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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *R. v. Ghazimir-Saeed*,
2025 BCSC 1981

Date: 20251014
Docket: 35755
Registry: Vancouver

Rex

v.

Seyed Ghazimir-Saeed

Before: The Honourable Madam Justice Murray

On appeal from: An order of the Provincial Court of British Columbia, dated January 11, 2024 (*R. v. Ghazimir-Saeed,* 2024 BCPC 16).

Reasons for Judgment on Summary Conviction Appeal

Counsel for the Crown:	D. Meagher
The Appellant, appearing in person:	S. Ghazimir-Saeed
Place and Date of Hearing:	Vancouver, B.C. April 2, 2025
Place and Date of Judgment:	Vancouver, B.C. October 14, 2025

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INTRODUCTION

[1] On January 11, 2024, the appellant, Mr. Ghazimir-Saeed was found guilty of assaulting Wei Li, causing him bodily harm following a two-day trial in Vancouver Provincial Court. The reasons for judgment are indexed as 2024 BCPC 16. On February 15, 2024, the trial judge, Judge Harris, sentenced Mr. Ghazimir-Saeed to a conditional discharge with 12 months probation which included 15 hours of community work service. Mr. Ghazimir-Saeed has completed all of the community work service. The probation period is now complete and the appellant does not have a criminal record. Mr. Ghazimir-Saeed appeals his conviction and his sentence.

[2] Mr. Ghazimir-Saeed was represented by counsel at trial and sentencing. He sought and received a s. 684 order appointing counsel for this appeal. Mr. Ghazimir-Saeed was unhappy with both counsel appointed by Legal Aid. He therefore represented himself on this appeal.

[3] No submissions were made regarding the sentence appeal during this full day hearing. As the sentence is now moot as fully served and Mr. Ghazimir-Saeed does not have a criminal record, I dismiss the sentence appeal.

[4] These reasons will focus on the conviction appeal. I will begin by briefly setting out the evidence at trial and the trial judge’s reasons for judgment.

THE EVIDENCE AND REASONS FOR JUDGMENT

[5] The complainant, Mr. Li, was the main witness at trial. He testified that Mr. Ghazimir-Saeed had been his tenant for 7 or 8 years, living in the basement suite of a house he owned. On April 26, 2021, Mr. Li and his wife, Ms. Wang saw a woman digging up tulips from the front garden of the rental property. Mr. Li and his wife called the police to report the theft then Mr. Li went to Mr. Ghazimir-Saeed’s door to confront him. When he did, Mr. Ghazimir-Saeed charged at him and punched Mr. Li in the left eye and the head, causing him to fall back onto the staircase. According to Mr. Li, Mr. Ghazimir-Saeed then started hitting him in the head nonstop. Ms. Wang and the lady who was digging up the tulips (Ms. Maharaj)

tried to stop Mr. Ghazimir-Saeed. He eventually did stop. The police attended. Mr. Li said that he was injured in the assault. His head and left eye were swollen. His head was sore. His vision was affected. At trial, Mr. Li testified that his vision was still not normal.

[6] During his direct evidence, Mr. Li was shown three videos. The first was taken by his wife. At the beginning of the video Mr. Li is talking to the police on his cell phone. While on the phone Mr. Li is following Ms. Maharaj to the door of Mr. Ghazimir-Saeed's suite. When Mr. Ghazimir-Saeed opens the door Mr. Li goes down the stairs arm outstretched pointing at Mr. Ghazimir-Saeed saying "why are you stealing my flower?" Mr. Ghazimir-Saeed comes out of the suite. The two men exchange words. They are out of the frame for a second or two. When they are back in the frame Mr. Li is sitting/laying on the stairs. Mr. Ghazimir-Saeed is over him. It appears that Mr. Ghazimir-Saeed is striking Mr. Li in the head area. Mr. Li gets up on his feet and swings out at Mr. Ghazimir-Saeed. It is unclear as to whether he makes contact with him. Mr. Ghazimir-Saeed pushes Mr. Li back down and begins punching him in the head area repeatedly. Then the camera moves so no one is in frame. Mr. Li can be heard yelling about his flowers being stolen. When the camera moves back to the original position, Mr. Li is laying on the stairs. There is a brief struggle then Mr. Ghazimir-Saeed repeatedly punches Mr. Li on the left side of his head/face.

