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R v Kehal, 2026 BCSC 2121

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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *R v Kehal,*
2026 BCSC 2121

Date: 20260204
Docket: 35791-2
Registry: Vancouver

Rex

v.

Ravinder Bobby Kehal

Before: The Honourable Justice Ahmad

Oral Reasons for Judgment

Re: *Voir Dire #2*—Authentication Video Recorded Evidence (Uber Video Clips)

Counsel for the Crown:	S. Gillespie A. Pachal, Articled Student
Counsel for the Accused:	D.M. Melville
Place and Date of Trial	Vancouver, B.C. February 2, 2026
Place and Date of Judgment:	Vancouver, B.C. February 4, 2026

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I. Introduction

[1] Mr. Kehal is before the Court on four gun-related charges in respect of an incident that is alleged to have occurred on the evening of July 23, 2023 while Mr. Kehal was a front passenger of an Uber driven by Mr. Suhkvinder Singh Chhina.

[2] Mr. Kehal has pleaded not guilty to all four counts. Identification is an issue at this trial.

[3] Mr. Chhina's evidence included reference to three video clips of a larger video purported to be taken from the Uber's video camera while Mr. Kehal was allegedly a passenger. The Crown seeks to introduce those video clips (the “Uber Video Clips”), as authentic. The defence disputes authenticity. However, he confirms that, if authentic, the defence does not dispute threshold admissibility but reserves the right to challenge ultimate admissibility and the weight that can be placed on the video clips.

[4] The sole issue to be determined on this *voir dire* is the authenticity of the Uber Video Clips.

II. Legal Framework

[5] In *R v C.B.*, 2019 ONCA 380 at paras 64–66 [*C.B.*], the Ontario Court of Appeal said this about authenticity generally:

> [64] The requirement of authentication applies to various kinds of real evidence. Authentication involves a showing by the proponent of the evidence that the thing or item proffered really is what its proponent claims it to be...
>
> [65] Authentication is the process of convincing a court that a thing matches the claim made about it. In other words, it is what its proponent claims it to be.
>
> [66] At common law, authentication requires the introduction of *some evidence* that the item is what it purports to be.... The requirement is not onerous and may be established by either or both direct and circumstantial evidence.

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[6] As the Court notes in *R v Ball*, 2019 BCCA 32 [*Ball*], for "electronic documents" as defined in s 31.8 of the *Canada Evidence Act*, RSC 1985, c C-5 [*Evidence Act*]:

a) the statutory rule set out in s 31.1 codifies the common law authentication rule: *Ball* at para 70; and

b) the statutory "best evidence" provisions set out in ss 31.1–31.2 of the *Evidence Act* augment the authentication process: *Ball* at para 72.

[7] In this case, there is no dispute that the Uber Video Clips constitute "electronic documents" as defined in s 31.8 of the *Evidence Act*. Furthermore, the defence concedes that the "best evidence" requirement is satisfied, leaving "authentication" as contemplated by the *Evidence Act* as the only issue to be determined.

[8] Regarding authentication of "electronic documents", such as the Uber Video Clips, s 31.1 of the *Evidence Act* provides:

> 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.]

[9] Like the common law authentication, the threshold to meet the statutory authentication rule in respect of electronic documents is "low", simply, "is there evidence, direct or circumstantial, to support a finding that an electronic document is what the tendering party claims it to be?": *Ball* at para 70, *C.B.* at paras 66–68.

[10] In that regard, the decision of this court in *R v Elite Farm Services Ltd.*, 2021 BCSC 1583 [*Elite Farm*] is also instructive. There, Mr. Justice Crabtree states:

> [56] The standard of proof to authenticate a video recording requires the electronic document to be an accurate and fair depiction of what it purports to be.
>
> [57] In *R. v. Hirsch* ... at para. 18, the standard for authentication was found to be low:

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> [18] … Quite simply, to authenticate an electronic document, counsel could present it to a witness for identification and, presumably, the witness would articulate some basis for authenticating it as what it purported to be.... That is, while authentication is required, it is not an onerous requirement. In *Watt's Manual*, the author notes at 1115:
>
> > The burden of proving authenticity of an electronic document is on the person who seeks its admission. The standard of proof required is the introduction of evidence capable of supporting a finding that the electronic document is as it claims to be. In essence, the threshold is met and admissibility achieved by the introduction of some evidence of authenticity.
> >
> > [Emphasis in original.]
>
> As this suggests, the integrity (or reliability) of the electronic document is not open to attack at the authentication stage of the inquiry. Those questions are to be resolved under s. 31.2 of the *Canada Evidence Act*–i.e., the best evidence rule, as it relates to electronic documents. … [Citations omitted.]

