] Since I am not reliant on the identification of the accused from the videos as corroboration of their contents, I need not engage in a ***Leaney*** analysis of those identifications.[1] Rather, I can look to the fact that four people were found in a car, dressed exactly the same as in the video (right down to Mr. Flett's face covering), seated as in the video, waving the same gun as seen in the video, behaving (in Mr. Flett's case) with the same ignorant bravado seen in the video. Matching those first-hand, real-life observations to the contents of the videos is capable of proving that the videos depict these same four men and their behaviours, relatively recently.

[46] Finally, the fact that the Snapchat profile name shown on the videos matched the nickname of the person believed to be recording it provides additional circumstantial evidence for authentication: ***R v Hirsch***, 2017 SKCA 14 at paras 19-21.

[47] The Crown has easily satisfied s 31.1 and threshold authenticity is established.

The Best Evidence rule

[48] The fact that what was tendered before the Court is a copy of a copy of a video ostensibly posted on social media also matters little to the question of admissibility: ***Martin*** at paras 26-29; ***SJ*** at para 90. The concepts of documentary 'originals' and the best evidence rule have had to adapt to digital realities, where these concepts apply differently, if at all. The *Canada Evidence Act* now deals with the "best evidence" of electronic documents as follows:

> 31.2 (1) The best evidence rule in respect of an electronic document is satisfied
>
> (a) on proof of the integrity of the electronic documents system by or in which the electronic document was recorded or stored;

[49] In the case of a screen recording taken of a screen capture, the system whose integrity must be established is that of the recorder whose version is presented in court. This is a low threshold, usually easily met: ***Martin*** at para 49; ***SJ*** at para 89. The Ontario Court of Justice dealt effectively with this point in ***R v Francis-Simms***, 2020 ONCJ 632 at para 110, a case also involving screen-captured evidence of Snapchat videos, where West J. held that:

> Under s. 31.3(a), if a witness provided evidence that a video was shown on a cell phone using the Snapchat app and they then used their cell phone to record the video they had watched and when they replayed the video they recorded on their phone, it was the same as the original Snapchat video they had watched, this would be circumstantial evidence that the electronic document systems (the two cell phones) were operating properly....

[1] The caller's hearsay identifications are not evidence for the truth of their contents and are included simply as a narrative of how the vehicle was found and arrests made. The same is true for the clocks displayed on the phones.

2026 ABKB 296 (CanLII)

[50] I agree with and adopt this analysis. In this case, it was clear that the RCMP officers had successfully recorded the video playing on the caller's phone and could present this recording to the Court. Questions of quality loss between copies of copies of electronic documents will generally go to their weight. The best evidence rule is satisfied.

Authorship not a concern

[51] Authorship of the video is not relevant in this case, as it does not go to any essential issue: see *Digital Evidence*.

Alteration or fabrication

[52] Defence counsel argued that the recent and rapid rise of AI-generated video and "deepfakes" should lead the Court to rule the videos inadmissible absent evidence they are real and unaltered. As a starting point, the Court is alive and sympathetic to these concerns. The lightning advance of technology has brought into question the reality of far too many things once held sacredly accurate.

[53] That said, whether a social media post is real and unaltered is normally not a question going to admissibility. Concerns over tampering or distortion are questions of weight, not admissibility. The rise of AI has not changed this foundational principle. As the Court of Appeal held in ***CB*** at para 72:

> [E]ven if there were an air of reality to such a claim [of tampering or falsification], the low threshold for authentication, whether at common law or under s. 31.1 of the CEA, would seem to assign such a prospect to an assessment of weight.

[54] I do not rule out the possibility that, in an appropriate case, evidence of alteration or fabrication could be led at the admissibility stage in an attempt to overcome circumstantial evidence of authenticity. How such a contest of evidence would play out in an ***Arcuri***-informed analysis is for another day. However, merely raising the spectre of "deepfakes" in the abstract is not enough to undercut circumstantial threshold authenticity.

[55] In this case, no evidence was presented that called the provenance and integrity of the video into question, and the subsequent discovery of the very scene depicted in it powerfully implies its ultimate authenticity.