[7] The second video taken by a security camera shows the same incident from a different vantage point.

[8] The third video, which was captured by a security camera installed by Mr. Ghazimir-Saeed, shows the incident from a vantage point similar to the second video.

[9] Neither the second or third videos add materially to the narrative of the incident.

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[10] Mr. Li was cross-examined extensively by defence counsel. Among other things, it was put to Mr. Li that he had assaulted the appellant first. Mr. Li denied that suggestion.

[11] Mr. Li's wife, Ms. Wang, testified that Mr. Ghazimir-Saeed became very angry when he realized that Mr. Li was calling the police and hit him repeatedly. She denied that Mr. Li punched Mr. Ghazimir-Saeed first. She maintained that Mr. Li did not struck Mr. Ghazimir-Saeed at all.

[12] The attending police officers observed Mr. Li to have a swollen left eye and forehead and Mr. Ghazimir-Saeed to have scratch marks on his face.

[13] Mr. Ghazimir-Saeed testified that when he opened his door Ms. Maharaj told him that Mr. Li was calling the police to report that he was stealing his tulips. Mr. Ghazimir-Saeed said that Mr. Li barrelled toward him while he was still in his suite, threw his hands on his (Mr. Ghazimir-Saeed's) face then threw himself onto the stairs screaming. Mr. Ghazimir-Saeed testified that he did not do anything to Mr. Li until Mr. Li touched him.

[14] Mr. Ghazimir-Saeed testified that while he was lying on the stairs, Mr. Li threw a punch at him. Mr. Ghazimir-Saeed then punched Mr. Li. Mr. Li scratched him. Mr. Ghazimir-Saeed punched Mr. Li a couple more times.

[15] Finally, Ms. Maharaj testified that she was friends with Mr. Ghazimir-Saeed. Mr. Ghazimir-Saeed was moving out of the suite so she asked him if she could have the tulips. Mr. Ghazimir-Saeed said yes. While she was digging up the tulips, Mr. Li and his wife confronted her. Ms. Maharaj testified that Mr. Li pushed her and called her a name. She went to tell Mr. Ghazimir-Saeed what was happening. As she knocked on Mr. Ghazimir-Saeed's door Mr. Li was behind her, trying to reach Mr. Ghazimir-Saeed. Mr. Ghazimir-Saeed told Mr. Li to go away and Mr. Li dropped to the floor and pretended that Mr. Ghazimir-Saeed was going to kill him. She testified that Mr. Ghazimir-Saeed did not touch Mr. Li. In cross-examination, Crown counsel asked Ms. Maharaj about inconsistencies between her evidence at trial and

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the statement she gave to police. Ms. Maharaj explained that the police forced her to give a statement and that she felt traumatized.

[16] In his reasons for judgment, Judge Harris summarized the evidence in detail. He found that the videos contradicted both Mr. Ghazimir-Saeed's evidence and that of Ms. Maharaj. Judge Harris accepted the evidence of Mr. Li and Ms. Wang, finding that it was consistent both internally and externally with the video tapes.

[17] Based on the evidence, Judge Harris found that there was no air of reality to the argument that Mr. Ghazimir-Saeed was acting in self defence. He rejected the submission that Mr. Li had set his incident up as a ruse to evict Mr. Ghazimir-Saeed and he found that Mr. Li had suffered bodily harm. Accordingly, he found Mr. Ghazimir-Saeed guilty of assault causing bodily harm.

GROUNDS FOR APPEAL

[18] The notice of appeal is vague. I agree with the Crown that, in the first two grounds Mr. Ghazimir-Saeed seems to be arguing that his conviction was a miscarriage of justice and in the third ground he seems to be arguing that the verdict was unreasonable.

