

In the Court of Appeal of Alberta

Citation: R v Letendre, 2026 ABCA 292

Date: 20260910
Docket: 2503-0106A
Registry: Edmonton

Between:

His Majesty the King

Respondent

- and -

Brandon Lee Letendre

Appellant

The Court:

**The Honourable Justice Bernette Ho
The Honourable Justice Jane Fagnan
The Honourable Justice Kevin Feth**

Memorandum of Judgment Delivered from the Bench

Appeal from the Conviction by
The Honourable Justice R.P. Belzil
Convicted on the 21st day of February, 2025
(2025 ABKB 104, Docket: 220842231Q1)

Memorandum of Judgment

The Court:

[1] The appellant was convicted of second-degree murder following a judge-alone trial. The main issues at trial were identity and intent.

[2] Before this Court, the appellant advances three grounds of appeal.

[3] First, the appellant maintains the trial judge erred in his consideration of the *mens rea* required to support a second-degree murder conviction because the trial judge improperly relied on the common sense inference that a sane and sober person intends the natural consequences of their actions. Second, the appellant submits the trial judge's reasons were insufficient for finding murderous intent. Finally, the appellant submits the trial judge failed to engage in any meaningful way with the circumstantial evidence as it related to manslaughter versus second-degree murder and erred in his consideration of the principles from *R v Villaroman*, 2016 SCC 33. Further, the trial judge reversed the burden of proof by implicitly requiring the defence to adduce evidence displacing available inferences.

[4] In our view, none of the grounds of appeal invite appellate intervention.

[5] The trial judge reviewed key jurisprudence, including the Supreme Court of Canada's decision in *Villaroman*, which makes clear that for a trier to convict, they "must be satisfied beyond a reasonable doubt that the only rational inference that can be drawn from the circumstantial evidence is that the accused is guilty" and they must consider whether the "circumstantial evidence, viewed logically and in light of human experience, is reasonably capable of supporting an inference other than that the accused is guilty": *Villaroman* at paras 18, 38.

[6] Regarding specific intent, the trial judge reviewed *R v Hodgson*, 2024 SCC 25 and quoted paragraph 48 for the principle that second-degree murder requires proof beyond a reasonable doubt of subjective foresight. The trial judge also reviewed *R v Walle*, 2012 SCC 41 and quoted several paragraphs instructing the trier to carefully consider the whole of the evidence that could realistically bear on an accused's mental state at the time of the alleged offence, including that which points away from the permissive common sense inference, before resorting to that inference when deciding specific intent.

[7] The trial judge also identified his findings of fact which are owed significant deference. For example, he found that the victim, Elijah Cleaver, said something to the effect of "okay" in response to social workers knocking on his door shortly before he was killed. The trial judge also found that prior to leaving the apartment, Cleaver's girlfriend Sabrina Adams kissed him while he

was lying on his bed in the bedroom and he was not injured at that time. After Sabrina Adams left, the only remaining occupants were Cleaver and the appellant. In reference to the autopsy report and testimony of Dr Balachandra, the trial judge found Cleaver sustained two deep fatal stab wounds into his chest and abdomen, being vital areas of his body.

[8] The trial judge found there were no eyewitnesses to the interaction between Cleaver and the appellant, there was no evidence that the appellant was under the influence of alcohol or any other drug at the time of the offence, there was no medical evidence respecting the appellant's mental state and there was no evidence of the relationship between Cleaver and the appellant other than they were acquaintances.

[9] We are satisfied the trial judge considered the whole of the evidence as required by *Walle* before making a decision regarding the appellant's subjective intent. He was aware the Crown's case was based entirely on circumstantial evidence, which included the expert evidence of Dr Balachandra. We do not agree the trial judge used Dr Balachandra's evidence as being dispositive of whether the appellant had the necessary subjective intent for a second-degree murder conviction, nor do we agree that he applied the common sense inference and then reasoned backwards. We also do not accept the trial judge relied on the absence of evidence adduced or elicited by the accused to infer that specific intent had been proven, reversing the burden of proof. Rather, in noting the absence of evidence the trial judge was simply responding to matters that defence counsel submitted the court should consider when assessing specific intent based on the matters considered in *Hodgson*. The references to the absence of evidence formed part of the trial judge's explanation of the evidentiary picture on which he based his findings: *R v Stewart*, 2022 ONCA 726 at para 27.

[10] Finally, the trial judge's reasons, when reviewed in light of the record and counsels' submissions, are sufficient for appellate review and we do not accept the assertion that a functional review does not reveal the legal basis for the *mens rea* finding: *R v GF*, 2021 SCC 20 at paras 68-75. While the trial judge could have said more to support the statement that, "[o]n this evidentiary record, there was no plausible theory or reasonable possibility which is inconsistent with guilt", we are nevertheless satisfied that the reasons sufficiently reveal his pathway to conviction.

[11] In summary, the trial judge was well aware that a subjective foresight of death is required to support a finding of murderous intent and in reviewing the entirety of his reasons, we are

satisfied he did not rely on the common sense inference as a substitute for evaluating the appellant's subjective intent and did not err in the way he considered the circumstantial evidence.

[12] The appeal is dismissed.

Appeal heard on September 3, 2026

Memorandum filed at Edmonton, Alberta
this 10th day of September, 2026

Ho J.A.

Fagnan J.A.

Feth J.A.

Appearances:

D.E. Green
for the Respondent

L. Matalas
T. Shapka
for the Appellant