

Court of Queen’s Bench of Alberta

Citation: R v Candaele, 2021 ABQB 332

Date: 20210707
Docket: 200180834Q1
Registry: Calgary

Between:

Her Majesty the Queen

Crown

- and -

Ronald John Candaele

Accused

**Reasons for Judgment
of the
Honourable Mr. Justice D.B. Nixon**

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I. Introduction

[1] This trial concerns the death of Melissa Rae Blommaert (“**Ms. Blommaert**” or the “**Deceased**”).

[2] On February 10, 2020, Ms. Blommaert was found on the road shortly after 06:00 hours and transported by ambulance to the Foothills Medical Centre. The individuals who originally found Ms. Blommaert on the road thought she was dead. However, that determination was not

confirmed until the staff at the Foothills Medical Centre declared her dead at 06:55 hours that same morning.

II. General Principles

[3] In any criminal trial there are two fundamental principles. First, the accused is presumed to be innocent. He cannot be convicted unless the Crown has proved his guilt beyond a reasonable doubt. Second, the accused does not have to prove anything.

[4] In this case, Mr. Ronald John Candaele (“**Mr. Candaele**” or the “**Accused**”) did not testify. However, a number of his statements made outside of this trial are in evidence.

[5] I must bear in mind two linked sets of principles. Those concerning proof beyond a reasonable doubt and those concerning the assessment of circumstantial evidence.

A. Proof Beyond a Reasonable Doubt

[6] Mr. Candaele may only be convicted if, on all the evidence in the case, the trier of fact is not left with a doubt as to whether he is guilty of the charged offence: *R v Villaroman*, 2016 SCC 33 at para 35 [*Villaroman*].

[7] In a criminal trial, the burden of proof rests entirely upon the Crown, and the standard of proof is beyond a reasonable doubt. This means that Mr. Candaele does not have any obligation to explain inculpatory evidence or to disprove the Crown’s theory as to his guilt.

[8] The onus is always on the Crown to prove, beyond a reasonable doubt, the crime for which an accused has been charged. The Crown must prove each element of the offence to that evidentiary standard.

[9] In considering the issue of reasonable doubt, I am guided by the comments of Justice Cory in *R v Lifchus*, 1997 CanLII 319 (SCC), [1997] 3 SCR 320 at para 36, which can be summarized as follows:

- a. the standard of proof beyond a reasonable doubt is inextricably intertwined with that principle fundamental to all criminal trials, the presumption of innocence;
- b. the burden of proof rests on the prosecution throughout the trial and never shifts to the accused;
- c. a reasonable doubt is not a doubt based upon sympathy or prejudice;
- d. rather, it is based upon reason and common sense;
- e. it is logically connected to the evidence or absence of evidence;
- f. it does not involve proof to an absolute certainty;
- g. it is not proof beyond any doubt nor is it an imaginary or frivolous doubt; and
- h. more is required than proof that the accused is probably guilty – a jury which concludes only that the accused is probably guilty must acquit.

B. The Accused's Evidence

[10] Defence relies on Mr. Candaele's out-of-court statements which are in evidence and other evidence that they argue is exculpatory. Specifically, Mr. Candaele disagrees with the position of the Crown that his evidence should not be believed. Mr. Candaele further asserts that if I do not believe his evidence, then it at least raises a reasonable doubt.

[11] Mr. Candaele further asserts that the evidence necessary to support a finding of second-degree murder is not there. In particular, Mr. Candaele asserts that there is no clear-cut evidence that he said "I am going to kill". As a result, Mr. Candaele goes on to state that there is no evidence of an intent to commit murder.

[12] These assertions by Mr. Candaele conflict directly with the evidence on which the Crown is relying, and its assertions in respect thereof. This case, then, is a "**W(D)**" case: **R v W(D)**, 1991 CanLII 93(SCC), [1991] 1 SCR 742 [**W(D)**].

[13] In **R v Ryon**, 2019 ABCA 36 [**Ryon**], Justice Martin recently and helpfully recast the elements of the assessment of the totality of trial evidence under the reasonable doubt standard [**"Modified W(D)"**]. I am guided by paras 38, 51-53 of **Ryon**:

[38] It may be helpful to step back and consider the message intended to be delivered. In short, it is that when assessing exculpatory evidence jurors should understand that they have three choices, not two: they may accept the evidence, they may reject it, *or they may find themselves unsure whether the evidence is true or false*. In other words, there is a "third alternative" to confident acceptance or confident rejection and if they find themselves in this middle ground that usually means they have a reasonable doubt that must benefit the accused. In **R v. Edwards**, 2012 ONSC 3373 at para 20, Code J. observed:

[T]he so-called "second branch" of **W(D)** ... is an "alternative" to complete belief or complete rejection and arises where a trier cannot "resolve the conflicting evidence" and cannot find "exactly where the truth of the matter lay", as Morden J.A. and Martin J.A. put it in *Challice* and in *Nimchuk*. It refers to a state of indecision or uncertainty where the trier is not "able to select one version in preference to the other", as Cory J. put it in *W.D.S.*

[...]

[51] Then the charge should impart the following information:

(i) The burden of proof is on the Crown to establish the accused's guilt beyond a reasonable doubt and that burden remains on the Crown so that the accused person is never required to prove his innocence, or disprove any of the evidence led by the Crown. [...]

(ii) In that context, if the jury believes the accused's evidence denying guilt (or any other exculpatory evidence to that effect), or if they are not confident they can accept the Crown's version of events, they must acquit. [...]

(iii) While the jury should attempt to resolve conflicting evidence bearing on the guilt or innocence of the accused, a trial is not a credibility contest requiring them to decide that one of the conflicting versions is true. If, after

careful consideration of all the evidence, the jury is unable to decide whom to believe, they must acquit.

(iv) Even if the jury completely rejects the accused's evidence (or where applicable, other exculpatory evidence), they may not simply assume the Crown's version of events must be true. Rather, they must carefully assess the evidence they do believe and decide whether that evidence persuades them beyond a reasonable doubt that the accused is guilty. Mere rejection of the accused's evidence (or where applicable, other exculpatory evidence) cannot be taken as proof of the accused's guilt.

[52] Finally, where there are included offences or multiple charges, the trial judge must ensure the jury understands that a reasonable doubt with regard to one offence will not necessarily entitle the accused to an acquittal on all charges.

[53] Like *W(D)*, the foregoing is not intended to be an incantation that must be included in every trial where there is conflicting evidence to be resolved. Ultimately, the wording used is not critical so long as the trier is given sufficient information to understand the correct burden and standard of proof to apply: *W(D)* at para 30. See also *R v. Kristensen*, 2010 ABCA 37.

[14] In *R v Achuil*, 2019 ABCA 299, Justice Martin further clarified his comments in *Ryon*, noting that the phrase, "not confident they can accept the Crown's version of events", is not a legal standard: para 18. Rather, it may be safer to revert to the wording proposed in *R v Gray*, 2012 ABCA 51 at para 42(ii):

In that context, if the accused's evidence denying complicity or guilt (or any other exculpatory evidence to that effect) is believed, or even if not believed still leaves the jury with a reasonable doubt that it may be true, then the jury is required to acquit. [This quote from *Gray* was qualified in *Achuil*, where Justice Martin added], [a]gain subject to defences with additional elements such as an objective component: *Achuil* at para 18.

[15] I note that *W(D)* (as modified by *Ryon* and *Achuil*) offers a helpful road map, but it is not the only route. The purpose of *W(D)* is to ensure that triers of fact understand that a verdict must not be based on a choice between the evidence of the accused and the Crown, but on whether, based on the whole of the evidence, the trier of fact is left with a reasonable doubt about the accused's guilt: *R v Y(CL)*, 2008 SCC 2 at paras 6-8.

[16] A trial judge is not required to apply the *W(D)* formula in a sacrosanct manner in order to properly apply the burden of proof. The order in which a trial judge makes credibility findings of witnesses is inconsequential, provided the principle of reasonable doubt remains the central consideration: *R v Vuradin*, 2013 SCC 38 at para 21.

[17] However, to consider the accused's evidence only after finding that the Crown has proven their case beyond a reasonable doubt, shifts the burden of proof and thus contravenes the principles of *W(D)*: *R v DG*, 2019 ABCA 96.

[18] A related concept flowing from *W(D)* is that the trial is not a credibility contest requiring me to decide which story, or version thereof, I believe. I may believe a witness, disbelieve a witness, or be unable to decide.

[19] Justice Blair of the Ontario Court of Appeal specifically discussed the relationship between conflicting evidence and witness credibility in **R v B(D)**, 2011 ONCA 51 at para 114:

[114] What I take from a review of all of these authorities is that the principles underlying *W.(D.)* are not confined merely to cases where an accused testifies and his or her evidence conflicts with that of Crown witnesses. They have a broader sweep. Where, on a vital issue, there are credibility findings to be made between conflicting evidence called by the defence or arising out of evidence favourable to the defence in the Crown's case, the trial judge must relate the concept of reasonable doubt to those credibility findings. The trial judge must do so in a way that makes it clear to the jurors that it is not necessary for them to believe the defence evidence on that vital issue; rather, it is sufficient if – viewed in the context of all of the evidence – the conflicting evidence leaves them in a state of reasonable doubt as to the accused's guilt: *Chalice*. In that event, they must acquit.

[20] Therefore, if I am left with a reasonable doubt on all or any of the elements of the offence, arising from the credibility of witnesses, I must resolve such doubt in the accused's favour and acquit.

[21] Finally, it is important to recognize that the mere fact that the accused provides evidence does not make it exculpatory, and may not bring the evidence within the purview of **W(D)**. Justice Larlee, on behalf of the New Brunswick Court of Appeal, addressed this very issue in **Morningstar v R**, 2017 NBCA 39 at paras 10-12, and is worth repeating:

[10] The context for Mr. Morningstar's argument is as follows. Three days after the murder of Baylee Wylie, specifically on December 20 and 22, 2015, Mr. Morningstar provided two voluntary statements to the police. In the statements, he described his involvement in the events leading up to the death, the death itself, and the events subsequent to the death. He made wide-ranging statements about the assaults on Mr. Wylie, the death and the burning of the residence with Mr. Wylie inside. The statements were primarily inculpatory. Mr. Morningstar argues they were exculpatory with respect to murder, on the basis he stated "I'm not a murderer" and that the statements generally supported the defence of duress.

[11] We know the trial judge was alive to the issue of how to analyse Mr. Morningstar's evidence with respect to a possible *W.(D.)* instruction because at the pre-charge hearing with the lawyers he discussed it with them regarding both murder and arson. After a consideration of the context of the statements, the trial judge decided against it; he could not give such a direction with respect to the count of murder, but only for arson.

[12] I accept the Crown's submission there was no conflict of legal consequence in Mr. Morningstar's evidence such that it alone would support a reasonable doubt on a charge of murder. It cannot be said the statement "I'm not a murderer" is a source of reasonable doubt. Mr. Morningstar's statements of belief and opinion that he was not a murderer or that he felt compelled to participate, even if accepted by the jury, could not legally reduce the crime from murder. Said another way, this evidence was not capable of legally negating intent when all other facts were indicative of murder. Mr. Morningstar explained in his statements that he engaged in the beatings and stabbings of Mr. Wylie, albeit to a lesser extent than the others,

and he did not inflict the final blows. This portrayal of a minimization of participation did not constitute evidence which required the trial judge to give a *W.(D.)* instruction with respect to murder. In other words, even if I were to accept the *R. v. B.D.* jurisprudence from the Ontario Court of Appeal, this is not a case in which there was opposing evidence on a “vital issue”. In my view the trial judge made no error in the approach that he took in not giving a *W.(D.)* instruction to the jury with respect to murder.

[22] That said, a trier of fact may not treat disbelieved exculpatory evidence as positive evidence of guilt unless there is evidence, independent of the fact of falsity itself, that the statement was concocted or deliberately fabricated: *R v Selvanayagam*, 2011 ONCA 602 at para 27.

C. Circumstantial Evidence

[23] The Crown acknowledged at the outset of its argument that this is a circumstantial case. When the Crown’s case relies on circumstantial evidence, the rule in *R v Hodge*, 1838 CanLII 1 (FOREP), 168 ER 1136 [*Hodge’s Case*] provides an elaboration of the reasonable doubt standard: *Villaroman* at paras 25-26. This concern arises from the temptation of triers of fact to use inductive reasoning to draw inferences from unproven facts.

[24] Justice Cromwell, writing for a unanimous Supreme Court of Canada in *Villaroman*, identified that the use of circumstantial evidence by the trier of fact is about inference drawing, and cautioned against the trier of fact unconsciously filling the blanks, bridging gaps, or jumping to conclusions on the evidence to support the inference that the Crown suggests: paras 26, 29-31.

[25] A “succinct and accurate way” of conveying the proper approach to the drawing of an inference from circumstantial evidence is to instruct the trier of fact that an inference of guilt should be the only reasonable inference that such evidence permits: *Villaroman* at para 30.

[26] When assessing circumstantial evidence, the trier of fact should consider other “plausible theories” and “other reasonable possibilities” which are inconsistent with guilt. However, the Crown need not negate “ever possible conjecture, no matter how irrational or fanciful, which might be consistent with the innocence of the accused”, but rather only reasonable ones. “Other plausible theories” or “other reasonable possibilities” must be based on logic and experience applied to the evidence or the absence of evidence, not on speculation: *Villaroman* at para 37.

[27] As Justice Cromwell observed at para 42 of *Villaroman*, the Alberta Court of Appeal has provided a helpful statement of how to draw the line between “plausible theory” and “speculation” in *R v Dipnarine*, 2014 ABCA 328 at paras 22, 24-25:

[22] Circumstantial evidence does not have to totally exclude other conceivable inferences. If the trier of fact infers guilt because the alternatives do not raise a doubt in his or her mind, the verdict is not thereby rendered unreasonable, *ipso jure*. It is still fundamentally for the trier of fact to decide if any proposed alternative way of looking at the case is reasonable enough to raise a doubt in the mind[s] of that trier.

[...]

[24] Alternative inferences must be reasonable and rational, not just possible.... Reasonable doubt can arise from the absence of evidence. It is not error of law to give effect to such a doubt even if it does not have specific evidence backing it up...

[25] But the logic of the circumstantial evidence analysis is that if a trier of fact considers a postulated alternative interpretation of the circumstances taken as a whole to be unreasonable or irrational, the trier of fact is not bound to give effect to that alternative just because it is impossible to exclude it entirely. The law does not require such proof to absolute certainty...

[28] In *R v Soosay*, 2020 ABQB 748 at para 20, Justice Renke provided further additional guidance in relation to Justice Cromwell’s warning to avoid “speculation”:

[20] ... Providing a definition of “speculation” or set of criteria that distinguishes “speculation” from a reasonable inference is difficult. Both speculations and reasonable inferences concern possible factual conclusions from evidence. What separates them, perhaps most simply, is the reasonableness of the inference, from the standpoint of common sense and ordinary rationality. Whether a proposed inference is or is not reasonable depends on (e.g.)

- the evidence (or lack of evidence) claimed to support the inference, including the nature or scope and reliability of the supporting evidence
- the relationship of the supporting evidence to the claimed inference (“given this, we may infer that,” keeping in mind that an inference need not be based on “proven fact” (*Villaroman* at para 35))
- the relationship of the claimed inference to other evidence and other (reasonable) inferences arising from the evidence
- whether any assumptions of fact, themselves not supported by evidence, must be relied on to draw the claimed inferences
- the degree of complexity or coincidence required for the inference to be viable, keeping in mind that
 - human events may occur at intersections of coincidence – life may be surprising
 - reasonable inferences need not be the simplest or most easily drawn – “To hold otherwise would lead to the untenable conclusion that a difficult inference could never be reasonable and logical:” ...

