S.C.C. File No. 41996

IN THE SUPREME COURT OF CANADA

(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

B E T W E E N:

HIS MAJESTY THE KING

Appellant
(Appellant)

-and-

SEYED RAMIN MOSHFEGHI ZADEH

Respondent
(Respondent)

-and-

ATTORNEY GENERAL OF ONTARIO

Intervener

RESPONDENT'S FACTUM

(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

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PART I – OVERVIEW AND STATEMENT OF FACTS

A. Overview

1. The Crown appeals as of right from the acquittal of the respondent on one count of dangerous driving causing death and one count of dangerous driving causing bodily harm. The facts at trial were not in dispute. The respondent had been driving in the downtown Vancouver area for 15 – 16 minutes before the accident. Immediately preceding the accident, the respondent was driving on Smithe Street approaching Hornby Street. The respondent entered the intersection against the red light and was struck by a vehicle travelling on Hornby Street. The respondent's vehicle thereupon rolled sideways striking a father and child on the sidewalk. The father was injured and the child died. The respondent did not testify at the trial.

2. In her reasons for judgment the trial judge at one point said "In particular, the Court noted that a momentary lapse of judgment without more cannot establish the *actus reus* and *mens rea* of the offence of dangerous driving."[1] This passage comes from the minority reasons of Chief Justice McLachlin in *R v. Beatty*[2] and is not a correct statement of the law. All three judges at the British Columbia Court of Appeal agreed that this was a misstatement of the law.

3. The majority of the Court of Appeal (Justice Riley with Chief Justice Marchand concurring) held that, despite this misstatement of law, the trial judge applied the correct test.[3] Justice Willcock, in dissent, held that the trial judge's analysis was guided by this error, such that she unduly focused on the respondent's lapse in attention at the expense of the other contextual factors that informed the objective *mens rea* analysis.[4]

4. The appellant asserts that the trial judge was fixated upon momentariness "without more" and that this permeated her judgment and skewed her engagement with the evidence. The appellant further asserts that the trial judge never grappled with the question of how the degree of care

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[1] *R. v. Moshfeghi Zadeh*, Oral Reasons for Judgment, April 9, 2024 (unreported) (Trial Decision) ¶10
[2] *R v Beatty*, 2008 SCC 5 [*Beatty*] ¶72
[3] *R. v. Moshfeghi Zadeh*, 2025 BCCA 293 (BCCA Decision) ¶7, 37, 42, 52-60 (*per* Riley J.A.)
[4] BCCA Decision ¶64-66 (*per* Willcock J.A.)

brought by the respondent to his driving measured against the objective standard and gave inadequate consideration to the totality of the circumstances which informed the modified objective test.

5. The respondent disagrees. The trial judge correctly stated the modified objective test as set out in *R v. Roy*.[5] A review of the reasons for judgment demonstrates that the trial judge gave full and careful consideration to the totality of the circumstances. While it is appreciated that the appellant would have preferred the trial judge to grant greater weight to some factors, the determination of whether the totality of the evidence proved a marked departure from the standard of the reasonable driver is a question of mixed fact and law which is not reviewable on appeal from acquittal.[6]

B. Evidence at Trial

6. The three-day trial was conducted before a Provincial Court Judge. The evidence included *viva voce* testimony from police and civilian witnesses, admissions of fact, photographs, CCTV footage, and vehicle data. No expert evidence was adduced.

7. It was admitted that the respondent was driving on Smithe Street approaching the intersection with Hornby Street, that he entered the intersection against a red light, that his vehicle was struck by a car traveling on Hornby Street, that the collision caused his vehicle to roll sideways onto the sidewalk, and that his vehicle then struck Mr Hiva and his daughter. Mr Hiva suffered injuries and his daughter was killed. The trial judge accepted the admission that the respondent caused the collision.[7]

8. The trial judge made factual findings with respect to the driving of the respondent. Those included that the respondent had been driving for 15-16 minutes prior to the collision, that there was no evidence of any issue with his driving prior to entering the intersection at Hornby Street on a red light, that the speed of his vehicle ranged from 41-50 km per hour and was 47 km per hour

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[5] Trial Decision ¶5; *R. v. Roy*, 2012 SCC 26 [*Roy*] ¶36
[6] BCCA Decision ¶57 (*per* Riley J.A.)
[7] Trial Decision ¶1

just prior to the collision, and that the speed limit was 50 km per hour.[8]