[19] On March 26, 2025, about a week before the hearing date of the appeal, Mr. Ghazimir-Saeed filed what he entitled a "*Charter* Motion". In the introductory paragraph Mr. Ghazimir-Saeed writes as follows:

> This *Charter* Motion is submitted in the Supreme Court of British Columbia under sections 7,8, and 11(d) of the *Canadian Charter of Rights and Freedoms*.
>
> The applicant, Mr. Ghazimir-Saeed, respectfully seeks the Court's attention to multiple serious violations of his constitutional rights that occurred before, during and after his trial. These violations include the suppression of key evidence, abuse of legal process, denial of a fair trial, legal aid counsel misconduct and collusion and systemic misconduct by Crown counsel and police authorities.

[20] He then lists a number of alleged *Charter* violations. Of the list, the matters that are potentially relevant are the following:

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a) The Crown showed video evidence in which the number of punches he threw was increased and "key contextual frames" were deleted;

b) An officer's notes were not disclosed;

c) Mr. Li and his wife falsely testified that they had come to the property to move garbage bins; and

d) He was denied fair legal representation.

[21] Based on these alleged *Charter* violations Mr. Ghazimir-Saeed requests that the Court:

> "…grant the appropriate remedies, including the admission of fresh evidence, recognition of prosecutorial misconduct and re-examination of key witnesses. These violations have led to a miscarriage of justice and must be addressed in the interest of fairness and public confidence in the legal system."

[22] There are a number of issues with this *Charter* notice. First, it is late. While the Court affords latitude to self-represented accused, the rules of evidence and procedure still apply. The appellant is not entitled to ambush the Crown. Second, there is no evidentiary foundation for these arguments. The affidavit filed along this *Charter* notice provides no support for these allegations. Third, the arguments that Mr. Ghazimir-Saeed's *Charter* rights were violated are new. They were not raised at trial.

[23] Generally appellate courts do not entertain new issues on appeal. The rationale for this was explained by our Court of Appeal in *R. v. Alfred*, 2020 BCCA 384:

> [6] Appellate courts generally do not entertain new issues at first instance. As Justice Fitch explained in *R. v. Gill*, 2018 BCCA 144, there are important functional justifications for this general rule. When a new issue is raised for the first time on appeal: (i) the appellate function is compromised where the evidentiary record is insufficient to permit a proper legal analysis; (ii) the opposing party may be prejudiced and procedural fairness may be compromised; (iii) the goal of finality may be undermined; and (iv) there are no considered reasons from below for review. As a result, leave is required before a new issue can be raised and, in most cases, the party seeking to raise it must demonstrate that the record is as complete as it would have

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been had the issue been raised in a timely way: *Gill* at paras. 9–11; *R. v. Andel*, 2014 BCCA 179 at para. 39.

[24] For these reasons leave to raise *Charter* issues is denied.

[25] However, I will briefly note, for completeness, that I have had a chance to review the trial transcripts and find there to be no merit to the appellant's assertions that he was not competently represented or that Crown counsel misconducted themselves. This ground would not have been successful in a *Charter* application or, indeed, any other section of Mr. Ghazimir-Saeed's appeal.

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ISSUES

[26] The issues to be decided on this appeal are as follows:

1) Should fresh evidence be admitted?

2) Was the conviction a miscarriage of justice?

3) Was the conviction unreasonable?

[27] I will consider the issues in turn.

ISSUE 1: SHOULD FRESH EVIDENCE BE ADMITTED?

[28] I understand Mr. Ghazimir-Saeed to be seeking to have the following evidence admitted as fresh evidence on this appeal:

a) Videos taken from a surveillance camera that he says "capture the full event" and show "the number of punches, timing and actions taken by both parties";

b) A recording of a meeting he and Mr. Li had in February 2021 to prove that Mr. Li lied under oath at trial; and

c) Hospital records that confirm that he suffered a "visible eye injury".

[29] The leading authority on the admission of fresh evidence in the context of an appeal is *Palmer v. The Queen,* [1980] 1 S.C.R. 759, 1979 CanLII 8 (S.C.C.).