[29] On the other hand, the rule in *Hodge’s Case* does not apply to an inference of intention. Therefore, the mere possibility that the accused could have lacked intent to kill is not sufficient to have precluded the trier of fact from relying on the “common-sense” inference of intent: *R v Walle*, 2010 ABCA 384 at para 12, affirmed in 2012 SCC 41; see also *R v Mitchell*, 1964 CanLII 42 (SCC), [1964] SCR 471 at 479-480; *R v Cooper*, 1977 CanLII 11 (SCC), [1978] 1 SCR 860 at 874.

[30] Throughout this decision, when I have drawn inferences from the proven evidence, I have drawn those inferences in careful consideration of those principles and cautions provided by Justice Cromwell in *Villaroman*.

[31] I have also drawn inferences with an awareness that the reasoning process of finding inferential facts is based upon inductive reasoning, albeit always being cautious of its weaknesses when it is not carefully regulated: see David M Tanovich, *Regulating Inductive Reasoning in Sexual Assault Cases*, 2017 CanLIIDocs 4027 at 75. For my purposes, while unnecessary to expound on the differences between inductive and deductive reasoning, I note the following comments made by Justice Labrenz in *R v Crier*, 2020 ABQB 20 at paras 26-27:

[26] ... it is enough for me to state that inductive logic involves making broad generalizations from specific observations. Deductive reasoning, on the other hand, involves testing a general theory or hypothesis by examining the underlying premises.

[27] Conclusions reached by deductive reasoning are always certain if the underlying premises are true. On the other hand, the decision maker or the trier of fact must exercise care with inductive reasoning, which offers predictions as to human behaviour based upon probabilities drawn from shared experience. Specifically, the trier of fact must take care to ensure that generalized conclusions concerning human behaviour apply specifically (with allowance for individual variance, culture, or other differences borne of social context), and that the resort to logic, human experience, and common sense is not a ready invitation to substitute critical thought with generalizations or upon other matters that were not in the evidence (stereotyping).

[32] Finally, in a circumstantial case, as in any case, I must consider the evidence as a whole and not piecemealed portions in determining whether the Crown has proved its case beyond a reasonable doubt: *R v Morin*, 1998 CanLII 8 (SCC), [1988] 2 SCR 345.

III. The Offence

[33] The formal charge reads as follows:

RONALD JOHN CANDAELE stands charged:

1. That he, on or about the 10th day of February, 2020, at or near Calgary, Alberta, did unlawfully cause the death of Melissa Rae Blommaert, thereby committing second degree murder, contrary to Section 235(1) of the Criminal Code of Canada.

[34] This case focuses on this single count. By way of further background, the relevant *Criminal Code* provisions are as follows:

- a. Section 222(1) a person commits homicide when he causes the death of a human being by any means, whether directly or indirectly.
- b. Section 222(2) homicide is either culpable or non-culpable, and under s. 222(4) both murder and manslaughter constitute culpable homicide.
- c. Section 222(5)(a) a person commits culpable homicide when he causes the death of a human being by means of an unlawful act.
- d. Section 222(5)(b) a person commits culpable homicide when he causes the death of a human being by means of criminal negligence.

- e. Section 229 culpable homicide is murder:
 - a. where the person who causes the death of a human being
 - (i) means to cause his death, or
 - (ii) means to cause him bodily harm that he knows is likely to cause death, and is reckless whether death ensues or not.
- f. Section 231(1) murder is first degree murder or second degree murder.
- g. Section 231(7) all murder that is not first degree murder is second degree murder.
- h. Section 234 culpable homicide that is not murder or infanticide is manslaughter.
- i. Section 235(1) every one who commits first degree murder or second degree murder is guilty of an indictable offence and shall be sentenced to imprisonment for life.

[35] The Crown must establish, beyond a reasonable doubt, the *actus reus* of murder – that is, the accused was a significant contributing cause of the victim’s death: **R v Nette**, 2011 SCC 78 at paras 71-72.

[36] The Crown must also establish the necessary *mens rea*. Under s. 229(a) of the Criminal Code, the crime of murder requires proof that an accused person possesses a specific state of mind, also known as specific intent.

[37] For culpable homicide to constitute murder, the burden is on the Crown to prove, beyond a reasonable doubt, one of two possible states of mind on the part of an accused. The Crown must prove either that the accused intended to cause the death of the deceased or that the accused intended to cause the deceased bodily harm, which he knew was likely to cause his death and was reckless whether death ensued or not.

[38] Recently, the Alberta Court of Appeal stated in **R v Newborn**, 2020 ABCA 120 at para 66:

[66] Murder is classified as a specific intent offence. The intent cannot be inferred merely from the fact of the killing. The significance of this classification is that where a person is unable to form the specific intent required to commit the offence of murder, then the offence is not proven beyond a reasonable doubt and the accused is guilty of manslaughter. That is, manslaughter does not require murderous intent: *R. v. Sarrazin*, 2011 SCC 54 (S.C.C.) at para 18. Manslaughter requires objective foresight of the risk of bodily harm which is neither trivial nor transitory; foreseeability of the risk of death is not required: *R. v. Creighton*, 1993 CanLII 61 (SCC), [1993] 3 S.C.R. 3, 83 C.C.C. (3d) 346 (S.C.C.); *R. v. DeSousa*, 1992 CanLII 80 (SCC), [1992] 2 S.C.R. 944, 9 O.R. (3d) 544 (S.C.C.).

[39] To meet this burden, the Crown need not prove both states of mind or intentions. One is sufficient. If Mr. Candaele did not mean to do either, he committed manslaughter.

IV. Matters Not in Issue

[40] Mr. Candaele admitted several facts pursuant to Section 655 of the *Criminal Code* for the express purpose of dispensing with formal proof.

[41] The concessions made by Mr. Candaele in the Agreed Statement of Facts, established the following elements beyond a reasonable doubt:

- a. the identity of the Accused, which is Mr. Candaele;
- b. the date on which the death occurred, which is February 10, 2020;
- c. the identity of the deceased, being Ms. Blommaert; and
- d. the jurisdiction in which the death occurred, which is Calgary, Alberta.

[42] Notwithstanding Mr. Candaele's concessions, I note the supporting particulars for the record.

[43] The individual before the Court identified as Ronald John Candaele is the same individual named as the Accused in the Indictment. To this extent, the identity of the Accused is not in issue.

[44] Ms. Blommaert is the deceased identified in Count 1 of these proceedings. She was born on February 9, 1987 and died on February 10, 2020, in Calgary, Alberta, at the age of 33.

[45] On the day of the events in question, being February 10, 2020, Mr. Candaele and Ms. Blommaert were together in the U-Haul truck (the "**U-Haul Vehicle**"). They were the only people present in that vehicle.

[46] In relation to identification, Mr. Candaele admits in the Agreed Statement of Facts that he was the driver of the U-Haul Vehicle on the early morning of February 10, 2020.

V. Legal Issues

[47] Broadly speaking, the outstanding issues that I must decide are as follows:

- a. Did Mr. Candaele murder Ms. Blommaert? Specifically, and framed as questions, has the Crown proven the following essential elements beyond a reasonable doubt:
 - i. Did Mr. Candaele cause Ms. Blommaert's death?
 - ii. Did Mr. Candaele cause Ms. Blommaert's death unlawfully?
 - iii. If so, did Mr. Candaele have the state of mind required for murder?
- b. If the Crown fails to prove that Mr. Candaele murdered Ms. Blommaert, has the Crown proven that Mr. Candaele committed culpable homicide because of an unlawful act?

VI. The Evidence

A. Preliminary Comments: Credibility and Reliability

[48] As with any hearing in this Court, the facts are the most important aspect of the case. The rules of evidence control the facts that come before the Court: see Sopinka, Lederman and Bryant, *The Law of Evidence in Canada*, 5th ed (Toronto: LexisNexis, 2018) at para 1.1 [Sopinka]. In this case, the findings turn on the facts in evidence, including the Exhibits that were entered into the trial proper, certain fundamental principles in law, and common sense.

[49] In every trial, the trier of fact needs to assess the evidence by reference to credibility, reliability and weight.

[50] The term “credibility” tends to be used to describe the honesty of the witness, or the witness’s readiness to offer truthful testimony: *D(S) v Ontario (Criminal Injuries Compensation Board)*, 2010 ONSC 2562 at para 13; see also *R v Norman*, 1993 CanLII 3387 (ONCA), [1993] OJ No 2802 (ONCA).

[51] As the trier of fact, it is up to me to decide whether a particular witness is telling the truth and to determine the appropriate weight to place on the evidence: *R v Thain*, 2009 ONCA 223 at para 32. If a witness is of bad character, there is an indication that the witness is tarnished, or the testimony of a witness is inconsistent, I will reduce the weight which I assign to his or her evidence. Similarly, if a witness is particularly motivated to help one side, demonstrates credibility challenges by offering inconsistent or inherently unlikely testimony, or is unable to respond to appropriate questions during cross-examination, I will reduce the weight that I assign to his or her evidence.

[52] The concept of reliability recognizes that even an honest witness can be mistaken. Testimony may be “unreliable” because the witness had a poor opportunity to observe the factor about which he or she is testifying, and, therefore, could be mistaken.

[53] A few examples illustrate reliability concerns: (i) a witness may not understand what they observed or may not remember accurately what was observed; (ii) a witness may not be able to communicate observations accurately because of poor communicative abilities or language problems; (iii) a witness may allege a particular element poorly in the testimony in circumstances where that element is not adequately clarified by counsel; and (iv) a witness may not realize that the foundation underlying their evidence is not well grounded. Ultimately, the less reliable the evidence, the less weight I will give it.

[54] Even if I believe the evidence, I may determine that it is of more or less importance. Some evidence is enormously informative because: (i) it addresses an issue of importance in the case; and (ii) it is cogent because it strongly supports the conclusions drawn from it.

[55] It is important to note that the law of evidence tends to address admissibility. In contrast, the evaluation or weighing of evidence is typically left to my common sense. I apply that common sense in my capacity as the trier of fact.

[56] I will discuss the credibility and reliability of the witnesses in my review of the evidence given and in my analysis. Concerning Mr. Candaele, I will discuss his credibility and reliability as I review the various statements that he made, and which are in evidence.

B. Agreed Statement of Facts

[57] On December 1, 2019, the Accused and Ms. Blommaert were married in Calgary, Alberta. They remained married until the death of Ms. Blommaert on February 10, 2020.

[58] Ms. Abby Pohran resides 8039 34 Avenue NW. She was alone at home on the night of February 9, 2020. Her husband, Mr. Chris Pohran was not at 8039 34 Avenue NW that night, and was staying at the Mustard Seed Shelter in Calgary, Alberta (the “**Mustard Seed Facility**”). In particular, Mr. Chris Pohran was at that the Mustard Seed Facility from 16:23 hours on February 9, 2020 to 07:25 hours on February 10, 2020.

[59] The U-Haul Vehicle was rented by Ms. Blommaert on February 2, 2020, and it was in her possession until February 10, 2020.

[60] On the evening of February 9, 2020, Ms. Blommaert and Mr. Candaele had loaded all of their property into the U-Haul Vehicle because they had recently been evicted from their apartment. As a result, all of the material possessions of Ms. Blommaert were located in the back-storage portion of the U-Haul Vehicle.

[61] As noted above in relation to identification, Mr. Candaele was the driver of the U-Haul Vehicle on the early morning of February 10, 2020.

[62] At 11:57 hours on February 10, 2020, Mr. Candaele parked the U-Haul Vehicle in the Safeway parking lot located at 8120 Beddington Boulevard NW and left the area. The U-Haul Vehicle remained at this location until police arrived and took continuity of the U-Haul Vehicle.

[63] Mr. Gurmeet Sra is employed as a taxicab driver for Checker Yellow Cabs. Mr. Sra was dispatched to pick up Mr. Candaele at 6512 Bowness Road NW on February 10, 2020. Mr. Sra picked up Mr. Candaele at 08:31 hours on that date. He wanted to go to the McDonald’s near Canada Olympic Park, but changed his mind on the way to that location. Instead, Mr. Candaele wanted to be dropped off at the U-Haul located at 8420 Bowfort Road NW.

[64] Mr. Sra dropped Mr. Candaele off at the U-Haul location at 08:36 hours on February 10, 2020. He told Mr. Sra that his wife was missing.

[65] After the police took continuity of the U-Haul Vehicle, a mechanical inspection was completed on the unit. No mechanical faults were found in the vehicle.

[66] The undercarriage of the U-Haul Vehicle was swabbed by Calgary Police Service. One swab was collected on the undercarriage of the U-Haul Vehicle in the area of the rear differential (the “**Rear Differential Swab**”). The DNA analysis from the Rear Differential Swab was confirmed to match the DNA sample taken from the Deceased post mortem. The probability of the two DNA samples matching at random is 1 in 4.2 quintillion.

C. Overview of the Evidence

[67] This trial was originally scheduled for fifteen days in April and May of 2021. Not all fifteen days were required to deal with the trial. Closing submissions took place on May 6, 2021.

[68] The Crown called 23 witnesses during trial, including eight police officers, one paramedic, one 911 call-taker, one medical expert, one probation officer, and eleven civilian witnesses. The Accused did not testify in his defence.

[69] The majority of exhibits relied on by the Crown were entered by consent. These include:

- the Agreed Statement of Facts, which admitted the following closed-circuit television (“CCTV”) recorded on February 9 and February 10, 2020:
 - Space Place NW Self Storage, 118 Bowridge Drive NW;
 - Petro-Can, 8420 Bowfort Road NW;
 - McDonald’s, 8235 Bowridge Crescent;
 - 7-Eleven Store, 6306 Bowness Road NW; and
 - 8104 33 Avenue NE.
- the Agreed Statement of Facts, which admitted the following in-car digital video recorded on February 9 and February 10, 2020:
 - Calgary Transit Authority; and
 - Checker Yellow Cab #1585.
- The Agreed Statement of Facts, which admitted the following time stamp discrepancies corrections:
 - Checker Yellow Cab #1585 was 1 hour and 37 minutes ahead of the actual time;
 - Sentinel Storage, 36 Bowridge Drive was 2 hours and 15 minutes ahead of the actual time;
 - Shell Gas Station, 100-8435 Bowfort Road NW was five minutes behind the actual time;
 - Beddington Town Centre Safeway, 8120 Boulevard NW was 7 hours and 48 minutes ahead of the actual time; and
 - 8040 34 Avenue NW was one minute behind the actual time.
- the medical examiner’s autopsy report as well as the related autopsy photographs;
- photographs taken by members of the CPS of the crime scene;
- photographs taken by members of the CPS of the U-Haul Vehicle undercarriage;
- U-Haul Vehicle mechanical report;
- Mustard Seed Registration;
- Marriage Record of Mr. Candaele and Ms. Blommaert;
- maps of the crime scene and surrounding area; and
- CCTV from Sentinel Storage and Space Place.

[70] The following exhibits were contested by Mr. Candaele and admitted only after their admissibility was determined in *voir dire*:

- the 911 call of Mr. Candaele and the corresponding transcript;
- telephone call with probation officer Jonathan Shevalier and corresponding transcript;
- Body Worn Camera footage worn by Cst Jefferey Black of the arrest of Mr. Candaele and corresponding transcript;
- Agreed Statement of Fact regarding Det Witt and attached arrest script; and
- Accusatory Interview by Dets Witt and Bangloy and corresponding transcript.