9. The trial judge additionally found that the respondent had his seat belt fastened, that he was driving in a straight line, that he was not distracted by texts or telephone calls, that there was no other person in his vehicle to distract his attention, that there was no evidence that he was engaged in any other activities which may have distracted him, that there was no evidence that he diverted his attention from the road to another location, and that hospital tests revealed that he had no alcohol or drugs in his system.[9]

10. The trial judge found that the respondent's vehicle had no defects which contributed to the collision, that the respondent did not brake before the collision, and, as the appellant submitted at trial, that the respondent did not see the red light.[10]

11. The trial judge found that the traffic light facing the respondent at Hornby Street had been red for about 20 seconds before he entered that intersection, and therefore he was not trying to beat a red light by speeding up on an amber light.[11]

12. The trial judge found that the red light at Hornby Street had been visible for about three blocks, but that a prudent driver will focus on the lights immediately in front of them to which they must respond.[12]

13. The trial judge reviewed the video evidence and concluded that it took six seconds for the respondent to drive from the intersection at Howe Street (the preceding cross street) to entering the intersection at Hornby Street. The trial judge concluded, with the agreement of the appellant, that it would take about one second for a driver to focus upon and react to the traffic lights at the next intersection, leaving a total of five seconds to focus and react.[13]

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[8] Trial Decision ¶26
[9] Trial Decision ¶27
[10] Trial Decision ¶28
[11] Trial Decision ¶29
[12] Trial Decision ¶30
[13] Trial Decision ¶31

14. The trial judge found that a silver hatchback had been traveling in tandem with the respondent's vehicle, that the silver hatchback began to slow three seconds before the respondent entered the intersection at Hornby Street, and that the silver hatchback was easily able to stop for the red light.[14]

15. The trial judge found that there were pedestrians in the crosswalk at Hornby Street up to three seconds before the respondent entered the intersection against the red light.[15]

16. Based upon the totality of the evidence, the trial judge made the factual finding that the respondent suffered a lapse of attention for between three to five seconds before he entered the intersection at Hornby Street.[16]

17. The trial judge found this to be a single and momentary lapse of attention by the respondent.[17]

18. The respondent says that the trial judge's findings of fact were reasonable, were based upon the evidence before her, and cannot be the subject of review upon appeal from acquittal.

C. Position of the Parties at Trial

19. The respondent conceded at trial that his entry into the intersection against a red light established the *actus reus* of dangerous driving.[18] The respondent further conceded that this act was a departure from the standard of the reasonable driver. The respondent submitted that the evidence did not prove a marked departure from the standard of the reasonable driver, and therefore that the modified objective test of the *mens rea* of dangerous driving was not proved. The respondent submitted that his driving was otherwise fully in keeping with the law and the circumstances, that the lapse of attention was of such brevity as to be momentary, and that the lapse of attention was the type of carelessness or negligence to which even the reasonable driver

[14] Trial Decision ¶32
[15] Trial Decision ¶34
[16] Trial Decision ¶33
[17] Trial Decision ¶38
[18] Trial Decision ¶6

is vulnerable.

20. The appellant advanced the position that the respondent's entry into the intersection against a red light was a marked departure from the standard of the reasonable driver. The appellant asserted factors including the time of day and location,[19] the fact that there was more than one red light for traffic approaching Hornby Street,[20] pedestrians were crossing Smithe Street in the crosswalk,[21] and the silver hatchback slowed and stopped for the red light.[22]

D. Reasons for Acquittal

21. The trial judge gave oral reasons following the submissions of counsel.

22. The reasons start with a brief factual synopsis. The trial judge notes that the respondent conceded having caused the collision, and states that the issue is whether the respondent is criminally responsible for the collision.[23] She then cites *Beatty* for the principle that it is not the consequence of driving which determines whether the driving was criminally dangerous.[24] She also cites a passage from *R. v. Hundal*[25] that negligent driving forms a continuum from momentary lack of attention giving rise to civil responsibility through careless driving under provincial highway legislation to dangerous driving under the *Criminal Code*.[26]

23. The trial judge also cites *Beatty* for the principle that "Even the most able and prudent driver will from time to time suffer momentary lapses of attention."[27]