Conclusion on admissibility

[56] There is ample evidence capable of proving that the video depicts the two accused, and two other known individuals, riding in a car with one of them brandishing a handgun. The phone on which the copy presented to the court captured it was functioning properly, and the version available as evidence is admissible.

Trial Decision

[57] On the trial, I must determine whether the Crown has proven each charge beyond a reasonable doubt. I bear in mind that proof beyond a reasonable doubt is much closer to certainty than a balance of probabilities and requires that I be sure of the Accused's guilt. The burden

2026 ABKB 296 (CanLII)

never shifts to the Accused to prove their innocence, no matter how suspicious the circumstances. Equally, the grave dangers, and societal concerns, associated with the unlawful possession of firearms, and their reckless display and handling, in no way operates to prove the charge or reduce the strict burden of proof – the natural prejudice against such activity forms no part of this Court's consideration.

[58] Similarly, Mr. Flett's status as an individual prohibited from the possession of firearms also does not diminish the Crown's strict obligation to prove the charges. While this status implies prior bad conduct, that in no way assists the Crown in proving the charges.

[59] The Crown must satisfy its burden solely on the evidence presented before the Court.

The charges and elements of the offences

[60] Mr. Flett has been charged with possession of a restricted firearm together with readily accessible ammunition, contrary to s 95(1); possession of a weapon dangerous to the public peace, contrary to s 88(1); careless handling of a firearm, contrary to s 86(1); unauthorized possession of a firearm, contrary to s 92(1); and possession of a firearm while prohibited, contrary to s 117.01(1).

[61] To establish possession of a restricted firearm together with readily accessible ammunition, contrary to s 95(1), the Crown must prove beyond a reasonable doubt that Mr. Flett: (a) possessed a firearm; (b) the firearm was a restricted firearm; (c) the firearm was loaded or ammunition for it was readily accessible; and (d) he did not have the licence and registration certificate required to possess it, nor an authorization to possess it in the circumstances. The Crown must also prove beyond a reasonable doubt that Mr. Flett knew, or was wilfully blind to the fact, that the firearm was loaded (or that ammunition was readily accessible); recklessness is insufficient: ***R v Eastgaard***, 2011 ABCA 152, aff'd 2012 SCC 11.

[62] To establish possession of a weapon dangerous to the public peace, contrary to s 88(1), the Crown must prove beyond a reasonable doubt that: (a) Mr. Flett possessed a weapon; and (b) his purpose in possessing it was a purpose dangerous to the public peace.

[63] To establish careless handling of a firearm, contrary to s 86(1), the Crown must prove beyond a reasonable doubt that Mr. Flett used, carried, handled, shipped, transported, or stored a firearm in a careless manner, without lawful excuse.

[64] To establish unauthorized possession of a firearm, contrary to s 92(1), the Crown must prove beyond a reasonable doubt that Mr. Flett possessed a firearm and that he knew he was not authorized to possess it.

Analysis

[65] I accept the evidence of the police officers of what they saw and experienced in the course of their interception and search of Mr. Lepine's vehicle. They knew these men, identified them upon arrest, and found the gun and shell casings in the vehicle.

[66] Given the overwhelming similarity between who and what is seen in the Snapchat videos and who and what was found in the car, I find that the videos show the two accused, along with Mr. Lepine and the late Mr. Houle, driving around Fort Chipewyan and showing off the gun.

2026 ABKB 296 (CanLII)

[67] That similarity also creates a powerful inference that the video was recorded close in time to the vehicle stop and the arrest of the accused. I accept that inference. That inference is consistent with the time indication on the Snapchat videos, though I need not rely on this hearsay for anything other than collateral comfort.

[68] I find as a fact that the gun seen in the videos, in Mr. Flett's inboard hand, is the .22 calibre Chiappa 1911 later found under his seat by the police and proven to be a working firearm by subsequent testing.

[69] I find as a fact, and am satisfied beyond a reasonable doubt, that it is Mr. Flett seen holding the gun in the Snapchat videos. I make this finding for several reasons. First, he was positively identified upon arrest. Both Sgt. Davison and Constable Borowdaka knew him well. They had extensive dealings with him in the year before these events, and his photograph was displayed at the RCMP detachment as part of another investigation and seen by them daily.