[71] I offer a summary of some of the evidence I heard during trial. I do not propose to summarize all the evidence, but I have considered it all.

D. Crown Witnesses

1. Lay Witnesses

a. Cst Aaron Douglas Bridge

[72] Cst Bridge testified that he is a member of the Calgary Police Service, and has been for over 10 years. He is currently with the Traffic Response Unit.

[73] Cst Bridge was working as a police officer on February 10, 2020, and was involved in an investigation of a deceased person who was found on 34th avenue between 79th and 80th Street NW, in Calgary (the “**34th Avenue Scene**”). He arrived at the 34th Avenue Scene at 10:45 hours on February 10, 2020. The body of the deceased had been removed by that time.

[74] Cst Bridge was assigned as the collision scene photographer on that day. In that capacity, he was tasked with the responsibility to take all-encompassing, comprehensive photos of the 34th Avenue Scene.

[75] When Cst Bridge arrived at the 34th Avenue Scene, the collision reconstruction bus of the Calgary Police Service was already on-site. That bus carries all the photography equipment that a collision scene photographer requires. He testified that he went into the bus, set up the camera and began taking photos of the 34th Avenue Scene almost immediately.

[76] The body of the deceased was situated near the center of the road at the 34th Avenue Scene (the “**Body Location**”). There was a pool of blood near the Body Location, and a set of eyeglasses.

[77] On cross-examination, Cst Bridge testified that he was not being directed by anyone with respect to the photographs that were taken at the 34th Avenue Scene. His determination as to what photos to take was based on his training. However, Cst Bridge also testified that it was his practice to ask the collision reconstructionist if there was anything extra that they may want included in the photograph coverage.

[78] I found Cst Bridge to be both a credible and reliable witness.

b. Shyanne Maree Hilson

[79] Ms. Hilson resides at 8015-34th Avenue, NW Calgary. She has lived there for 34 years, which is her entire life. She described the area, which was a typical suburban area of Calgary. There are stand alone houses, and a park in the area.

[80] On the morning of February 10, 2020, Ms. Hilson left her house for work. She departed her house just before 05:30 hours, which was typical. She had a City bus to catch.

[81] Ms. Hilson testified that it was dark and cold. She also stated that there was a streetlight at the edge of her property, which would have provided some light.

[82] Upon leaving the house, Ms. Hilson exited by way of her front door and started walking east on 34th Avenue NW, towards 79th Street NW. She looked both ways to cross the street, at which time she noticed something on the road. At the time, it just looked like something that had been dumped. It looked to be a dark bundle (the “**Dark Bundle**”).

[83] Since she was running late that day, Ms. Hilson did not take the time to check the unknown Dark Bundle. She thought it was a garbage bag or something similar that some had dumped onto the road.

[84] Given that context, Ms. Hilson testified that she continued to walk towards 79th Street NW en route to the bus stop on Bowness Road.

[85] During direct examination, Ms. Hilson drew on a map the location of the Dark Bundle, and indicated the direction in which she was walking.

[86] In cross-examination, Ms. Hilson testified that she did not hear any voices during the night. In response to further questions, she stated that she was a sound sleeper.

[87] I found Ms. Hilson to be both a credible and reliable witness.

c. David John Samuelson

[88] Mr. Samuelson works for a large oil and gas producer, in the completions group. He is 55 years old. He has worked in the oil and gas business since approximately 1987, for both the ERCB (as it then was) and large producers.

[89] Mr. Samuelson has lived in Calgary since 1983. He lives in a house at 8040-34th Avenue, and has lived there since 1997.

[90] Mr. Samuelson testified that he heard some commotion in the front of his house during the middle of the night. He did not look at the clock to note the time. He stated that he just heard some yelling, and then went back to sleep.

[91] The dialogue that Mr. Samuelson testified he heard was a male voice saying “fuck you”. He then heard a vehicle door slam, and the vehicle drove away. He again confirmed these points during cross-examination. While he did not suggest that he got up to view the disturbance, he referred to the vehicle as being a car. In cross-examination, Mr. Samuelson confirmed that when he heard the noise he did not even open his eyes.

[92] While Mr. Samuelson testified that he thought he heard the commotion at between 03:00 and 04:00 hours on February 10, 2020, that was purely a guess. He further testified that he got up at approximately 5:15 am on that day.

[93] After getting ready to depart for work, Mr. Samuelson went out to the garage behind his house and got into his wife's car at approximately 06:02 hours on February 10, 2020. He testified that he exited the garage in the vehicle and drove through the back alley to the front along 80th Street NW. He was going to turn left onto 34th Avenue NW, but waited for another vehicle coming towards him to turn right. Once that other vehicle turned onto 34th Avenue NW, Mr. Samuelson turned and followed that vehicle down the road. That other vehicle in front of Mr. Samuelson stopped, and the driver got out, and waved Mr. Samuelson down. There was a body in the middle of the road on 34th Avenue NW, between 79th Street and 80th Street NW, which I defined above as the 34th Avenue Scene.

[94] Mr. Samuelson testified that the body was facedown, and it was perpendicular to the sidewalks. He further testified that the body had a black jacket on, which was kind of pulled up over her head.

[95] Mr. Samuelson testified that the other driver dialled 911 on his cellphone, and put it on speakerphone. The 911 operator (the “**First 911 Operator**”) asked them to try and wake the person. The First 911 Operator then asked Mr. Samuelson and the other driver to flip the individual over.

[96] Mr. Samuelson testified that they realized it was a female after they rolled the body over. It was at that point that he noticed blood on the road, which had pooled underneath of her.

[97] The other driver checked for a pulse on the female. No pulse was detected. Mr. Samuelson testified that she was cold. When asked, he could not remember particulars about the weather, but he indicated that it was fairly cold that morning. Concerning the female, he testified that she was cold, her lips were all blue and the ends of her fingers were clasped tightly, with her thumbs outward.

[98] Mr. Samuelson has a number of video cameras on the outside of his residence. He provided the video from the relevant video cameras to Calgary Police Service. He acknowledged that his video surveillance skipped approximately 30 seconds of coverage on the morning of February 10, 2020, and that there was some time drift on the video. Concerning that time drifting, he testified that the time stamp could drift five to ten minutes over a six-month period.

[99] In cross-examination, Mr. Samuelson testifies that he believed the fire department arrived first, followed very shortly thereafter by the ambulance. He did not state when the police arrived, but he did state that there were a lot of vehicles coming to the 34th Avenue Scene, accompanied by a number of first responders.

[100] In cross-examination, Mr. Samuelson also testified that his house was approximately three to four houses west of where the body was found. His house is on the corner of 34th Avenue and 80th Street.

[101] In cross-examination, Mr. Samuelson confirmed that he reviewed the CCTV video footage before he gave it to the Calgary City Police. During that review, he saw the U-Haul Vehicle back-up, and then the camera clips-out briefly. Mr. Samuelson explained that the camera clips out from time to time, and does not record because it is a wireless camera. That explanation was not challenged.

[102] I found Mr. Samuelson to be both a credible and reliable witness.

d. Jeremy Christopher Loewen

[103] Mr. Loewen is 49 years old, and has lived in Calgary all of his life. He describes himself as an inventor.

[104] Mr. Loewen resides at 8123-34th Avenue NW. He has lived there seven years.

[105] Mr. Loewen testified that on February 10, 2020, he woke-up and prepared to leave for work. He typically leaves home for work at between 05:30 hours and 06:00 hours every day.

[106] On the morning of February 10, 2020, Mr. Loewen left his garage and entered the back-alley. He proceeded to 34th Avenue NW. As he was driving down that avenue, Mr. Loewen saw what initially looked like a large black garbage bag in the middle of the road. I described that item above as being the Dark Bundle.

[107] Mr. Loewen was going less than 30 km an hour when he spotted the Dark Bundle. He testified that he stopped because he was going to put the Dark Bundle to the side so no other vehicle would hit the object.

[108] Upon exiting his vehicle, Mr. Loewen realized that the Dark Bundle was not a garbage bag. I infer from his testimony that it was at this point he realized that the Dark Bundle was a

body. He described the body as being curled up, similar to the fetal position, and dressed in black clothing.

[109] Mr. Loewen also testified that people were driving down 34th Avenue NW. As a protective step, he moved his vehicle to protect the body. In addition, Mr. Loewen positioned his vehicle so that his headlights provided better lighting of the 34th Avenue Scene. He does not remember the streetlights being on, and he confirmed that in cross-examination.

[110] Mr. Loewen testified that Mr. Samuelson then came to assist. At that time, Mr. Loewen was on the phone with the First 911 Operator. In cross-examination, Mr. Loewen testified that the First 911 Operator asked him to check the body for vital signs. At some point during this process, Mr. Samuelson further assisted Mr. Loewen by stopping traffic.

[111] Mr. Loewen testified that the First 911 Operator asked whether he could administer resuscitation to the individual. In response to that question, Mr. Loewen testified that he told the First 911 Operator that the individual had passed. I infer that he made this determination because, as he testified, her skin was blue, the ends of her fingers were curled, and she had no detectible pulse.

[112] Mr. Loewen also testified that when the First 911 Operator asked if he could give her resuscitation, he responded that there was no point. I infer that he made this determination because, as he testified, her eyes were in the back of her head, she was blue and stiff.

[113] In cross-examination, Mr. Loewen testified that the first support personnel to arrive on scene were the Calgary Police Officers. He also stated that the ambulance arrived shortly thereafter. He further testified that once the Calgary Police Service arrived, his contribution at the 34th Avenue Scene effectively ceased.

[114] In cross-examination, Mr. Loewen testified that a Police Officer asked Mr. Loewen to wait in his vehicle. That same Police Officer subsequently asked Mr. Loewen if he took any pictures. Upon being informed that he had, the Police Officer asked Mr. Loewen to send the photos to him. As a final comment on direct examination, he confirmed that had heard nothing out of the ordinary during the early hours of February 10, 2020.

[115] I found Mr. Loewen to be both a credible and reliable witness.

e. Cst Jefferey Black

[116] Cst Black is a member of the Calgary Police Service, and has been for six years. He works in District 2, which covers the Bowness area in the northwest quadrant of the City.

[117] Cst Black testified that he was on general patrol duty on the morning of February 10, 2020. Cst Petersen was with him in the police vehicle. They had been responding to an unrelated call that morning, and were driving into the Bowness area.

[118] They were interrupted by a priority call involving an unresponsive, unconscious female who had been found by two citizens in the area of 80th Street and 34th Avenue NW, which I defined above as the 34th Avenue Scene. Upon receipt of that priority call, they were immediately redirected from the unrelated call and proceeded with lights and sirens to the 34th Avenue Scene.

[119] Cst Black testified that Cst Petersen and he approached the 34th Avenue Scene, heading from east to west. He testified that it was early morning and it was dark, but the street lamps “provided a well-lit area”.

[120] As he approached the 34th Avenue Scene, Cst Black observed two men standing on the road, as well as what he now knows to be the Deceased. He testified that the victim was lying on the centre of the road in front of the residence with the address of 8024 - 34th Avenue NW.

[121] Cst Black testified that immediately after he exited his police car on arrival at the 34th Avenue Scene, he directed his partner, Constable Petersen, to approach the two assisting citizens who would become witnesses. He proceeded straight to the victim. The head of the victim was facing west and the feet were facing east.

[122] Cst Black noted that the victim was lying on her back. There was a severe laceration to her scalp, a portion of which was peeled back. He testified that blood had pooled around the victim, and that the individual was unresponsive.

[123] Cst Black testified that he conducted a pulse check on the victim, but could not detect anything. He also shone his flashlight in her eyes, but the pupils were fixed and unresponsive to light. At about that time, Emergency Medical Services (“EMS”) arrived on scene and took over care of the victim.

[124] Cst Black estimated the EMS arrival to be approximately 06:15 hours. The EMS personnel conducted further medical interventions, packaging the victim and placing her in the ambulance.

[125] In cross-examination, Cst Black testified that once he had made a preliminary determination that the victim was deceased, he cordoned off the road so no traffic could get in or out, but for first responders. He again indicated that the street lights were on when he arrived at the 34th Avenue Scene.

[126] Cst Black testified that he directed his partner, Cst Petersen, to maintain continuity of the victim. He testified that he gave this direction because he believed the victim was deceased at that time. I infer that he took that step to ensure that he was protecting the continuity of the body for evidentiary purposes. He also testified that prior to the arrival of the other first responders, only Mr. Samuelson, Mr. Loewen, Cst Petersen and he were at the 34th Avenue Scene.

[127] Cst Black started coordinating resources and further cordoned off the 34th Avenue Scene. He directed the Calgary Fire Department unit to apply police scene tape to the east and west ends of the road. He updated his street sergeant as to what he had found.

[128] Cst Black also began to coordinate other resources at the 34th Avenue Scene. He testified that he remained on scene: (i) directed other first responders who were coming into the area; (ii) located closed-circuit video footage from one of the residences along the street; (iii) directed police units to investigate the possible video footage; and (iv) updated another member of the Calgary Police Force who came to maintain continuity on the other end of the 34th Avenue Scene area. This latter step allowed the Calgary Fire Department to be relieved of their duties.

[129] Cst Black testified that he took photos of the 34th Avenue Scene also. He stated that he did so to better ensure that evidence was not lost. He also instructed Cst Petersen to take pictures of the victim's shoes. He stated that Cst Petersen was at the hospital with the victim when he

made that request. Cst Black expanded a search of the area around the 34th Avenue Scene to include the adjoining green space and alleys.

[130] Cst Black learned at approximately 06:56 hours on February 10, 2020, from Cst Petersen, who had maintained continuity of the victim, that doctors at the hospital had declared Ms. Blommaert deceased.

[131] At 11:00 hours on February 10, 2020, Cst Black was advised by a senior officer that he could clear the 34th Avenue Scene. He then headed back to the District 2 office of the Calgary Police Service, and completed his notes and Will State.

[132] I found Cst Black to be both a credible and reliable witness.

f. Cst Danielle Anne Louisa Petersen

[133] Cst Petersen is a member of the Calgary Police Service, and has been for approximately 23 months. She works in District 2, which includes the Bowness and Sunalta areas of the City.

[134] Cst Petersen testified that Cst Black and her were on their way to an unrelated call when they received a medical-collapse call at approximately 06:05 hours on February 10, 2020. She stated they were informed that there was an unresponsive female found lying in the middle of the road.

[135] Cst Petersen testified that Cst Black was driving a marked police vehicle, and that both of them were in full uniform. They drove to the 34th Avenue Scene.

[136] Cst Petersen testified that they arrived on scene in the early morning, and that it was still dark out. She also stated that streetlights were on, which allowed her to make out the people over a block away.

[137] Cst Petersen provided an overview of her actions when she arrived on scene. She testified that when they exited the police car at the 34th Avenue Scene, Cst Black went directly to the female victim. At that time, Cst Petersen engaged the two citizens who were on scene. She then obtained police tape, and started taping off the area. At about that time, she testified that Cst Black instructed her to hold continuity of the female victim. From that point, she maintained continuity of the female victim.

[138] Cst Petersen provided an overview of that continuity. She testified that she watched as EMS and fire department personnel provided medical aid, and placed the female victim into the back of the ambulance on a stretcher. As part of that continuity, Cst Petersen climbed into the back of the ambulance. While in the back of the ambulance, she assisted EMS personnel in their attempt to provide CPR to the female victim.