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[19] AR, Transcript of Submissions for Crown, pp. 245, l.47 – 246, l.8; AR, Written Submissions of the Crown, p. 72, ¶48
[20] AR, Transcript of Submissions for Crown, p. 215, ll.9-12; AR, Written Submissions of the Crown, p. 73, ¶49
[21] AR, Transcript of Submissions for Crown, pp. 226, l.21-228, l.34; AR, Written Submissions of the Crown, p. 73, ¶50
[22] AR, Transcript of Submissions for Crown, p. 247, ll.25-32; AR, Written Submissions of the Crown, p. 74, ¶52
[23] Trial Decision ¶2
[24] Trial Decision ¶2
[25] *R. v. Hundal*, [1993] 1 S.C.R. 867
[26] Trial Decision ¶2
[27] Trial Decision ¶3

24. The trial judge then correctly cites *Roy* for its statement of the *actus reus* and *mens rea* of dangerous driving, and for its two-step test for *mens rea*, namely, whether there was a departure from the standard of the reasonable person and whether it was a marked departure.[28]

25. The trial judge then notes that the respondent agrees that driving through a red light in Downtown Vancouver was driving in a manner that was dangerous to the public, but submits that the degree of care exercised by him was not a marked departure.[29]

26. The respondent submits that the above passages leave no doubt that the trial judge was fully aware that the *actus reus* of dangerous driving was not in issue, nor was the first step of the two-step test of the modified objective *mens rea* as laid out in *Roy*.

27. The trial judge next cited *R. v. De Ciantis*[30] for the proposition that courts typically look to a pattern of driving which suggests a marked departure whereas if the driving is otherwise proper and there is a brief departure from reasonably prudent driving, the conduct is more suggestive of civil rather than criminal negligence.[31]

28. The trial judge then cited the majority in *Beatty* for its caution against casting the net too widely and branding as criminals those who are not morally blameworthy.[32]

29. The trial judge then states that the respondent is blameworthy for the accident, and that the issue before her is whether he is criminally blameworthy.[33]

30. The respondent says there can be no doubt at this point in her reasons that the trial judge has instructed herself properly on the law and that she knows that the *actus reus* of dangerous

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[28] Trial Decision ¶4,5
[29] Trial Decision ¶6
[30] *R. v. De Ciantis*, 2011 BCCA 437
[31] Trial Decision ¶7
[32] Trial Decision ¶8
[33] Trial Decision ¶9

driving is not in issue. It is entirely clear that she is aware that the only live issue before her is whether the appellant has proven a marked departure from the standard of the reasonable driver and has thus proven the modified objective test for the *mens rea* of dangerous driving.

31. The trial judge then reviews decisions from a range of other cases, starting with *Beatty*. After noting that the accused in that case crossed a solid line on a highway, leading to a collision which caused three deaths, she states that the Court found the act to be objectively dangerous, but that there was reasonable doubt as to whether it was accompanied by the required *mens rea.* She concludes her discussion of *Beatty* stating that the Court noted that a momentary lapse may be part of a larger pattern which, viewed as a whole, is a marked departure.[34]

32. In the course of the above discussion of *Beatty*, the trial judge stated "In particular, the court noted that a momentary lapse of judgment without more cannot establish the *actus reus* and *mens rea* of the offence of dangerous driving."[35] This passage is from the minority reasons of McLachlin C.J. in *Beatty* and was not adopted by the majority. The respondent says that these words are wholly inconsistent with all else relied upon by the trial judge, including the majority reasons in *Beatty*. The respondent says that the inclusion of this passage was an error by the trial judge, and that the error is singular and did not impact the judgment.

33. The trial judge then turns to the *Roy* decision. After reviewing the facts, she notes that this Court acquitted the accused, finding that the distinction between a departure and a marked departure requires the court to identify the way the driver went markedly beyond carelessness. She concludes by stating "The Court held that the single momentary error in judgment resulted in tragic consequences, but could not be found to be a marked departure."[36]

34. The appellant raises concerns about this passage, asserting that the trial judge was meaning this to be a statement of general principle. That interpretation is not tenable. This Court in *Roy* was clearly aware of its option to send the case for retrial, and concluded that the evidence was

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[34] Trial Decision ¶10
[35] Trial Decision ¶ 10
[36] Trial Decision ¶11-12

insufficient to possibly justify a finding of a marked departure from the standard of the reasonable driver. It follows that the trial judge was accurate in stating that this Court determined that the driving could not be found to be a marked departure in that particular case.

35. The trial judge then reviewed a series of cases as examples in which dangerous driving was or was not found. The trial judge was thus aware of the matrix of circumstances which may justify conviction or acquittal.