[30] In *Palmer*, the Supreme Court of Canada set out a four-part test for the admission of fresh evidence on appeal:

> (1) The evidence should generally not be admitted if, by due diligence, it could have been adduced at trial provided that this general principle will not be applied as strictly in a criminal case as in civil cases: see *McMartin v. The Queen*, [1964] S.C.R. 484.;
>
> (2) The evidence must be relevant in the sense that it bears upon a decisive or potentially decisive issue in the trial;
>
> (3) The evidence must be credible in the sense that it is reasonably capable of belief; and
>
> (4) It must be such that, if believed, it could reasonably, when taken with the other evidence adduced at trial, be expected to have affected the result.

[31] The fresh evidence motion can be dealt with summarily. The video of the incident that Mr. Ghazimir-Saeed seeks to enter as fresh evidence is not fresh evidence – it was viewed at trial and marked as an exhibit. I was shown all of the videos that were shown at trial and marked as an exhibit including the video Mr. Ghazimir-Saeed wishes to enter. There is no substantive difference between the videos. I fail to see how Mr. Ghazimir-Saeed's video helps him in any way. Further, the audio file of a conversation between Mr. Ghazimir-Saeed and Mr. Li two months before the incident is irrelevant.

[32] Finally, Mr. Ghazimir-Saeed's medical records, which I was shown, were available for the trial. In any event they would not have affected the result.

[33] Mr. Ghazimir-Saeed's application to adduce fresh evidence is dismissed.

ISSUE 2: WAS THE CONVICTION A MISCARRIAGE OF JUSTICE?

[34] While unclear, I take this argument to be based on the following:

a) The Crown misconducted itself by doctoring the videos to add punches;

b) Defence counsel did not provide competent representation; and

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c) Everyone lied – Crown, police and Mr. Li.

[35] I find there to be no merit to any of these arguments.

[36] A review of the trial transcript shows that Mr. Ghazimir-Saeed was ably represented by experienced defence counsel and that the Crown presented their case fairly. I disallow Mr. Ghazimir-Saeed's application to re-cross-examine Mr. Li. Mr. Ghazimir-Saeed's counsel thoroughly questioned Mr. Li at trial. The matters that Mr. Ghazimir-Saeed seeks to question Mr. Li about are irrelevant.

[37] The suggestion that extra punches were added to the videos is incredible. I fail to see any difference in the videos that were marked as exhibits at trial and the apparently new video that Mr. Ghazimir-Saeed says is accurate. Mr. Ghazimir-Saeed's allegation that Mr. Li, the police and Crown are all out to get him is not credible.

[38] Finally, the recording of a meeting between Mr. Ghazimir-Saeed and Mr. Li is irrelevant. According to Mr. Ghazimir-Saeed the recorded meeting took place about two and a half months before the alleged assault. Plus, the recording does not assist Mr. Ghazimir-Saeed. He can be twice heard telling Mr. Li that he would smash his face. If Mr. Ghazimir-Saeed's argument is that this recording would've impeached Mr. Li's credibility at trial, it should have been presented at trial. It does not assist him on appeal.

[39] There is no merit to Mr. Ghazimir-Saeed's argument that there was a miscarriage of justice.

ISSUE 3: WAS THE CONVICTION UNREASONABLE?

[40] The test for whether a verdict is unreasonable is whether the verdict was one that a properly instructed jury or judge could reasonably have rendered. The answer to that question is yes.

[41] This trial turned on credibility. Trial judges are in the best position to assess credibility. As such, reviewing courts should not interfere with an assessment of

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credibility unless that finding cannot be supported on any reasonable view of the evidence: *R. v. R.P.*, 2012 SCC 22, at para. 10.

[42] In this case the videotapes were the best evidence of the incident. In addition they provided the learned trial judge a measuring tape against which he could assess the credibility of each witness. Quite simply, the evidence of Mr. Li and his wife was consistent with the videos while the evidence of Mr. Ghazimir-Saeed and Ms. Maharaj was not. As noted above, the trial judge engaged in a detailed analysis of the evidence and concluded that the video evidence supported the evidence of Mr. Li and his wife.

[43] This was not an unreasonable verdict. On any version of the videotape, it is impossible to come to any conclusion other than that Mr. Ghazimir-Saeed assaulted Mr. Li causing him bodily harm.

[44] I find the verdict to be reasonable.

CONCLUSION

[45] The appeal is dismissed.

"The Honourable Madam Justice Murray"

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