[139] The ambulance drove to the Foothills Medical Centre, and Cst Petersen testified that she watched as medical staff gave the female victim further medical assistance. She also observed that the female victim had a large gash on her forehead, being at least five inches in length. Cst Petersen testified that it looked like the gash penetrated to the skull bone.

[140] Ultimately, a doctor declared the female victim deceased at 06:55 hours on February 10, 2020.

[141] Cst Petersen testified that she stayed with the female victim the entire time. During her continuity of the female victim, Cst Petersen observed injuries on her. She maintained continuity of the female victim until the medical examiner took possession of the body.

[142] Cst Petersen seized items and clothing of the female victim, and looked for identification. She conveyed all of the seized items to the Westwinds Property Room and booked them into the Calgary Police Service system. She testified that the only exception was a key chain, which she gave to Cst Fraser.

[143] Cst Petersen testified that the key chain had several keys on it, including a key fob and what appeared to be a vehicle key. She also testified that she found the keys in the front left pocket on the top inside of the fur jacket that the female victim was wearing.

[144] Once the medical examiner had taken possession of the body, Cst Petersen returned to the District 2 office of the Calgary Police Service office. Upon returning to District 2, she typed her notes.

[145] Cst Petersen was not cross-examined by Defense Counsel. I draw no inference from that decision.

[146] I found Cst Petersen to be both a credible and reliable witness.

g. Robert Jonathan Cloherty

[147] Mr. Cloherty is 26 years old. He is employed as an Emergency Medical Technician (“EMT”) at Alberta Health Services, also known as a paramedic. He has been employed as an EMT for two years.

[148] The area of practice of Mr. Cloherty is as an advanced care paramedic. He attends scenes when people are in distress or in need of help. He treats a patient’s needs and transports them to a hospital. The treatment he provides depends on what the patient’s health needs require.

[149] On February 10, 2020, Mr. Cloherty had just started his shift at 06:00 hours. As was typical, he arrived at work approximately 15 minutes early on that day. His ambulance got called out shortly after 06:00 hours.

[150] Mr. Cloherty was riding as the “third” on February 10, 2020. Although paramedics normally work in pairs, he was returning back to full duties from a previous workplace injury. As a result, he was situated in the airway chair of the ambulance, which is in the patient compartment. The airway chair swivels, so he was able to see the windshield through a two-foot “window” as they were traveling.

[151] When Mr. Cloherty and the other two paramedics arrived at the 34th Avenue Scene, he testified seeing members of the Calgary Police Service and Calgary Fire already on location. When asked about the lighting in direct examination, he testified that there were “run-of-the-mill streetlights”, and that those lights were on. That said, he commented that the ambulance has its own floodlights, which the paramedics use to ensure their safety and the safety of the scene.

[152] In cross-examination, Mr. Cloherty stated that the vehicle floodlights come on automatically when the side door of the ambulance is opened. He confirmed that occurred in this case because he remembered exiting by way of the side door of the vehicle.

[153] In further cross-examination, he remembered there being an adjacent street, and seeing the streetlights on that street. He also remembered the 34th Avenue Scene being lit enough that the paramedics could assess the situation. However, during that cross-examination he retreated a bit because he did not recall looking at the streetlights on the 34th Avenue Scene avenue to confirm if they were on.

[154] As the paramedics approached the 34th Avenue Scene, they found the female victim lying on the ground. Mr. Cloherty testified that they started to work on the female victim in accordance with normal protocol. However, the female victim was outside, and it was cold. Notwithstanding that, the paramedics started chest compressions.

[155] Mr. Cloherty testified to the injuries that he first observed on the female victim. The first injury that he observed was a laceration on the forehead of the victim. While he testified that it was not actively bleeding, there was a pooling of some blood underneath her head. Those were the initial injuries prior to the paramedics carrying out a full review, which included stripping, palpating and assessing.

[156] Mr. Cloherty testified that he had returned to the ambulance to obtain medical equipment. As he started preparing the medical equipment, Calgary Fire Department personnel came around to the back door of the ambulance and removed the stretcher. Shortly thereafter, the other two paramedics and a firefighter arrived in the back of the ambulance with the female victim on the stretcher. The efforts at compression continued throughout.

[157] Once the female victim was in the ambulance, a full review was carried out. The paramedics stripped the female victim and started assessing her. Mr. Cloherty testified that one of the factors that stood out was the unstable pelvis of the female victim. When the paramedics palpated the pelvis, there was some crepitation.

[158] Mr. Cloherty explained that palpate is the hands-on physical touching by paramedics. It is assessment technique that is used to feel for any broken bones, dislocated joints, and anything that is not anatomical. In this case, he testified that the assessment indicated that the pelvic bones were “kind of rubbing together”.

[159] Mr. Cloherty also testified that the female victim had a large contusion on her right lower abdominal quadrant. Throughout the assessment, the paramedics identified abrasions and lacerations. Again, none of them were actively bleeding. That said, the main focus of the paramedics at that time was on lifesaving interventions.

[160] Mr. Cloherty testified that the paramedics continued with their protocols, including with their normal medical interventions. During this process, the paramedics transported the female victim, with lights and sirens, to the Foothills Medical Centre. At the hospital, Mr. Cloherty testified that the paramedics effected a hand-over, and worked collaboratively with the triage and the code room team concerning the patient.

[161] En route to the Foothills Medical Centre, the paramedics administered care to the female victim. Mr. Cloherty testified that the protocol in this case included advanced cardiology life support. They administered an interosseus route, which is essentially an intravenous infusion that goes into the bone. It is an access port for medications.

[162] The paramedics gave the female victim epinephrine because she had low sugar. Mr. Cloherty further testified that they gave sugar in accordance to their protocols, which was a half dose because of a possible head injury. They also administered sodium bicarbonate because of the unknown down time of the female victim. Mr. Cloherty also stated that they treated other injuries, including the laceration on the forehead.

[163] As a result of the handover of the patient to the hospital, the work of the paramedics concerning the female victim ceased. At that time, the paramedics cleaned up their stretcher, and did some paperwork. The paramedics were notified by the Calgary Police Service to write out a

witness statement, which they did. The paramedics then continued on with their normal working day.

[164] I found Mr. Cloherty to be both a credible and reliable witness.

h. Terry LaChance

[165] Mr. LaChance formerly worked at a warehouse in Strathmore, Alberta. He is currently living on support from the Workers Compensation Board.

[166] On the evening of February 9, 2020, Mr. LaChance spent the night at his girlfriend's place. While he could not remember the address of his girlfriend's house, it was later admitted into evidence as being 8032-34th Avenue NW.

[167] Mr. LaChance testified that he was woken up by yelling at approximately 04:00 hours. I infer that Mr. LaChance estimated this approximate time because he subsequently testified that he did not look at the time when he was awakened up by the yelling. On cross-examination, he confirmed that it was a male voice that was doing the yelling. Concerning the yelling that he heard, Mr. LaChance testified that his girlfriend always slept with her window open.

[168] Mr. LaChance testified that he could not hear the words that were being uttered. He stated that he only heard the one voice, and it sounded like he might have been arguing with somebody. He indicated that the individual was really raising his voice.

[169] Mr. LaChance got up and looked out the window. He testified that the vehicle across the road, with its lights on. He estimated that the vehicle was approximately 65 feet away from the window that he was peering through. He stated that he could tell it was U-Haul Vehicle because the unit had the word "U-Haul" painted on it. He confirmed a second time on the stand that he saw the term "U-Haul" painted on the vehicle.

[170] Mr. LaChance did not see anybody walking around, but somebody was in the U-Haul Vehicle revving the motor. He described it as revving and revving.

[171] Mr. LaChance later described the motor sound as being a vroom, vroom, vroom. He emphasized that the vehicle was not just idling.

[172] On cross-examination, Mr. LaChance confirmed that he did not see if it was a male or female who was revving the motor. Indeed, he confirmed that he could not determine who was in the vehicle at that time.

[173] Mr. LaChance testified that he watched the revving for an estimated 10 or 20 seconds. Then the individual in the U-Haul Vehicle put the unit in gear and took off.

[174] His girl-friend lived three houses down from the end of the block where the U-Haul Vehicle was parked. The U-Haul Vehicle was facing east and on the wrong side of the road. Mr. LaChance confirmed this in cross-examination.

[175] Mr. LaChance testified that the U-Haul Vehicle had its lights on. It was dark outside.

[176] Mr. LaChance then went back to bed, but within approximately two or three minutes he heard the vehicle again. He testified that the unit must have returned. However, he did not get up to view the vehicle that had returned. That said, he asserted that he knew it was the same vehicle that went by his girlfriend's house again because: (i) it sounded the same; and (ii) there was no other traffic.

[177] I found Mr. LaChance to be credible and generally reliable in the evidence that he provided to the Court. My only concern with his reliability stems from the fact that he assumed certain particulars. For example, he testified that he heard yelling at approximately 04:00 hours on February 10, 2020, but he later testified that he did not confirm the time. Accordingly, I will consider his evidence carefully, and determine the weight that it should be given.

i. Katelyn Muriel Gillies

[178] Ms. Gillies works as a student advisor, and has been doing that job for ten years. She is 35 years old.

[179] Ms. Gillies testified that she lives in Calgary, and has lived in the City for 15 years. She has lived in the Bowness area for six years. Her address is 8035-34th Avenue NW. She stated that her house is one house away from 80th Street NW, and that her residence is on the south side of 34th Avenue.

[180] Ms. Gillies testified that on February 10, 2020, she woke up at 03:45 hours because her son, who was one year old at the time, woke up. She went upstairs to her son's room. She was with her son upstairs for approximately ten minutes, and then returned to her bedroom.

[181] She later testified that her bedroom faces out to 34th Avenue NW. Ms. Gillies estimates that she was in bed for approximately five or ten minutes after she returned from her son's bedroom, when she heard yelling outside.

[182] Ms. Gillies testified that she heard a male voice say, "I'm out of here, you fucking cunt". Ms. Gillies testified that she heard the male voice make this statement twice, and then she heard a vehicle take off.

[183] On cross-examination, Ms. Gillies testified that she described the male voice as younger. She confirmed the above statement from the male voice, and also confirmed that was all she heard. She also confirmed that she thought the vehicle was a car.

[184] Ms. Gillies then testified that she heard what sounded like the same vehicle come around the block again, and back down 34th Avenue NW. That said, she confirmed that she did not look out the window of the bedroom. She also stated that she did not recall hearing a loud engine.

[185] In cross-examination, Ms. Gillies confirmed that she did not know that anything had occurred on 34th Avenue NW until police asked her questions when they came to her door at approximately 12:00 noon on February 10, 2020. The Calgary Police Service interviewed her in audio format only. Her husband was with her during the interview. Indeed, Ms. Gillies confirmed that the Calgary Police Service interviewed her husband first, and she was sitting beside him at that time. Notwithstanding that she was interviewed by the Calgary Police Service when her husband, Ian Gillies, was right beside her, she confirmed in redirect examination that she only testified to what she heard on the morning of February 10, 2020.

[186] In further cross-examination, Ms. Gillies described her recollection of the movement of the vehicle. In particular, she testified that as she interpreted the sound of the vehicle it: (i) went east on 34th Avenue NW; (ii) turned left onto 79th Street NW; (iii) would have taken another left onto 36th Avenue NW (because she did not think there was a 35th Avenue NW); (iv) took a left onto 80th Street NW; and (v) took another left back onto 34th Avenue NW. She confirmed in cross-examination that this was not an uncommon occurrence outside of her residence. She also confirmed that she did not get up and look out the window.

[187] I found Ms. Gillies to be credible and generally reliable in the evidence that she provided to the Court. My only concern with her reliability stems from the fact that her recollection of what was said by an apparent male during the yelling at approximately 04:00 hours on February 10, 2020 differed slightly from other witnesses. Accordingly, I will consider her evidence carefully, and determine the weight that it should be given.

j. Ian Gillies

[188] Mr. Gillies works as a gas fitter. He is 40 years old. He is married to Ms. Gillies, who also testified.

[189] Mr. Gillies testified that he lives in Calgary. He has lived in the Bowness area for six years. The address that he provided to the Court is the same address that Ms. Gillies gave in her testimony.

[190] Mr. Gillies testified that he did not see anything concerning the events that allegedly occurred shortly after 04:00 hours on February 10, 2020. He stated that he was sleeping. However, he did remember hearing some yelling. He explained that he thought it might be an argument, but he also stated that he did not open his eyes. He testified that he assumed it was his neighbour. He made that assumption because he had experienced a lot of loud noises coming from his next-door neighbour, Mr. Chris Pohran, on prior occasions. He testified that was the reason he did not get up to investigate the noises which he heard during the early morning hours on February 10, 2020.

[191] On cross-examination, Mr. Gillies confirmed that he thought it was Mr. Pohran who was doing the yelling. That said, he also testified that he told the Calgary Police Service that he could not be sure. On further cross-examination, Mr. Gillies conceded that he had told the police that it was Mr. Pohran, "for sure". Mr. Gillies also stated on cross-examination that he was angry with Mr. Pohran, and had obtained a restraining order against him on a prior occasion.

[192] He explained that he had heard Mr. Pohran numerous times at any hour of the night or day, and that is why he did not get up to investigate. Since the commotion had happened so many times next door, he had just given up trying to find out what was going on.

[193] In the course of his testimony, Mr. Gillies also stated that their bedroom window faces 34th Avenue NW. He further testified that they sleep with the window open.

[194] When asked during direct examination what he heard, Mr. Gillies testified that he could not tell exactly what he heard. Based on the dialogue and yelling, he inferred that somebody was not very happy. He testified that he possibly heard someone say, "I will kill you." He also stated that he heard a car start-up, but nothing further.

[195] On cross-examination, Mr. Gillies testified that he could not be 100% sure what was said by the individual who was yelling during the early morning hours on February 10, 2020. He further confirmed that he did not hear any doors opening or closing during those early morning hours. When asked during cross-examination which direction the vehicle went when it left, Mr. Gillies testified that it sounded like it headed east.

[196] I found Mr. Gillies to be credible and generally reliable in the evidence that he provided to the Court. My only concern with his reliability stems from the fact that he assumed certain particulars that are inconsistent with the evidence. For example, and as noted above, he assumed that the yelling was coming from a Mr. Pohran, who was a neighbour. That assumption was later

established to be incorrect because evidence was provided to establish that Mr. Pohran was at the Mustard Seed at the relevant time. Accordingly, I will consider his evidence carefully, and determine the weight that it should be given.

k. Allan Gagne

[197] Mr. Gagne is 66 years old. He testified he lives in Calgary, and he currently resides at 8740 – 34th Avenue NW.

[198] Mr. Gagne testified that on February 10, 2020, he lived at 8512 – 33rd Avenue NW. He indicated that he lived at that residence approximately 15 months.

[199] Mr. Gagne testified that he observed an incident on February 11, 2020. That date was subsequently changed to February 10, 2020, by agreement between the Crown and Defence Counsel.

[200] Mr. Gagne further testified that at approximately 03:02 hours on February 10, 2020 (the date being corrected, by agreement), he went to the window in his bedroom. That window faces south. He observed a cube van parked on the south side of 33rd Avenue, and it was pointed east. He testified that he heard some loud yelling by a male, and that it went on for five to seven minutes. Mr. Gagne described the yelling as confrontational, agitated, and angry. He confirmed that he never saw the male who was yelling. In cross-examination, he testified that he did not recall hearing any profanity.