36. The trial judge also reviewed the *Chung* decision.[37] She noted the factual circumstances, including egregious speeding on city streets, an unsafe pass, and the cutting off of another vehicle, all before causing a fatal collision and all in the course of 4.9 seconds. She noted that this Court found this conduct to not be comparable to momentary mistakes which may be made by any driver. She further noted that this Court affirmed that momentary lapse in attention and judgment do not usually result in criminal liability if they result from the "automatic and reflexive nature of driving."[38]

37. The trial judge then reviewed the factual circumstances of the case before her noting an array of factors which indicated prudent driving by the respondent prior to entering the intersection against the red light. She noted that the prosecutor submitted that the respondent apparently did not see the red light.[39]

38. The trial judge acknowledged that the traffic light in question had been red for about 20 seconds before the respondent entered the intersection and that the light had been visible from three blocks away. She found, as was appropriate, that the reasonable driver will focus on the traffic lights immediately before them, not traffic lights three blocks away.[40] She also notes that it is apparent that the respondent was not trying to speed up to beat a light which was turning red.[41] The respondent notes that this was effectively conceded by the prosecutor, who submitted that the

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[37] *R. v. Chung*, 2020 SCC 8 [*Chung*]
[38] Trial Decision ¶23-25
[39] Trial Decision ¶26-28
[40] Trial Decision ¶26-28
[41] Trial Decision ¶30

respondent never saw the red light.

39. The trial judge described that the travel time for the respondent between the Howe Street and Hornby Street intersections was six seconds, and that the silver hatchback which had been traveling beside the respondent started to slow for the traffic light three seconds before the respondent entered the Hornby Street intersection.[42]

40. The trial judge thereby determined that the respondent had a lapse of attention in the range of five seconds, that being when he should have started to focus on upcoming traffic lights, and three seconds, that being the time frame in which the silver hatchback started to slow.[43]

41. The trial judge acknowledged the appellant's submission that there were other warning signs the respondent should have seen, but determined that as much as she could conclude on the evidence was that, when the respondent should have started slowing three seconds before he entered the intersection, he suffered a lapse of attention.[44] This was a factual finding which is not amenable to review upon appeal from acquittal.

42. The trial judge concluded that the respondent had a lapse of attention for three to five seconds.[45] In weighing this against the totality of the circumstances, including the respondent's otherwise "unexceptional" driving, she concluded that the evidence established a departure from the standard of the reasonable driver, but not a marked departure, and acquitted the respondent on both counts.[46]

E. BCCA Decision

43. The appellant appealed to the British Columbia Court of Appeal on the basis that the trial judge erred in law by (1) applying a wrong legal principle; (2) failing to apply the correct legal test, and (3) failing to consider all relevant evidence.

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[42] Trial Decision ¶31-32
[43] Trial Decision ¶33
[44] Trial Decision ¶35
[45] Trial Decision ¶35-36
[46] Trial Decision ¶37-39

(i) The majority of the BCCA (Riley J.A. and Marchand C.J.B.C.)

44. The respondent agrees with the summary of the majority reasons in the appellant's factum at paragraphs 46-53.

(ii) The Dissent (Willcock J.A.)

45. The respondent agrees with the summary of the dissenting reasons in the appellant's factum at paragraphs 54-64.

PART II – QUESTION IN ISSUE

46. Did the majority of the BCCA err in holding that the trial judge correctly applied the modified objective *mens rea* test for the offence of dangerous driving?

47. The respondent submits that the majority of the BCCA was correct. The majority found that the trial judge stated the correct test, fully considered the totality of the evidence, and applied the correct test to the evidence.

PART III – STATEMENT OF ARGUMENT

48. The respondent agrees that this appeal turns upon the interpretation of the trial judge's reasons. The majority of the BCCA held that the trial judge correctly applied the law. The respondent says the majority of the BCCA was clearly correct in so finding. The respondent says that the dissenting judge erred in holding that the single misstatement of law was repeated and that it tainted the judgment.

A. The Reasons Do Not Indicate That the Trial Judge Applied a Wrong Legal Principle

49. The appellant says that the judge stated that "a momentary lapse of judgement without more" is insufficient to establish the *mens rea* for dangerous driving. The appellant further says

that the judge applied this incorrect principle.