[11] If the low threshold is met, the document is adequately authenticated, although this does not necessarily mean that it is genuine. That is a question of weight for the fact finder, which often turns on determinations of credibility: *Ball* at para 70.

[12] Moreover, pursuant to s 31.7 of the *Evidence Act*, except as it relates to authentication and best evidence, nothing in ss 31.1–31.4 affects any rule of law relating to admissibility of evidence*,* although the authentication and best evidence rule in the *Evidence Act* must always be met: *Ball* at para 68:

> [68] ... standing alone they do not determine ultimate admissibility. Rather, the admissibility of an electronic document also depends on the purpose for which it is tendered and any related general rule of evidence. For example, in addition to meeting the statutory criteria, the content of an electronic document must be legally relevant and it must comply with general evidentiary rules such as those relating to hearsay, character and opinion evidence...

III. Analysis

[13] As a starting point, on this analysis, my task is to determine whether the Uber Video Clips are what the Crown claim them to be, that is, a depiction of four

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individuals—being Mr. Chhina and the three individuals Mr. Chhina refers to as “Bobby”, “Paul”, and “Tees”—in the Uber vehicle in the relevant time period.

[14] Mr. Chhina gave evidence in that regard. While he was not able to definitively confirm that the time stamp on the video was accurate, he confirmed that the Uber Video Clips truly and accurately depicted him and the three individuals he picked up from YVR.

[15] Mr. Kehal argues that evidence is insufficient for the Crown to discharge its burden of proving that the Uber Video Clips are authentic on three bases:

(a) that Mr. Chhina did not review the full video from which the clips were taken;

(b) the brevity of the video clips in the context of the larger recording; and

(c) the issue of continuity, raising the possibility that the videos were altered.

[16] I do not accept any of those issues constitute a sufficient basis on which to find the Uber Video Clips are not authentic.

[17] First, as the defence argues, Mr. Chhina testified that he did not review the Uber Video Clips prior to handing the SD card, on which the full video was recorded, to the police. However, that review is not necessary.

[18] Referring to the decision in *R v Bulldog*, 2015 ABCA 251 in *Elite Farm* at para 77, the Court included in the potential categories of witnesses able to authenticate a video recording the following:

> ... an eye-witness present when the video is taken, who can testify that the video accurately represents what he or she saw...

[19] Mr. Chhina falls squarely within that category.

[20] Specifically, having driven the Uber from the pickup location at YVR to the Burger King in Richmond to the drop off location in Surrey, Mr. Chhina had direct first-hand knowledge of the individuals in the vehicle that the vehicle clips purport to depict. He did not need to review the full video to confirm the accuracy of the

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depiction. By his direct evidence of having observed the three individuals in the Uber, Mr. Chhina articulated the basis on which he was able to authenticate the video clips as being what they are purported to be.

[21] The fact that Mr. Chhina did not review the more fulsome video, or perhaps even the video clips themselves, does not detract from their authenticity.

[22] The same is true of the second and third bases on which the defence relies, that is the brevity of the video compared to the whole recording and the issue of the continuity of the evidence. Both bases go to the reliability and potential ultimate admissibility of the video clips.

[23] A similar argument was made in *Elite Farm* in which the Crown relied on video evidence broken down into 222 short snippets purporting to show the mistreatment of chickens. In seeking to exclude that evidence, the defence argued, among other things, that the snippets were unfair and that there was a significant risk they intended to mislead and, moreover, that it was not possible to verify that the video recordings had been altered.

[24] Notably, however, those arguments were considered not on the authentication analysis under s 31.1, but as a question of admissibility: *Elite Farm* at para 92.

[25] I accept that, in an appropriate case where proper evidentiary basis has been established, the issues raised in *Elite Farm* and here—that is the brevity of the video clips and continuity—may go to reliability of the video evidence or to weight. However, as s 31.7 of the *Evidence Act* expressly provides, and as the courts have confirmed, those issues relating to admissibility are separate and distinct from and do not inform authenticity.

[26] Simply put, a ruling that the Uber Video Clips are authentic will not preclude the defence from raising the issue of reliability and weight to be given to that evidence. Indeed, if a proper evidentiary basis is established, it is open to the trier of

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fact to conclude that the Uber Video Clips cannot be given the weight that the Crown argues they should be given. That issue can be argued on the trial proper.

[27] For the purpose of this application on this *voir dire* and on the basis of Mr. Chhina's direct evidence, I am satisfied that the Crown has proven, on a balance of probabilities, that the Uber Video Clips are authentic.

IV. Conclusion

[28] The Uber Video Clips and all of the evidence on *voir dire* number 2, including all of the direct oral evidence of the witnesses, are to be rolled over and used for the purposes of trial.

[29] That concludes the reasons on this *voir dire* number 2.

"Ahmad J."

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