[201] In cross-examination, Mr. Gagne confirmed his observation time of the subject event as being 03:02 hours. In both direct examination and cross-examination, he testified that he confirmed that time by looking at his phone.

[202] Mr. Gagne also testified that he heard a female voice, the volume of which he described as being very low. When questioned further in direct examination, he described the female voice as being subdued. He testified that he did see the female.

[203] Mr. Gagne described the female that he saw as being Caucasian, she was wearing a dark down parka, and she had longer hair. He described the hair colour as brownish. Mr. Gagne also stated that he assumed that the female got into the vehicle because he did not see her again. In cross-examination, he confirmed that he did not see either of the individuals get into the cube van.

[204] Mr. Gagne testified that across the street from him was a City of Calgary substation. There was a light pole nearby, which provided illumination. He described other light standards in the area, which also provided light.

[205] Mr. Gagne testified that he saw a cube van, which was fairly high. He further stated that the cube van had to be high because he had a hedge in front of his property, and that hedge was approximately six feet tall. He confirmed that the hedge was between him and the cube van.

[206] I found Mr. Gagne to be credible, but not necessarily reliable in the evidence that he provided to the Court. While he was very confident concerning the evidence that he gave in Court, he testified that the incident in question occurred on February 11, 2020. That evidence was subsequently corrected by agreement between the Crown and Defence Counsel. He also testified that he heard the yelling and saw the “cube” van at approximately 03:02 hours. That time was inconsistent with the evidence from other witnesses and the CCTV footage.

Accordingly, I will consider his evidence carefully, and determine the weight that it should be given.

l. Justin Donald Neufeld

[207] Mr. Neufeld works at the Alex Community Health Centre in the housing program. He is 36 years old. He has one child, who was two-years old at the time of this trial.

[208] Mr. Neufeld testified that he lives in Calgary, and that he lives in the Bowness area. His address is 8036 - 34th Avenue NW. He stated that his house faces 34th Avenue, and his residence is one house away from 80th Street NW. His residence is on the north side of 34th Avenue.

[209] Mr. Neufeld testified that on February 10, 2020, he was awakened in the early morning of February 10, 2020. He was in his bedroom at the time, which is located on the southwest corner of his house. The window in that bedroom looks out onto 34th Avenue NW. The window was closed on the morning of February 10, 2020.

[210] He remembered hearing three distinct thumps that sounded quite loud. At first, he assumed the thumps were probably from three or four houses away, towards 79th Street NW. He testified that it sounded like someone hitting a door really hard three times in a row, about a half a second apart from each other. He remembered thinking it was quite strange. He had not heard that noise before that event. He testified that he did not investigate. Instead, he went back to sleep.

[211] Concerning the noise, Mr. Neufeld testified that he thought he heard the three distinct thumps at approximately 04:00 hours. In cross-examination, he confirmed that he did not look at his watch, and confirmed that he did not know the exact time that he was awakened. The 04:00 hours time reference was just the sense that he had at the time. In any event, he stated that he heard car doors slamming and other commotion outside his residence at approximately 06:00 hours, at which time he got up for the day.

[212] In cross-examination, Mr. Neufeld confirmed that the Calgary Police Service did not contact him until February 14, 2020. At that time, he told the police that the sound he heard was similar to someone was pounding on a metal door or something else. He then qualified his statement to the police by stating that he was not quite certain.

[213] In cross-examination, Mr. Neufeld further testified to his recollection of the time. He stated that he was up at approximately 05:00 hours feeding his child. That is why he estimated he heard the three thumps at approximately 04:00 hours. In cross-examination, he also confirmed that: (i) he never heard any voices; (ii) he never heard anyone arguing; (iii) he never heard any vehicular traffic; (iv) he never heard a truck revving its engine; and (v) he did not get up and look outside at anything when he heard the sounds.

[214] I found Mr. Neufeld to be credible and generally reliable in the evidence that he provided to the Court. My only concern with his reliability stems from the fact that he assumed certain particulars. For example, he testified that he heard three distinct thumps at approximately 04:00 hours on February 10, 2020, but he later testified that he did not confirm the time. Accordingly, I will consider his evidence carefully, and determine the weight that it should be given.

m. Mark James Ruggieri

[215] Mr. Ruggieri is an employee of the Calgary Police Service, and has been so employed for six years. He is a crime and intelligence analyst, currently assigned to the Homicide Unit.

[216] He assists criminal investigations by collating and analyzing information collected during the course of an investigation. That information includes video evidence from CCTV and other types of data.

[217] Concerning this hearing, Mr. Ruggieri was tasked with creating a summary of relevant CCTV evidence for this prosecution. His presentation at trial consisted of a PowerPoint, with video embedded therein.

[218] As an overview, Mr. Ruggieri testified that his presentation provides a summary of relevant CCTV evidence collected for this file. The CCTV evidence captured events occurring on February 10, 2020. He indicated that the presentation included CCTV obtained from: (i) the Shell Gas station located at 8435 Bowfort Road NW (the “**Bowfort Road Shell Gas Station**”); (ii) the residence located at 8104 – 33rd Avenue NW; and (iii) the residence located at 8040 – 34th Avenue NW. The presentation also referred to the location of various witnesses in the vicinity of 34th Avenue NW.

[219] Mr. Ruggieri testified to the video clips recorded at the Bowfort Road Shell Gas Station at the approximate time of between 04:03 hours and 04:08 hours on February 10, 2020 (the “**Pre-Incident Bowfort Gas Station CCTV**”). The outside shots by a video shows the U-Haul Vehicle approaching the business. It then shows two individuals identified to Mr. Ruggieri by investigators as Mr. Candaele and Ms. Blommaert: (i) exiting the U-Haul Vehicle; (ii) entering the business; and (iii) re-entering the U-Haul Vehicle.

[220] The inside shots by a CCTV captures the interior view of the business within the Shell store for the same time period. It shows the persons identified to Mr. Ruggieri as Ms. Blommaert and Mr. Candaele: (i) entering the store; (ii) approaching the register; and (iii) then leaving the store.

[221] The CCTV from the Bowfort Road Shell Gas Station captures the U-Haul Vehicle leaving that location at approximately 04:06 hours on February 10, 2020. The CCTV also captures Ms. Blommaert in the driver's seat of the U-Haul Vehicle as they leave the gas station, with Mr. Candaele in the passenger seat of the vehicle.

[222] As part of his testimony, Mr. Ruggieri provided an overview map of the area where the body of Ms. Blommaert was discovered (the “**Overview Map**”). The Overview Map references the location of identified witnesses, including: (i) Mr. Samuelson at 8040 - 34th Avenue NW; (ii) Mr. Neufeld at 8036 - 34th Avenue NW; (iii) Mr. Terrance LaChance at 8032 - 34th Avenue NW; and (iv) Mr. Ian and Ms. Katelyn Gillies at 8035 - 34th Avenue NW.

[223] The Overview Map also identifies the location of two residential CCTV cameras. The first residential CCTV camera location is at 8040 - 34th Avenue (the “**34th Avenue Camera Location**”). There were three separate camera angles at the 34th Avenue Camera Location. The second residential CCTV camera is located at 8104 - 33rd Avenue (the “**33rd Avenue Camera Location**”). There was a single camera angle at the 33rd Avenue Camera Location.

[224] As part of his testimony, Mr. Ruggieri provided a video clip captured footage of a taxi at 04:03 hours on February 10, 2020 (the “**4:03 Taxi**”). In particular, the video records the taxi passing through the intersection at the junction of 80th Street NW and 34th Avenue, and the vehicle then continues to travel on 34th Avenue.

[225] As part of his testimony, Mr. Ruggieri provided the first CCTV video clip captured from one of the three 34th Avenue Camera Locations. The indicated time was 04:08:52 hours on

February 10, 2020. This footage depicts the U-Haul Vehicle coming into frame from the right side of the screen, following the same path as the 4:03 Taxi (the “**First 34th U-Haul Vehicle Photo**”).

[226] As part of his testimony, Mr. Ruggieri provided a second CCTV video clip from one of the three 34th Avenue Camera Locations. The U-Haul Vehicle is seen to stop, and the tail-lights are visible. This camera captured the U-Haul Vehicle as it approached from the right side of the video and stops in front of the residence. The video then shows an individual exit the U-Haul Vehicle and proceed to walk down 34th Avenue NW, and then they start to run (the “**Second 34th U-Haul Vehicle Photo**”).

[227] As part of his testimony, Mr. Ruggieri provided a third CCTV video clip from one of the three 34th Avenue Camera Locations. Mr. Ruggieri testified that this was the third CCTV camera at this location. This particular clip captured CCTV video at a system indicated time of 4:08:53 on February 10, 2020, and shows an additional view of the previously viewed video (the “**Third 34th U-Haul Vehicle Photo**”).

[228] As part of his testimony, Mr. Ruggieri provided a fourth CCTV video clip from one of the three 34th Avenue Camera Locations. This video clip captured an additional view of the U-Haul Vehicle stopping and reversing (the “**Fourth 34th U-Haul Vehicle Photo**”).

[229] As part of his testimony, Mr. Ruggieri provided a fifth CCTV video clip from 33rd Avenue Camera Location. This particular clip was captured on a CCTV video at a system indicated time of 04:09:47 hours on February 10, 2020, and shows an additional view of the previously viewed video. This video captures the U-Haul Vehicle as it allegedly passes over the location where the body of Ms. Blommaert was discovered (the “**Fifth 34th U-Haul Vehicle Photo**”).

[230] As part of his testimony, Mr. Ruggieri provided a repeat of the Fifth 34th U-Haul Vehicle Photo, but with a zoomed-in view of the movements of the U-Haul Vehicle from the 33rd Avenue Camera Location. This particular CCTV clip was at a system indicated time of 04:09:47 hours on February 10, 2020. As mentioned above, this video captures the U-Haul Vehicle as it allegedly passes over the location where the body of Ms. Blommaert was discovered. While this view is through some trees, the CCTV clip records the back end of the U-Haul Vehicle visibly dropping down (the “**Sixth 34th U-Haul Vehicle Photo**”). I find that the U-Haul Vehicle was traveling eastward when the back-end of the U-Haul Vehicle dropped down.

[231] As part of his testimony, Mr. Ruggieri provided seventh CCTV clip from the 33rd Avenue Camera Location. It captured the U-Haul Vehicle travelling in a northwest direction on 34th Avenue NW. This particular CCTV clip was at a system indicated time of 04:11:57 hours on February 10, 2020 (the “**Seventh 34th U-Haul Vehicle Photo**”).

[232] As part of his testimony, Mr. Ruggieri provided an eighth CCTV clip from the 34th Avenue Camera Location. It captured the U-Haul Vehicle travelling in a northwest direction on 34th Avenue NW (the “**Eighth 34th U-Haul Vehicle Photo**”).

[233] As part of his testimony, Mr. Ruggieri provided a ninth CCTV clip from the 34th Avenue Camera Location. It captured the U-Haul Vehicle from an additional angle. This particular CCTV clip was at a system indicated time of 04:10:58 hours on February 10, 2020 (the “**Ninth 34th U-Haul Vehicle Photo**”).

[234] As part of his testimony, Mr. Ruggieri provided a tenth CCTV clip from the 34th Avenue Camera Location. This is the third view of the U-Haul Vehicle travelling in a northwest direction on 34th Avenue NW. This particular CCTV clip was at a system indicated time of 04:11:02 hours on February 10, 2020 (the “**Tenth 34th U-Haul Vehicle Photo**”).

[235] As part of his testimony, Mr. Ruggieri provided an eleventh CCTV clip from the Bowfort Road Shell Gas Station. This is the third view of the U-Haul Vehicle travelling in a northwest direction on 34th Avenue NW. This particular CCTV clip was at a system indicated time of 04:07 hours, which is an actual time of approximately 04:12 hours on February 10, 2020 (the “**Eleventh 34th U-Haul Vehicle Photo**”).

[236] Mr. Ruggieri testified that the driving time from the junction of 81st Street NW and 34th Avenue NW to the Bowfort Road Shell Gas Station was approximately two to three minutes.

[237] In cross-examination, Mr. Ruggieri confirmed that he did not attend at the addresses of the various locations from which he was provided the CCTV footage and he was not involved in the initial collection of the footage. He also confirmed that he had did not know or have any contact with Mr. Candaele or Ms. Blommaert. Concerning the identification of these two individuals on the CCTV video, Mr. Ruggieri confirmed that he identified those people as they were identified to him by the Calgary Police Service investigators who were involved in this matter.

[238] In cross-examination, Mr. Ruggieri testified that he had prepared the initial CCTV video presentation during the month of April 2020. He also testified that he has prepared six revisions. While was not able to speak to the revisions immediately, I infer that he could do so by comparing the various versions side by side.

[239] I found Mr. Ruggieri to be both a credible and reliable witness. While he provided much more in the way of evidence, I found the collective information from the First 34th U-Haul Vehicle Photo, Second 34th U-Haul Vehicle Photo, Third 34th U-Haul Vehicle Photo, Fourth 34th U-Haul Vehicle Photo, Fifth 34th U-Haul Vehicle Photo, Sixth 34th U-Haul Vehicle Photo, Seventh 34th U-Haul Vehicle Photo, Eighth 34th U-Haul Vehicle Photo, Ninth 34th U-Haul Vehicle Photo, Tenth 34th U-Haul Vehicle Photo, Eleventh 34th U-Haul Vehicle Photo and the underlying CCTV footage to be quite informative in the determination of this case.

n. Cst James Weeks

[240] Cst Weeks is a member of the Calgary Police Service, and has been for just over ten years. He is presently employed as a Forensic Identification member and has been in that capacity for more than six and a half years.

[241] On February 10, 2020, Cst Weeks was asked to attend the Medical Examiner's Office to assist with the identification of a deceased.

[242] Cst Weeks testified that he was also asked on February 18, 2020 to assist with an examination and the execution of a search warrant at the traffic office where a U-Haul Vehicle was currently situated. That vehicle was waiting for Cst Weeks to attend for the collection of any biological material.

[243] Cst Weeks testified that DNA swabs were collected from the undercarriage of the U-Haul Vehicle. Cst Weeks was to document the low points of the vehicle, which may have come into

contact with a body. He swabbed the entire length of the rear differential. He testified that technique allowed him to gather as much DNA as possible.

[244] On cross-examination, Cst Weeks testified that he was not asked to go back to check any other areas. He also testified in cross-examination that his role was to procure any evidence to assist with the investigation.

[245] I found Cst Weeks to be both a credible and reliable witness.

o. David Nick Parker

[246] Mr. Parker testified that he knew Ms. Blommaert. She lived across the hall from him in the same building complex.

[247] When asked if Ms. Blommaert was living in the apartment on February 10, 2020, Mr. Parker testified that he was aware she had been evicted. All her things had been put in the U-Haul Vehicle.

[248] Mr. Parker testified that he knew this because he saw a “notice to leave” affixed to Ms. Blommaert’s apartment door. He also stated he could hear people moving items into the U-Haul Vehicle.

[249] Mr. Parker testified that Ms. Blommaert and Mr. Candaele were living together in the apartment. He did not know if anybody else was living in that apartment.