50. The respondent says that this position is clearly incorrect.

51. The judge clearly stated that correct test from *Roy*.[47] She stated the test in its entirety. She did so early in her reasons and was clearly guided by that test throughout. She carefully considered a series of cases which applied the correct test. She particularly considered the *Chung* decision and was aware that the momentary nature of the conduct in question in that case was not determinative.[48] In weighing the evidence against the modified objective *mens rea* test outlined in *Roy* and by the majority in *Beatty* the trial judge clearly applied the correct test.[49]

52. In contrast, the single misstatement of the law was embedded by the judge in her discussion of *Beatty*. Immediately preceding and following the misstatement the judge correctly cites from the majority decision in *Beatty*.

53. The trial judge stated the correct test both before reviewing the evidence and when weighing the evidence against that exact test. There is no merit to the suggestion that the judge applied the wrong test of the *mens rea* for dangerous driving.

54. The respondent submits the erroneous nature of the appellant's position is further disclosed by the full content of the misstatement, that being "a momentary lapse of judgment without more cannot establish the *actus* reus and *mens rea* of the offence of dangerous driving."[50] The idea that the judge was relying upon this passage as a binding legal principle is belied by the obvious fact that the judge did not rely upon it at all with respect to the *actus reus* of dangerous driving. As the appellant would have it, the judge relied upon one component of this passage as binding law, and ignored the other component as though it was not there at all. This is not a viable position.

55. The respondent says that the majority of the BCCA was thus correct in finding that the

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[47] Trial Decision ¶4-5
[48] Trial Decision ¶23-25
[49] Trial Decision ¶36-38
[50] Trial Decision ¶10

judge had stated and applied the correct test.

(i) The single misstatement of law was not pervasive

56. In her reasons the trial judge expressly cited the test as described in *Roy* and *Beatty*.[51] At no point did she repeat the proposition of McLachlin C.J. from her minority reasons in *Beatty*. The single misstatement was in no sense pervasive in the judgment.

57. The appellant focuses upon the judge having noted more than once that momentary lapses of attention or judgment do not usually result in a finding of a marked departure such as to import criminal liability. The problem with this complaint is that it is an accurate proposition, having been stated as recently as in *Chung* that momentary lapses in attention do not usually result in criminal liability if they result from the automatic and reflexive nature of driving or simple carelessness to which even the most prudent of drivers may succumb.[52]

58. Nor was the trial judge inaccurate in stating this Court found the momentary lapse of judgment in *Roy* could not support a finding of marked departure, given that the Court found it appropriate to enter an acquittal rather than ordering a new trial. What the trial judge said was accurate, and cannot be cast as a continuing error on her part.

59. The appellant submits that, unlike the trial court in *Chung,* the trial judge did not explicitly state that momentary conduct alone could be a marked departure. This submission is difficult to reconcile with the judge's reference to this Court's decision in that case, wherein the Court held that the brief conduct in question readily made out the offence of dangerous driving.[53]

60. A single error cannot be properly described as being pervasive. The majority of the BCCA found that there was a single error, not a repeated error. It found that the correct test was stated and applied.[54]

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[51] Trial Decision ¶4,5,36-38
[52] *Chung* ¶22, referenced in Trial Decision ¶25
[53] Trial Decision ¶ 9,12,13 , Roy 2012 S.C.C. 26 para 53-55
[54] Trial Decision ¶23-25

61. There is no merit to the appellant's submission that there was a pervasive error in the reasons of the trial judge.

(ii) The misstatement of law did not skew the trial judge's engagement with the evidence

62. There is no basis to conclude that the single misstatement of law skewed the trial judge's engagement with the evidence. The misstatement was isolated. The trial judge fully reviewed and considered the arguments of the appellant. As much as can be said is that the trial judge granted less weight to some aspects of the evidence than the appellant wanted. Determination of the degree of weight to grant to individual pieces of evidence is for the trier of fact and is not amenable to review upon appeal from acquittal.

63. The majority of the BCCA found that the trial judge appropriately reviewed the evidence, and while she may not have referred to all of it in her reasons, there was no basis to infer that it was not given account. The majority of the BCCA found that the trial judge had made proper factual findings and applied those findings properly to the evidence.