[70] Second, Mr. Flett's seating position in the video was the same as where he was found in real life. Third, when his mask was down, the man in the video, and even more so the man being arrested, resembles Mr. Flett as he appeared before me in Court. Fourth, the man in the video has the same prominent neck and hands tattoos as Mr. Flett visibly displayed in the courtroom and on arrest. Fifth, the clothing Mr. Flett wore when he exited the vehicle matched exactly what he wore in the video, right down to the mask he clowned the police with during the arrest.

[71] I pause to note that the fact that Mr. Flett was apparently well known to police in Fort Chipewyan carries no weight in proving his possession of the firearm. It simply explains why the police knew him and could identify him.

[72] Finally, Mr. Flett responded to his name when directed to exit the car and answered to the charges under his name in court. There is no doubt it is he who was arrested, and no doubt he was the man seen in the video. For these reasons, I am satisfied beyond a reasonable doubt that Mr. Flett was in possession of the firearm both in the motor vehicle immediately before his arrest, as well as at the time the video was filmed.

[73] The videos' origin timeline also establishes that he had possessed the weapon for at least some time, and not in a trifling or passing manner. Its heft and real feel would not have escaped him. Moreover, the presence of fresh and spent .22 rounds in the vehicle strengthen the inference that he knew the weapon to be a real firearm.

[74] For these reasons, I am satisfied beyond a reasonable doubt that Mr. Flett knew the gun was real. I am equally satisfied that he knew, or was at least wilfully blind, to the fact it was loaded. The casings found outside the gun particularly bolster this already dominant inference.

[75] The facts that (i) the gun met the legal definition of a firearm; (ii) was a restricted handgun; (iii) had been stolen; that (iv) Mr. Flett had no license to possess it, and in fact (v) was barred from possessing it by a lifetime section 109 Order, and (vi) was further bound to keep the peace and be of good behaviour under a probation order at the time of these events, were all proven by documents and certificates entered as exhibits by agreement.

[76] Finally, waving a loaded handgun around in a crowded car, and especially cocking it while loaded, is inherently dangerous and therefore the Crown has proven beyond a reasonable doubt that Mr. Flett used the firearm in a careless manner.

2026 ABKB 296 (CanLII)

[77] I find that the Crown has established the elements of Counts 1- 4 and Count 9 beyond a reasonable doubt. Therefore, I find Mr. Flett guilty of:

Count 1 – possession of a restricted firearm together with readily accessible ammunition, contrary to section 95(1);

Count 2 – careless handling of a firearm, contrary to section 86(1);

Count 3 – possession of a weapon dangerous to the public peace, contrary to section 88(1);

Count 4 – unauthorized possession of a firearm, contrary to section 92(1); and

Count 9 – possession of a firearm while prohibited, contrary to section 117.01(1).

[78] The Crown concedes that there is insufficient evidence to conclude beyond a reasonable doubt that Mr. Flett knew the weapon was stolen, as the doctrine of recent possession does not apply. He is found not guilty on Count 6. The Crown also properly did not seek a duplicative conviction on Count 5, knowingly being in a vehicle with a firearm present.

The alleged threat

[79] Mr. Flett is also charged with threatening Sgt. Davison, about "fireworks" and ASAP "popping off". ASAP was known to him as a local gang. While I am quite sure this was intended as a threat, the evidence about what he said was quite vague. I am not satisfied beyond a reasonable doubt that this was a threat specifically to Sgt. Davison, as charged, as opposed to a generic statement that the gang might be displeased about his arrest. Mr. Flett is found not guilty on Count 7.

Resisting arrest

[80] The *actus reus* of resisting arrest, contrary to s 129(a) of the *Criminal Code* is active resistance by forcible means: ***R v Kennedy***, 2016 ONCA 879 at paras 28-36. The antics Mr. Flett engaged in while walking backwards towards the police would not suffice to make out the charge. They are, however, consistent with a general attitude or contempt and non-cooperation, consistent with the level of physical resistance described.