[250] Mr. Parker testified that on February 10, 2020 between 08:20 and 08:40 hours he had a conversation with Mr. Candaele inside the 7-Eleven store (the “**7-Eleven Store**”). He stated that Mr. Candaele was distraught, and had asked him if he had seen Ms. Blommaert that morning. Mr. Parker further testified that Mr. Candaele had said, ‘I think she jumped off the bridge at Stoney Trail.’ Mr. Parker stated that he told Mr. Candaele that Ms. Blommaert was probably at a friend of theirs taking a nap. Their friend’s name was Cindy (“**Cindy**”). Mr. Parker also testified that he told Mr. Candaele that he was blowing things out of proportion.

[251] Mr. Parker testified that during this conversation Mr. Candaele twice repeated his belief that Ms. Blommaert jumped off the bridge.

[252] Mr. Parker testified that he saw Mr. Candaele a second time at the 7-Eleven Store on February 10, 2021. He testified that it was near the time that he would pick up his son from school. Again, Mr. Candaele asked Mr. Parker if he had seen Ms. Blommaert.

[253] In cross-examination, Mr. Parker conceded that it was possible that he told the officers that the first conversation with Mr. Candaele on February 10, 2020 occurred between 07:40 and 08:00 hours. Mr. Parker also conceded that Mr. Candaele had told him that Ms. Blommaert had attempted to jump off the bridge the evening before and that Mr. Candaele had stopped her.

[254] In cross-examination, Mr. Parker testified that he was aware that Mr. Candaele and Ms. Blommaert had stayed with their neighbour, Cindy, for a few nights after the eviction. He stated during the continuing cross-examination that he was not aware that they had a key to Cindy’s apartment.

[255] In cross-examination, Mr. Parker clarified that the second conversation was “later in the morning or possibly around noon”, and somewhere in between the apartment and 7-Eleven Store. Mr. Parker conceded that he may not have told the police officers in his recorded interview about this second meeting. He also conceded that he could not recall telling the officers

that he saw their neighbour Cindy on the phone with Mr. Candaele when he took his recycling downstairs.

[256] With the assistance of the transcript of his police interview, Mr. Parker conceded that it was possible that he overheard the telephone conversation Cindy was having with Mr. Candaele.

[257] During that cross-examination, Mr. Parker conceded that he did not have a second direct conversation with Mr. Candaele after the initial meeting in the morning.

[258] On cross-examination, Mr. Parker stated that the police arrived at the apartment between 13:30 and 14:30 hours on February 10, 2020. Mr. Parker testified that he was not aware that Mr. Candaele had been using one or two of Cindy's telephones. He did not recall when he saw Cindy on the telephone whether she was using a cordless landline phone.

[259] I found Mr. Parker to be credible, but not totally reliable in the evidence that he provided to the Court. My concern with his reliability stems from the fact that he testified that he had a second meeting with Mr. Candaele. However, with the assistance of the transcript of his police interview, Mr. Parker conceded that it was possible that he overheard the telephone conversation Cindy was having with Mr. Candaele. On cross-examination, he conceded that he did not have a second direct conversation with Mr. Candaele after the initial meeting in the morning. While I view this discrepancy in his evidence to be a lack of a clear recollection of events, it causes the Court to pause on the reliability of the evidence that Mr. Parker provided in this trial. Accordingly, I will consider his evidence carefully, and determine the weight that it should be given.

p. Cst Kevin William Roland Spear

[260] Cst Spear is a member of the Calgary Police Service, and has been since 2007. During the last seven years, he has been a collision reconstructionist.

[261] Cst Spear was assigned to be the reconstructionist for a pedestrian collision on 34th Avenue between 80th Street and 79th Street NW.

[262] Cst Spear testified that the 34th Avenue Scene he attended on February 10, 2020 was a residential street. It is located in an older neighbourhood, with single-family dwellings on both sides of the road. The road had enough room for vehicles to park on both sides of the road, and there were sidewalks on both sides of the road. There was also a grid pattern in the neighbourhood. The grid pattern was roughly oriented so that the roadway ran northwest to southeast.

[263] Cst Spear testified there was an accumulation of snow on the road on February 10, 2020. There was enough snow on the road that it had turned into a rutted roadway. Some portions of the sidewalks had been cleared. There were some small portions of bare pavement visible in the ruts on the road. He stated in direct examination that he did not measure the exact depth of these ruts, but estimates they "might be in the neighbourhood of 4 or 5 centimetres".

[264] Cst Spear testified that when he attended the 34th Avenue Scene on February 10, 2020 between approximately 09:30 and 12:30 hours, he marked any tire tracks and other physical evidence that he felt might be of use to him in his analysis. He also took photographs of the roadway from several angles.

[265] Cst Spear testified that he directed a surveyor to take GPS survey measurements of the 34th Avenue Scene. The resulting survey data was used alongside city mapping data, Expert

AutoStats and other information gathered by him. He used this data to create the Scale Representation of Vehicle and Road Dimensions drawing of the 34th Avenue Scene.

[266] Cst Spear testified that he measured the track width of the U-Haul Vehicle, and the measurements were consistent with those depicted in the drawing. Regarding the Toyota 4Runner and Dodge Caravan also depicted in the drawing, Cst Spear testified that he did not measure them at the 34th Avenue Scene. He also stated that he did not know if these other vehicles were present at the time of the collision. He just knew they were present at the time of the investigation.

[267] Cst Spear testified that he attended at the Beddington Safeway at 15:53 hours on February 10, 2020 where the U-Haul Vehicle was recovered.

[268] Cst Spear testified in cross-examination that upon his arrival at the 34th Avenue Scene, the only first responders present were members of the Calgary Police Service. He was of the belief that Calgary Fire Department and EMS personnel had attended the 34th Avenue Scene earlier.

[269] In cross-examination, Cst Spear conceded that he could not conclusively attribute any of the tire impressions on the roadway to the U-Haul Vehicle.

[270] Cst Spear testified in cross-examination that he remained on scene at the Beddington Safeway where the U-Haul Vehicle was recovered from his arrival at 15:53 hours until the vehicle was towed at approximately 18:28 hours. As part of the continuity of that evidence, he then escorted the vehicle on a flatbed tow truck back to the Calgary Police Service North Service Centre where it was secured at 19:06 hours on February 10, 2021.

[271] I found Cst Spear to be both a credible and reliable witness.

q. Harshita Sharma

[272] Ms. Sharma is an employee at Sentinel Storage located at 36 Bowridge Drive NW. She has worked there for nearly two years.

[273] Ms. Sharma testified that on the morning of February 10, 2020, at approximately 09:00 hours, she was working alone when a gentleman entered the business and inquired about the storage facilities. She asked him what size of a storage unit he was looking for. She further testified that the price she quoted the gentleman was rejected because it was too expensive. Ms. Sharma testified that she suggested to this person that he try a competitor called "Space Place Storage" (defined below) because the rental costs for their storage units were sometimes lower.

[274] Ms. Sharma testified that this person informed her that he had already gone there, but they declined to rent to him. He indicated concern because Space Place Storage apparently asked him for identification.

[275] Ms. Sharma further testified that she informed this person that Sentinel Storage would also require two valid pieces of identification. Ms. Sharma testified that this person mentioned his wife is missing, and he was not sure if she's going to die because of stress, as they have no place to live.

[276] Ms. Sharma testified that this person stated he would "let [her] know" in a couple minutes if they wanted to rent. He then left.

[277] Ms. Sharma testified that after this person left Sentinel Storage, the U-Haul Vehicle which had been parked in their parking lot was also gone. However, she neither saw him enter the vehicle nor drive it away.

[278] Ms. Sharma testified that the person she interacted with that morning was “a tall—tall guy. He was wearing sunglasses and a toque with a light beard”. He was holding a set of keys in his hands for a U-Haul vehicle.

[279] Ms. Sharma testified that the person referred to in her testimony was also the person depicted in the Sentinel Storage security footage. Ms. Sharma could not identify Mr. Candaele as the person in question because she did not remember his face.

[280] In cross-examination, Ms. Sharma testified that her interaction with this person at Sentinel Storage was approximately three or four minutes long. She also testified this person did not provide any form of identification.

[281] Ms. Sharma testified in cross-examination that she had never seen this person before this interaction. During the course of the interaction, Ms. Sharma testified that the individual, Mr. Candaele, appeared calm.

[282] I found Ms. Sharma to be both a credible and reliable witness.

r. Eileen Isabella Saunders

[283] Ms. Saunders is an employee at Space Place North West Self Storage located at 118 Bowridge Drive NW (“**Space Place Storage**”). She has worked there for approximately nine years.

[284] Ms. Saunders testified that on February 10, 2020, the first customer to enter the business that day asked about a reservation. He said it was made under his wife’s name, Melissa, and it was allegedly a storage unit for \$30. At that point, she knew that that person was in the wrong place because Space Place Storage did not have any units for \$30. She explained that he was in the wrong storage facility.

[285] Ms. Saunders testified that this interaction with the customer occurred at 08:36 hours on February 10, 2020. She also stated that this customer was wearing a jacket, a cap, a hoodie over the cap and glasses.

[286] Ms. Saunders testified that at the beginning of the interaction, she asked for government-issued photo identification. He handed her an Alberta identification card.

[287] Since the customer did not rent from Space Place Storage, she did not photocopy his identification. However, she recalled the name on the identification was Ronald Candaele.

[288] Ms. Saunders also recalled the identification having a middle name, but could not remember the name. Ms. Saunders testified that she was satisfied that the identification matched the customer who was before her because she asked him to remove his glasses to “get a proper view” of his face.

[289] Ms. Saunders testified that Mr. Candaele told her on multiple occasions that his wife was missing. He conveyed to her that he did not know where she was, and he was really worried about her. Ms. Saunders further testified that the customer told her that he had been with his wife the previous evening and that she had tried to jump off a bridge. He also conveyed that one or more children had been removed from the family, and that his wife was being evicted.

[290] Ms. Saunders testified that she inquired as to who owned the possessions that he wanted to store. She made this inquiry because Space Place Storage had a rule that they only rent storage space to the individual who owns the goods.

[291] Ms. Saunders testified that she believed she could smell “marihuana or...a stale smell” on Mr. Candaele.

[292] Ms. Saunders testified that Mr. Candaele told her that he had a U-Haul Vehicle. However, she had not seen a U-Haul Vehicle. She had only seen him walk into the office. Ms. Saunders further testified that Mr. Candaele provided her with his wife’s surname, Blommaert, so she could search the U-Haul database for him.

[293] Ms. Saunders testified that Mr. Candaele brought up a wallet, which he purported to belong to his wife. The wallet contained the car insurance and Driver’s Licence of Ms. Blommaert.

[294] Ms. Saunders testified that she encouraged Mr. Candaele to try another storage business down the road because they had a special on at the time. She thought that might be more in his price range. Ms. Saunders testified that she also suggested Mr. Candaele go to Sentinel Storage to see if they held his reservation.

[295] Ms. Saunders testified that Mr. Candaele was in Space Place Storage for approximately 20 minutes before leaving at around 09:00 hours on February 10, 2020.

[296] Ms. Saunders testified that a colleague of hers received a text message indicating that a body was found in Bowness. Ms. Saunders stated that she became concerned because Mr. Candaele had told her during their conversation “that he’d come up from Bowness”.

[297] Ms. Saunders testified that she contacted a police detective, Detective Runions, to share the information she had from her interaction with Mr. Candaele. She was concerned that it might relate to Ms. Blommaert.

[298] Ms. Saunders testified that she had suffered a concussion from a fall on January 2, 2020. As a result, she was having difficulties with her short-term memory. As a precaution, she was taking notes during her interaction with Mr. Candaele, including his name and a telephone number.

[299] In cross-examination, Ms. Saunders testified that the concussion had affected her short-term memory. However, she stated that it did not affect her to the degree where she would not remember some serious things that were said. Ms. Saunders further testified that the brief time frame between the interaction with Mr. Candaele and her first phone call to the police led her to believe that her recollection was accurate.

[300] Ms. Saunders testified in cross-examination that Mr. Candaele was not being cognitive, and was erratic in the conversation. However, he was polite and cooperative to her throughout. Ms. Saunders conceded that she did not want to rent to Mr. Candaele.

[301] Ms. Saunders testified in cross-examination that she was able to pull a copy of a contract for the U-Haul Vehicle that Mr. Candaele had been referring to during their conversation. She further testified that the telephone number Mr. Candaele provided her was for the purpose of giving it to his wife, in the event Ms. Blommaert contacted Space Place Storage looking for him.

[302] Ms. Saunders testified in cross-examination that she did not see how Mr. Candaele left, whether by foot or by vehicle.

[303] I found Ms. Saunders to be both a credible and reliable witness. While Ms. Saunders testified that she had suffered a concussion on January 2, 2020, which allegedly affected her short-term memory, I found her evidence to be reliable as a crossed checked it against other evidence (such as the CCTV footage from Space Place Storage).

s. Madison Mandryk

[304] Ms. Mandryk is a 911 call-taker for the City of Calgary (the “**Second 911 Operator**”). She takes calls in circumstances where police are required. She is 31 years old.

[305] Ms. Mandryk testified that she received a 911 hang-up call on February 10, 2020 at 15:07 hours. She returned that call immediately. A male person answered the phone, and identified himself as Ronald Candaele.

[306] Ms. Mandryk testified that the transcript of the 911 call is an accurate reflection of the conversation she had with Mr. Candaele. The following is a summary of what Mr. Candaele reported on the 911 call (the “**Mandryk 911 Call**”).

[307] Mr. Candaele made the Mandryk 911 Call for a "welfare check" on his wife, Ms. Blommaert. He made the Mandryk 911 Call at 15:07 hours on February 10, 2020. That was approximately 11 hours after the incident.

[308] In the Mandryk 911 Call, Mr. Candaele reported that Ms. Blommaert jumped out the U-Haul Vehicle and left him. He further reported to the Second 911 Operator that Ms. Blommaert said she is going back to Cindy's place.

[309] During the 911 Call, Mr. Candaele also told the Second 911 Operator that he last saw Ms. Blommaert at 23:00 hours on February 9, 2020.

[310] Mr. Candaele reported to the Second 911 Operator, "I just got a bad feeling. Like, I don't know. There's somethin' wrong." He also reported during the Mandryk 911 Call, "I could have sworn, ma'am, I just seen her right up front of the apartment 'cause I can't go there. There's a no contact order." "But I could have sworn I just seen her”.

[311] Mr. Candaele does not inform the Second 911 Operator of the exact location of where Ms. Blommaert exited the U-Haul Vehicle. However, he does report:

...like I know the exact street she ran out, was the street behind Bowness Road. Like, going -- what would that be? East -- going east, the street right behind it -- ... -- is where she ran down, probably about -- just behind Bow Cycle.

Like, a block or two or -- yeah, or just a little -- yeah, about behind Bow Cycle, in or around, and -- and ran off.

[312] During his dialogue with the Second 911 Operator, Mr. Candaele also suggested "Yeah, I -- think something happened. Like, I honestly think she got kidnapped."

[313] I found Ms. Mandryk to be both a credible and reliable witness.

t. Jonathan Maurice Shevalier

[314] Mr. Shevalier is a senior probation officer. He has been working at the Calgary Youth Probation Office since 2010.

[315] Mr. Shevalier testified that Mr. Candaele had been under his supervision for approximately one year. The Probation Order requires Mr. Candaele to report weekly.

[316] Mr. Shevalier testified that he had an arrangement with Mr. Candaele for alternating phone calls and office visits concerning his weekly reporting condition.