64. The single misstatement did not skew the judge's engagement with the evidence.

(iii) Degree of care the respondent brought to his driving

65. The appellant says that the trial judge failed to grapple with the question of the degree of care the respondent brought to his driving measured against the modified objective standard. The respondent says that this is exactly what the trial judge did measure, given that this is precisely what the test is *Roy* and *Beatty* required her to measure. She took account of the totality of the circumstances, including the respondent's otherwise prudent driving, her factual conclusion that the respondent had a lapse of attention, her factual finding that the lapse of attention was for three to five seconds and was therefore momentary, and the setting where the accident occurred. From this the judge weighed whether the evidence disclosed a marked departure beyond a reasonable

doubt. She concluded it did not.

66. Far from failing to address this central question, it was exactly what the judge did address.

(iv) The trial judge gave full and appropriate consideration to the totality of the circumstances which informed the modified objective test

67. The appellant relies extensively upon the dissenting judgment of Willcock J.A. who felt that the judge failed to consider the totality of the circumstances. Ironically, Willcock J.A. explicitly recognized the restrictions on and perils of attempting to overturn a marked departure finding on appeal.[55] The respondent respectfully says that Willcock J.A. fell into this very error. As the majority of the BCCA found, the trial judge gave appropriate consideration to the totality of the circumstances.[56] The respondent submits that the judge properly considered the full circumstances advanced in the evidence. The respondent submits that the appellant is not saying that anything was ignored, but that it would have preferred that greater weight be granted to some aspects of the evidence. The appellant's position lacks merit.

(v) The modified objective test of the *mens rea* for dangerous driving

68. The respondent submits that, while the momentariness of conduct is clearly not determinative of the modified objective test for the *mens rea* of dangerous driving, neither is it irrelevant. It is a significant factor in circumstances which disclose a single error of judgment or lapse of attention. This position is supported by the judgments in *Beatty*, *Roy,* and *Chung*.

69. This appeals to common sense, since a brief moment of carelessness or an isolated error is the type of conduct which tends to fall lower on the spectrum of negligence, and thus is less likely to attract criminal liability, as this Court acknowledged in *Beatty*.[57]

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[55] BCCA Decision ¶84
[56] BCCA Decision ¶57
[57] *Beatty* ¶48

70. The respondent says that the trial judge was therefore correct to grant significant weight to her conclusion that the respondent suffered a lapse of attention and that the lapse of attention was momentary, in her determination of whether that the appellant had proven a marked departure beyond a reasonable doubt.

B. The Facts Do Not Support Guilty Verdicts

71. The appellant asserts that the undisputed evidence supports guilty verdicts. The appellant says that a reasonable driver would have foreseen the risks of not paying attention, and that in the circumstances the failure to do so was a marked departure.

72. By this reasoning, we would find guilty every person who, through careless driving, causes tragic results. That is not the law. Carelessness is dealt with in civil law and pursuant to provincial motor vehicle legislation.

73. Carelessness in the operation of a motor vehicle is a departure from the standard of a reasonable driver. Only when that conduct becomes a marked departure, as in *Chung,* do we visit criminal consequences upon the driver.

74. The trial judge made no palpable and overriding error in her findings of fact. She identified and applied the correct legal test to the totality of the circumstances. The majority of the BCCA found no reason to interfere. There is no basis for this Court to find otherwise in this appeal as of right. The appeal should be dismissed.

PART IV – SUBMISSIONS ON COSTS

75. The respondent does not seek costs and asks that no costs be awarded against him.

PART V – NATURE OF ORDER SOUGHT

76. The respondent submits that the appeal should be dismissed. In the alternative, if the appeal is granted, the respondent submits that the case should be remitted for a new trial, on the basis that the evidence is insufficient to necessarily result in conviction.

PART VI – PUBLICATION BAN

77. There is a publication ban that prohibits any person from publishing, transmitting, or broadcasting in any way any images of videos of the victims as depicted in the CCTV clips contained in Exhibit 3.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Mike Sobkin as agent for

Robert L Dick
Counsel for the Respondent

January 19, 2026
New Westminster, B.C.

PART VII – TABLE OF AUTHORITIES

NO.	AUTHORITY	PARAGRAPH
1.	*R. v. Beatty*, 2008 SCC 5	2, 22-23, 28, 31-32, 51-52, 56, 65, 68-69
2.	*R. v. Chung*, 2020 SCC 8	36, 51, 57, 59, 68, 73
3.	*R. v. De Ciantis*, 2011 BCCA 437	27
4.	*R. v. Hundal*, [1993] 1 S.C.R. 867	22
5.	*R. v. Roy*, 2012 SCC 26	5, 24, 26, 33-34, 51, 56, 58, 65, 68