[81] The level of force required to fully gain control of Mr. Flett and handcuff him does satisfy the physical element of resisting arrest. I accept the officers' effectively unchallenged descriptions of those events. Mr. Flett pulled away when they tried to take his phone, requiring two officers to control him and ultimately take him to the ground. While at the lower end of the spectrum of resistance, the offence is proven. Viewed in context of his antecedent behaviour, the *mens rea* is clear. I find Mr. Flett guilty of Count 15, resisting arrest, contrary to section 129(a) of the *Code*.

Disguise

[82] Mr. Flett is charged that he had his face masked with intent to commit an indictable offence, contrary to section 351(2). I do not find that there was a sufficient nexus between the masking and the offences committed to make out the requisite intent, as confirmed by his removal of the mask in the final video. He is found not guilty on Count 8.

2026 ABKB 296 (CanLII)

Mr. Mills-Bruno

[83] The Crown seeks a conviction of Mr. Mills-Bruno only on Count 4, knowingly being in a vehicle where a firearm is present. This offence, as particularized in the Indictment, requires proof beyond a reasonable doubt that:

i. there was a restricted handgun in the car;

ii. the accused knew it was there; and

iii. the accused knew it was a restricted handgun.

[84] No suggestion was raised that Mr. Mills-Bruno had grounds to believe anyone in the vehicle was authorized to possess the firearm. The presence of the gun, and its characterization as a restricted firearm, were clearly proven, and not contested. The remaining issue is Mr. Mills-Bruno's subjective state of mind regarding the weapon. From the video, there is no doubt that he knew of the gun's presence. He was inches from it as Mr. Flett waved it around.

[85] Therefore, the only issue is whether the Crown has proven beyond a reasonable doubt that Mr. Mills-Bruno knew it was a real firearm, or was wilfully blind to that fact. Wilful blindness is a form of true, full subjective knowledge that may support a conviction for a full-knowledge offence, such as that created by s 94(1): ***R v Briscoe***, 2010 SCC 13 at para 21.

[86] A number of circumstances are relevant to this determination. First, unlike many people who face this charge, I find that Mr. Mills-Bruno obviously knew the gun-shaped object was in the car. It was inches away from his face. Second, that proximity would let him have a good look at it. Third, he had been in the car with Mr. Flett and the gun for some time, given the sequence of events. Fourth, the gun was being used in a context conveying criminal menace.

[87] Finally, as mentioned above, two spent .22 calibre casings were located in the vehicle. This gives rise to an inference that the firearm was discharged at some point, either in the vehicle, or by individuals closely associated with the vehicle.

[88] For these reasons, I am satisfied that Mr. Mills-Bruno was at least wilfully blind to the fact that the gun was real. As Sopinka J. stated in ***R v Jorgensen***, 1995 CanLII 85 (SCC), [1995] 4 SCR 55 at para. 103, "[a] finding of wilful blindness involves an affirmative answer to the question: Did the accused shut his eyes because he knew or strongly suspected that looking would fix him with knowledge?"

[89] The arrest video shows that Mr. Mills-Bruno was coherent and functional. I am satisfied that, even if he did not concretely know the gun was real (which I am sure he did), he certainly knew that he needed to ask and chose not to, because the answer would land him in the criminal predicament where he now finds himself.

[90] While the burden rests solely on the Crown to prove Mr. Mills-Bruno's *mens rea*, I note, for sake of completeness, that there are no circumstances present or proven that would have pointed him away from having a strong subjective concern that the gun was real.

[91] For these reasons, I find Mr. Mills-Bruno guilty on Count 5.

2026 ABKB 296 (CanLII)

Breach of Probation

[92] Mr. Mills-Bruno was proven to be bound be a Peace Bond at the time of the gun incident, which he obviously breached by his behaviour as proven in this case, contrary to section 127(1). He is found guilty on Count 14.

Heard on the 10th, 11th and 12th day of March, 2026.
Dated at the City of Ft. McMurray, Alberta this 17th day of April, 2026.

N.E. Devlin
J.C.K.B.A.

Appearances:

Anna Gillespie
for the Crown

Yodit Russom Kidane
for the Accused Kylar Flett

Graham MacArthur Johnson
For the Accused Dominic Mills-Bruno

2026 ABKB 296 (CanLII)