[317] Mr. Shevalier testified that Mr. Candaele reported to him via telephone call on February 10, 2020. Mr. Shevalier could not remember if the call had been a scheduled reporting date. During that telephone call, Mr. Candaele advised Mr. Shevalier of a concern for Ms. Blommaert's welfare.

[318] Mr. Shevalier testified that when Mr. Candaele called on the morning of February 10, 2020, he became concerned about the welfare of Ms. Blommaert. Mr. Shevalier estimated that the telephone call with Mr. Candaele occurred around 10:00 or 11:00 hours.

[319] Mr. Shevalier testified that Mr. Candaele stated that Ms. Blommaert was: (i) panicked; (ii) in big trouble; and (iii) acting strangely.

[320] Mr. Shevalier testified that in response to the telephone call with Mr. Candaele, he called Ms. Samantha Pullen at Child and Family Services. He called Ms. Pullen to determine whether there had been recent contact with Ms. Blommaert.

[321] Mr. Shevalier testified that following a direction from Ms. Pullen, he contacted Calgary Police Service and spoke to an officer to inquire about Ms. Blommaert's safety.

[322] Mr. Shevalier testified that he subsequently called Mr. Candaele at some point between 11:00 and 14:00 hours on February 10, 2020, and had another conversation with him. Mr. Shevalier further testified that he contacted the police using his personal cellphone. He organized that telephone call so that the police were able to listen to the call for any pertinent information.

[323] Mr. Shevalier testified that the questions he asked Mr. Candaele were of his own volition and that his conduct during the telephone call was not in any way directed by the police. Mr. Shevalier stated that he did not personally record the conversation.

[324] Mr. Shevalier testified that he recognised the voices in the recording. He also testified that the recording did not capture the entirety of the conversation between himself and Mr. Candaele. In particular, he recalled Mr. Candaele advising him that he had left the U-Haul Vehicle at the grocery store in the Beddington area of Calgary.

[325] Mr. Shevalier testified that he neither promised Mr. Candaele anything in exchange for speaking to him nor threatened or intimidated him in any way.

[326] Mr. Shevalier testified that his most significant concern as the probation officer of Mr. Candaele was with respect to his mental health. He testified that on previous occasions, Mr. Candaele appeared to not have grip on reality. However, he stated that Mr. Candaele seemed rather lucid during their interactions on February 10, 2020.

[327] Mr. Shevalier testified that a condition of Mr. Candaele's probation was that he was to have no contact with Ms. Blommaert. He further testified that he understood from third parties that Mr. Candaele had married Ms. Blommaert. However, he did not receive any formal notice of that marriage, and Mr. Candaele never told him.

[328] In cross-examination, Mr. Shevalier confirmed that he took over Mr. Candaele's supervision from another probation officer.

[329] Mr. Shevalier testified in cross-examination that he did not recall any specific health concerns regarding Mr. Candaele. However, he did recall that Mr. Candaele was taking Gabapentin.

[330] Mr. Shevalier testified in cross-examination that Ms. Pullen stated she was not able to discuss anything regarding Ms. Blommaert. She was only able to provide Mr. Shevalier with the phone number for the Homicide Unit of the CPS.

[331] Mr. Shevalier testified in cross-examination that he was not aware at the time of the second telephone call with Mr. Candaele that the police were recording the discussion. Further, he stated that he did not believe Mr. Candaele was aware: (i) the call was being recorded; or (ii) that the police were able to hear the conversation.

[332] Mr. Shevalier testified in cross-examination that did not ask Mr. Candaele what time of day he was referring to when discussing the meeting at McDonald's with Ms. Blommaert. Mr. Shevalier further testified that he recalled Mr. Candaele making "a statement that some of this had transpired around 1 or 1:30 in the morning."

[333] Mr. Shevalier testified in cross-examination that Mr. Candaele was cooperative in providing his location and contact information during their second telephone conversation.

[334] In cross-examination, Mr. Shevalier testified that Mr. Candaele appeared at his office on a prior occasion for an unscheduled meeting, where he observed Mr. Candaele to be quite excitable. Mr. Shevalier confirmed that he had made the notation "obtain meds for ADHD?" in his case notes following the visit.

[335] In re-examination, Mr. Shevalier confirmed that providing his probation officer with an address and phone number at which Mr. Candaele could be reached was a condition of Mr. Candaele's Probation Order.

[336] Mr. Shevalier testified that he "never witnessed Mr. Candaele use any medical, nor [did he] recall ever seeing [Mr. Candaele] have the physical medications". Mr. Shevalier also testified that prescription medication was not a condition of his probation order, but refraining "from the use of non-prescribed medications" was a condition.

[337] I found Mr. Shevalier to be both a credible and reliable witness.

u. Cst Jefferey Black

[338] Cst Black testified that his role in the investigation was as: (i) a first responder, who found Ms. Blommaert on the road; and (ii) an arresting officer. Both of those events occurred on February 10, 2020.

[339] Cst Black testified that on February 10, 2020 at approximately 15:30 hours he heard "a check-on-welfare call come in through [their] dispatch reference a Ronald Candaele calling in about his wife who's now missing."

[340] Cst Black testified that he took this call with his partner, Cst Petersen. Cst Black further testified that their district sergeant called to advise that the gentleman that they were going to have a chat with was the prime suspect in the homicide from that morning.

[341] Cst Black testified that he received a second call from either the district staff sergeant or the City staff sergeant. During that second call, Cst Black was advised that Mr. Candaele was

arrestable for murder, as well as his outstanding warrants. Cst Black also testified that he had information that Mr. Candaele was arrestable for one count of breach of probation.

[342] Cst Black testified that he conducted a door knock on the apartment where Mr. Candaele was expected to be located. Mr. Candaele came out of the apartment and into the hallway when asked. He was then arrested for murder.

[343] The entirety of this interaction with Mr. Candaele was recorded on body-worn camera. Certain particulars of those statements by Mr. Candaele are as follows:

- “My wife is missing sir”
- He repeatedly said he had “proof”, did nothing wrong and could account for his time
- “And last night, my wife ran away from me at 11:30. Eleven -- it was, like, midnight, sir. I parked a U-Haul up at the McDonald’s, sir. Hey? That’s where I had it parked, sir, the whole night.”
- “The U-Haul is parked – our U-Haul that we moved out of here, sir, is parked at Market Mall.”

[344] Cst Black testified that at the 29:40 timestamp of the body camera video that no one was following him or recording him at this time.

[345] Cst Black testified that he had not met Mr. Candaele before the arrest.

[346] Cst Black testified that after hearing a complaint about the tightness of the handcuffs from Mr. Candaele, he inspected the handcuffs. The police officer noted that he could actually wiggle them around. As a result, he determined that the handcuffs were not too tight.

[347] Cst Black testified that after uncuffing Mr. Candaele, he conducted a pat-down search and removed items which could be used to cause self-harm. Cst Black further testified that he handed Mr. Candaele off to another officer, and took the items he had removed from Mr. Candaele and completed the book-in procedures and property cards for the prisoner. He then completed his notes and his Will Statement for the detectives.

[348] Cst Black testified that Mr. Candaele started yelling “Officer, you make sure you get that fucking dirtbag that did that. Do you hear me, Black? You fucking get that mother fucker?” Cst Black testified that he heard Mr. Candaele yell this from the holding cell as he walked by in order to finish booking property. Cst Black stated that this was the last interaction he had with Mr. Candaele.

[349] As in the first instance with Cst Black, I found him to be both a credible and reliable witness.

v. Det Christina Witt

[350] Detective Christina Witt is a police officer with the Calgary Police Service, Homicide Unit. She was involved in the arrest of the accused on February 10, 2020.

[351] After Cst Black brought the accused to the holding cells at the police headquarters at Westwinds, Det Witt introduced herself to the accused as a Detective with the Calgary Police Service. This introduction occurred at approximately 17:25 hours on February 10, 2020.

[352] Det Witt’s job was to make sure the accused: (i) understood his Charter rights; and (ii) called his lawyer, if he wanted to.

[353] Throughout her interactions with Mr. Candaele, Det Witt tried numerous times to get him to stop talking so she could read him his Charter rights. She told Mr. Candaele she would not be questioning him, and that she was there to talk about his rights. She told him after he spoke to a lawyer he could talk to an investigator.

[354] Det Witt used an Arrest Script to advise Mr. Candaele of his rights.

[355] At 17:25 hours on February 10, 2020, Det Witt took Mr. Candaele out of the Holding Room 1 into Interview Suite 2. Mr. Candaele was very emotional, and said he did not do anything wrong.

[356] Det Witt also told Mr. Candaele after he speaks to a lawyer he can talk to an investigator. Mr. Candaele seemed confused, asked if something was coming at him. He also said he had the U-Haul Vehicle. Det Witt asked Mr. Candaele again to wait for her to read his rights. Mr. Candaele commented that he knew he would be going home because the truth would set him free.

[357] Det Witt then read the section in the Script called, "Charter – Section 10(b)" to Mr. Candaele at 17:27 hours on February 10, 2020. She asked Mr. Candaele if he understood, and he nodded his head in the affirmative. She then asked him if he wanted to call a free lawyer or any other lawyer. Mr. Candaele replied, "I'll call my lawyer."

[358] Mr. Candaele told Det Witt initially that he did not understand what she meant that he was under arrest for murder. Mr. Candaele said he knew something was wrong when he had the U-Haul Vehicle and he said he called 911.

[359] Initially, Mr. Candaele did not want to speak to a lawyer, and said he had nothing to hide. Det Witt suggested he should speak to a lawyer because this is serious. He said he had a lawyer and he knew the phone number.

[360] Mr. Candaele asked if he could call his mom. Det Witt said it was really important he call a lawyer and that he would have privacy in the phone room. Mr. Candaele then kissed the arrest script that she was holding.

[361] Det Witt placed Mr. Candaele into the phone room at 17:33 hours on February 10, 2020, and closed the door. He had privacy to complete the phone call.

[362] At 17:44 hours on February 10, 2020, Det Witt opened the phone room and read the "Access to Phone" part of arrest script to Mr. Candaele. He said he could not leave a voice message for his lawyer, Patrick Flynn. Mr. Candaele gave Det Witt the phone number for Mr. Flynn, which she recorded on the arrest script as (403) 200-6358.

[363] At 17:50 hours on February 10, 2020, Det Witt sent a text message to Mr. Flynn advising him that Mr. Candaele was under arrest for murder, and asked him to call her back. Mr. Flynn called Det Witt back immediately. She asked if he could receive a call from Mr. Candaele. She also advised Mr. Flynn that Mr. Candaele was under arrest for the murder of Ms. Blommaert.

[364] Mr. Flynn said yes to a call back. She then placed Mr. Candaele into a phone room so he could speak to Mr. Flynn at approximately 17:55 hours on February 10, 2020. Mr. Candaele had exclusive privacy when he made that phone call to counsel.

[365] At 18:00 hours on February 10, 2020, Det Witt opened the door to the prisoner area. She could hear Mr. Candaele yelling at his lawyer. Det Witt did not hear what words were being spoken, and left the area to give him privacy again.

[366] At 18:04 hours on February 10, 2020, Mr. Candaele knocked on the door to the phone room, which can only be opened from outside. Det Witt opened the door, and she told Mr. Candaele she needed one second. Mr. Candaele began getting upset again, and Det Witt walked to the end of the prisoner area to give him privacy again.

[367] At 18:11 hours on February 10, 2020, Mr. Candaele knocked on door and told Det Witt he was finished with his lawyer.

[368] At 18:13 hours on February 10, 2020, Det Witt escorted Mr. Candaele out of phone room and placed him in a holding cell. He said he was cold and wanted clean clothes, a blanket and a cigarette. He told Det Witt that he had not changed his clothes for several days and was emotional. Det Witt told him she would try to get something warm, some clean clothes. Regarding his request for a cigarette, Det Witt told Mr. Candaele that would be addressed by the officer doing the interview or another officer.

[369] At 18:16 hours on February 10, 2020, Det Witt read the "Police Caution" portion of the script to Mr. Candaele and asked, "Do you understand?" He replied, "Yes" and then she asked "explain to me in your own words what that means to you". He replied, "I shouldn't speak about it, it could get misinterpreted."

[370] Det Witt also read the "Audio/Video Recording" section of the arrest script to Mr. Candaele. She asked Mr. Candaele if he understood. He replied, "That's fine".

[371] At 18:18 hours on February 10, 2020, Det Witt left Mr. Candaele in the holding cell and asked him if he wanted food. He said he wanted a McDonald's double big mac super size, with root beer. He was asking for a cigarette several times, and she replied that this would be handled by the next investigator. The food requested by Mr. Candaele was then ordered.

[372] At 18:38 hours on February 10, 2020, Det Witt took Mr. Candaele from holding room to Interview Suite 2 to meet with crime scenes officer, Cst May. Mr. Candaele said he did not want to live anymore as they were walking. Cst May, a male officer, took photos of Mr. Candaele. Det Witt left the room to give Mr. Candaele privacy as photos were being taken. A new sweatshirt and pants were provided to Mr. Candaele, which he changed into as Cst May seized his personal clothes.

[373] At 18:45 hours on February 10, 2020, Det Witt went back into the room and took Mr. Candaele to a holding cell. He asked for a hug, and then he hugged her. She had put her arms up to somewhat block him but he put his arms around her (not in an aggressive manner). After this, Det Witt placed him in the holding cell.

[374] Mr. Candaele remained in the holding cell and did not have any other interactions with police officers until 20:05 hours on February 10, 2020, when Det Witt and Det Bangloy brought the McDonald's meal he had requested. Det Witt also brought Mr. Candaele a drink of soda around 23:37 hours on February 10, 2020.

[375] At 21:16 hours on February 10, 2020, Det Witt took Mr. Candaele from the holding cell to the interview room. Det Witt carried his food to the interview room for him. Mr. Candaele was saying "he trusts you guys, you will know the truth", he was upset and asked for smokes.

[376] There is no evidence that Mr. Candaele was ever promised anything by Det Witt or any other officer in exchange for speaking with police. He was never threatened by police or mistreated in any way during the time he was brought to the police station to the time Det Bangloy took over the accused for an interview.

[377] Insofar as the evidence from Det Witt was provided in an Agreed Statement of Fact, I accept it as being credible and reliable.

w. Det Reynold Bangloy

[378] Det Bangloy testified that he is a member of the Calgary Police Service, and has been for over 20 years. He is currently a Detective in the Homicide Unit, and has been with that unit for almost eight years.

[379] Det Bangloy testified that he was involved in this case as an investigator. He was the interviewing officer for Mr. Candaele at the Calgary Police Service Headquarters – Westwinds.

[380] Det Bangloy testified that his first contact with Mr. Candaele was at approximately 20:06 hours on February 10, 2020. At that time, he and Det Witt provided Mr. Candaele with the food from McDonald's. Det Bangloy further testified that his second contact with Mr. Candaele was at approximately 21:10 hours on that same day where he and Det Witt provided Mr. Candaele with pizza and then at 21:16 hours on February 10, 2020 when they brought him from the holding cell to the interview room.

[381] Det Bangloy testified that the interview of Mr. Candaele formally commenced at 21:27 hours on February 10, 2020. From that time, he was the sole officer handling Mr. Candaele "for continuity purposes". The only exception was when Det Witt brought "[Mr. Candaele] to the holding cell at one point."

[382] Det Bangloy testified that when he conducted the interview with Mr. Candaele, he was dressed in dress pants and dress shirt. He further stated that he had no firearm, and showed Mr. Candaele his badge. Det Bangloy identified himself to Mr. Candaele as a Detective with the Homicide Unit at the onset.

[383] Det Bangloy testified that Mr. Candaele was not handcuffed at any time during the period that he was with him.

[384] Det Bangloy testified that his dealings with Mr. Candaele continued overnight until approximately 13:00 hours the following day, February 11, 2020. At that time, Mr. Candaele was brought to the Arrest Processing Unit. Det Bangloy stated that the interview portion of their interaction was a total of 3 hours and 28 minutes, with Mr. Candaele sleeping intermittently. Det Bangloy further testified that Mr. Candaele had approximately 11 and a half hours of rest time in-between interview segments.

[385] Det Bangloy testified that he was not aware, at that time, of any media reports that Ms. Blommaert's body might have been beaten or burned as Mr. Candaele had stated during the interview. Det Bangloy also testified that he was not aware during the interview of any media which suggested that the death of Ms. Blommaert was of a "domestic" nature. As well, Det Bangloy testified that he was not aware of any telephone call from Mr. Candaele's mother to the police.

[386] Det Bangloy testified that when he escorted Mr. Candaele to the washroom during the interview, they did not have any conversation about the offence. Det Bangloy further testified

that he did not promise Mr. Candaele anything or threaten him in any way during any time he escorted Mr. Candaele to the washroom. Det Bangloy stated that Mr. Candaele had three washroom breaks during his interaction with him.

[387] Det Bangloy clarified that he understood Mr. Candaele to mean that he travelled “eastbound on 34th avenue and turned around at the intersection of 79th Street to go westbound on 34th Avenue towards 80th Street” when he stated “I went this way, I turned around, and I didn’t go back and forth” and motioned at the map which had been printed out.

[388] Det Bangloy testified that he understood Mr. Candaele to have said “I just had bad feeling about something because she didn’t call me”, not “he didn’t call me” as was written in the transcript on page 357, line 22.

[389] Det Bangloy confirmed that he monitored Mr. Candaele whenever he was speaking to himself in the interview room alone.

[390] Det Bangloy testified that he gave Mr. Candaele a pair of shoes to replace his shoes, which were seized. Det Bangloy further testified that Mr. Candaele was given another sweater when he asked for a blanket.

[391] Det Bangloy stated that throughout his interaction with Mr. Candaele, he was provided with food, water or other drinks six times.

[392] Det Bangloy testified that at the time that he conducted the interview with Mr. Candaele, he had neither the DNA results from the U-Haul Vehicle nor the autopsy report.

[393] Det Bangloy also testified that Bow Cycle on Bowness road is approximately 2 km from where Ms. Blommaert’s body was found.

[394] I found Det Bangloy to be both a credible and reliable witness.

2. Expert Witness

a. Dr. Eric Gerald Bol

[395] In the Agreed Statement of facts, the parties concurred that Doctor Eric Bol was a qualified expert in the field of forensic pathology. In addition to the Agreed Statement of Facts, the Court formally qualified Dr. Bol as an expert in the field of forensic pathology for the purpose of giving opinion evidence on the cause of injuries to the human body and the cause and manner of death.

[396] Dr. Bol is employed as the Assistant Chief Medical Examiner. He conducted the autopsy of the Deceased, Ms. Blommaert.

[397] Dr. Bol testified that he conducted the autopsy of Ms. Blommaert on February 11, 2020. He further stated that he completed the autopsy report on June 26, 2020.

[398] Referring to his autopsy report, Dr. Bol noted injuries primarily on the head, abdominal cavity, pelvis and chest of Ms. Blommaert.

[399] The injuries of the head and neck region of Ms. Blommaert included several lacerations to the scalp, as well as a fracture to the skull. He also noted a focal area of bleeding on the surface of the brain associated with the fracture to the skull. He referred to this area as a subarachnoid hemorrhage. Dr. Bol indicated that the skull fracture was on “the left side of the forehead”.

[400] Dr. Bol testified that the injuries of Ms. Blommaert to the chest, abdomen and pelvis made up the majority of the injuries. They included contusions or bruises to the chest wall. There were multiple fractures to the ribs, and multiple injuries to the lungs. He referred to those latter injuries as being “lacerations to the lungs.”

[401] Dr. Bol also testified to a “disruption of...the pericardial sac” of Ms. Blommaert and “several fractures to the spine or breaks of the spine both in the chest cavity as well as the abdomen”. There was blood accumulation within the chest cavities, or what he called hemothoraces.

[402] There were multiple injuries to the organs within the abdomen, primarily the liver, the pancreas, and the soft tissues of the abdomen. There also was blood within the abdominal cavity or what we refer to as hemoperitoneum. There was also a fracture of the pelvis.

[403] Referring to his autopsy report of Ms. Blommaert, Dr. Bol testified that “there were no significant natural disease processes identified at autopsy.” While he referred to the results of the toxicology report from Dr. Chatterton, Dr. Bol indicated that drugs did not play a role in the cause of death.

[404] Dr. Bol testified that upon completion of his examination, his opinion was that the cause of death was the multiple blunt force injuries.

[405] Dr. Bol testified that the constellation of injuries described would be consistent with Ms. Blommaert being run over by a heavy truck. His evidence was also that there were no injuries to specifically indicate a head-on collision by the front of a vehicle.

[406] Dr. Bol stated that in head-on collisions by a vehicle it is possible in some cases that portions of a vehicle will leave a mark on the external portion of the body. He used a grill imprint or a patterned injury as an example. In this case, none of those were present. Dr. Bol also testified that he would not expect to see such markings in every case.

[407] Dr. Bol also testified as to his limitations. First, he could not determine the sequence of the injuries to which Ms. Blommaert had been subjected. Second, he could not determine the exact length of time it would taken for Ms. Blommaert to expire from this constellation of injuries. Dr. Bol stated that death could have occurred within a matter of minutes, but it could have taken a lot longer. That said, he testified that the ability of Ms. Blommaert to have survived hours was unlikely, without medical therapy.

[408] Dr. Bol testified that he could not speculate on when exactly Ms. Blommaert experienced a lack of consciousness from her injuries. He presumed that while she may have been able to move her limbs, it was unlikely that she could have walked following these injuries.

[409] Dr. Bol testified that the injuries to Ms. Blommaert are consistent with wheels having passed over her chest, abdomen, and pelvic region. They are not consistent with the wheels having passed over the head of the decedent. He further elaborated to say “[i]n my opinion, the wheels would be unlikely to result in that very localized depressed skull fracture, and I would expect it would be more from an impact from another object either on the ground or on the vehicle.”

[410] Dr. Bol testified that the lacerations on the scalp of Ms. Blommaert may have been caused by the undercarriage of the U-Haul Vehicle. He reiterated that the other injuries were more consistent with a crush or run-over type injury, as opposed to a single pointed object.

[411] In cross-examination, Dr. Bol testified that before and during the autopsy of Ms. Blommaert he had conversations with the four officers present about what their knowledge of the incident and allegations were. Following the autopsy, Dr. Bol testified that he received some medical documentation regarding the decedent's past medical history, as well as any hospital treatments she received. That medical documentation would have been obtained by the Medical Investigator Unit, and it is a standard procedure for all cases that the Medical Examiner investigates. He also received a copy of a Forensic Science and Identification Services biology report detailing some of the trace evidence recovered from the vehicle in question.

[412] Dr. Bol testified in cross-examination that the lack of significant front-end damage to the vehicle and the reconstruction report indicating that the driver may not have been aware of driving over an object in the roadway factored into his determination as to the manner of death, but not into the cause of death. He further testified that he arrived at an undetermined manner of death, from the information that he had available when drafting his opinion.

[413] When presented with the following hypothetical from Mr. Ross “if the decedent was standing on the side of the road and fell on the ground as the vehicle drove by and was struck by the back tires and that undercarriage apparatus that my friend has pointed you to?”, Dr. Bol confirmed that “[t]hat scenario could account for the injuries present in this case.”

[414] Dr. Bol testified in cross-examination that “the decedent was not wearing any clothing at that time”, nor did he view the clothing Ms. Blommaert had been wearing beforehand.

[415] In cross-examination, Dr. Bol confirmed that the toxicology report results indicate a presence of alcohol and cocaine which “factored in in that [he] reported them, but they did not affect the cause of death.”

[416] In cross-examination, Dr. Bol testified that the abrasion on the bridge of the nose and undersurface of the chin could have been caused by the undercarriage of the vehicle as it passed over Ms. Blommaert. In re-examination, Dr. Bol testified that he could not say whether the abrasions were related to this incident with the vehicle and that they could have been there before. When asked by Ms. Mograbee “would you always see abrasions in circumstances like this?”, Dr. Bol stated “No. We do see them often in traumatic injuries depending on the circumstances and how those injuries occurred, but it depends on how the individual sustained the injuries, clothing that may have been present, and a variety of factors with the circumstances.”

[417] When re-examined by Ms. Mograbee regarding the hypothetical put forward by Mr. Ross, Dr. Bol testified that “[t]he injuries present to the chest, abdomen, and pelvis which we described or discussed are most consistent with having been run over by the tires in question. However, the circumstances by which those tires went over her I cannot speak to.” Dr. Bol further clarified that he could not say whether it was the front or back tires.

[418] I found Dr. Bol to be both a credible and reliable witness.

VII. Analysis

A. Incident Context – The Timeframe

[419] The above detail of the evidence in this case provides context. However, in terms of the formal charge against Mr. Candaele, the only relevant issue is what occurred between: (i) the

time the U-Haul Vehicle was captured on the Pre-Incident Bowfort Gas Station CCTV as it left that business operation at approximately 04:06 hours on February 10, 2020, in the course of advancing toward the vicinity of the 34th Avenue Scene; and (ii) the time the U-Haul Vehicle was again captured on the CCTV as it passed by a gas station at approximately 04:14 hours on February 10, 2020, in the course of exiting the vicinity of the 34th Avenue Scene (the “**Post-Incident Gas Station CCTV**”). As a result, the relevant incident occurred within a time span of approximately eight minutes.

[420] When they left the Bowfort Shell Gas Station, Ms. Blommaert was driving a U-Haul Vehicle. I make this determination because when Ms. Blommaert and Mr. Candaele left the Bowfort Shell Gas Station, the Pre-Incident Bowfort Gas Station CCTV evidences that Mr. Candaele got into the passenger seat. Based on that evidence, I infer that Ms. Blommaert was driving a U-Haul Vehicle as they left the Bowfort Shell Gas Station.

[421] For reasons that are unknown to the Court, Ms. Blommaert stopped the U-Haul Vehicle in the vicinity of the 34th Avenue Scene and exited the vehicle at approximately 04:10 hours on February 10, 2020. Initially she walked eastward on 34th Avenue NW, and then the CCTV depicts her running.

[422] Based on the totality of the evidence before me, Mr. Candaele got into the driver’s seat of the U-Haul Vehicle in the vicinity of the 34th Avenue Scene. I make this determination because the CCTV records an individual who was in the passenger seat coming around the U-Haul Vehicle and entering the driver’s seat. Since we had Mr. Candaele in the passenger seat moments before at the Bowfort Shell Gas Station, I find that he was the individual who entered the driver’s seat of the vehicle after Ms. Blommaert exited the vehicle. This finding is consistent with the Agreed Statement of Facts which admits, in relation to the identification, that Mr. Candaele was the driver of the U-Haul Vehicle on the early morning of February 10, 2020.

[423] The Crown alleges that Mr. Candaele drove over Ms. Blommaert in the vicinity of the 34th Avenue Scene and crushed her, thereby causing her death. Mr. Candaele was arrested later that same day.

[424] In framing its theory for purposes of its legal argument, the Crown asserts that Mr. Candaele: (i) drove toward his wife knowing full well that Ms. Blommaert was on the road in front of him; and (ii) meant to cause her death or meant to cause her bodily harm that he knew was likely to cause her death, and was reckless whether death ensued or not.

[425] In further framing its case, the Crown posed the following questions for the Court. Does the conduct of the Accused equate to: (i) second degree murder; or (ii) manslaughter?

B. Second Degree Murder and *W(D)*

[426] To find Mr. Candaele guilty of second-degree murder, the Crown must prove each of the following outstanding elements beyond a reasonable doubt:

- a. That Mr. Candaele caused Ms. Blommaert’s death.
- b. That Mr. Candaele caused Ms. Blommaert’s death by means of an unlawful act.
- c. That Mr. Candaele had the requisite intent for murder.

[427] In addressing each of the outstanding elements of murder, I will integrate my assessment of Mr. Candaele's evidence as *W(D)* requires of me. Tailoring this assessment to the circumstances of the case, as I conduct my analysis, I will consider and address the following four-prong Modified *W(D)* approach.

[428] Concerning the first prong of the *Modified W(D)* approach, if I believe the evidence of Mr. Candaele to the effect that he did not kill Ms. Blommaert and did not have the requisite intent, then I cannot find him guilty of second-degree murder.

[429] Concerning the second prong of the *Modified W(D)* approach, if I am unable to decide whom to believe after careful consideration of all the evidence, then I cannot find Mr. Candaele guilty of second-degree murder. That said, I have a responsibility to attempt to resolve conflicting evidence bearing on the guilt or innocence of Mr. Candaele.

[430] Concerning the third prong of the *Modified W(D)* approach, even if I completely reject the evidence of Mr. Candaele, I am not permitted to simply assume that the Crown's version of events must be true. Rather, I must carefully assess the evidence I do believe and decide whether that evidence persuades me, beyond a reasonable doubt, that Mr. Candaele is guilty. That is, mere rejection of the evidence provided by Mr. Candaele in the form of statements cannot be taken as proof of his guilt.

[431] Concerning the fourth prong of the *Modified W(D)* approach, since there is an included offence, I acknowledge that a reasonable doubt with regard to one offence will not necessarily entitle Mr. Candaele to an acquittal on all charges.

C. Mr. Candaele

1. General Comments

[432] Mr. Candaele did not testify during the trial. However, there are various layers of evidence which I can reference. Further, I made a number of *voir dire* rulings during the trial that are relevant to the statements which Mr. Candaele made after the incident that occurred at the 34th Avenue Scene on the morning of February 10, 2020 involving Ms. Blommaert. In summary, those *voir dire* rulings are as follows:

- a. I found that the Crown had proven, beyond a reasonable doubt, that the statements made by Mr. Candaele during the course of the Second 911 Call were voluntary. As a result, the Second 911 Call is admissible at trial.
- b. I found that the Crown had proven, beyond a reasonable doubt, that the statements made to Mr. Shevalier were voluntary. As a result, those statements are admissible at trial.
- c. I found that the Crown had proven, beyond a reasonable doubt, that the statements made by Mr. Candaele in the interviews with Det Bangloy on February 10 and 11, 2020 were voluntary. As a result, the interview conducted by Det Bangloy is admissible at trial. Similarly, the statements made by Mr. Candaele to Cst Black and Det Witt during the arrest are also admissible.

2. Conduct After Incident

a. Petro-Can CCTV

[433] At 04:14 hours on February 10, 2020, the CCTV at Petro-Can Gas Station located at 8420 Bowfort Road captured the U-Haul Vehicle driving eastbound on Bowfort Road. That is the road which connects the neighbourhood of Bowness to the commercial area near 16 Avenue NW/TransCanada Highway. This gas station is in close proximity to the 34th Avenue Scene, and the evidence is that it is approximately a two-minute drive away.

b. McDonald's CCTV

[434] At 06:09 hours on February 10, 2020, Mr. Candaele was observed on CCTV walking from the east, arriving at the McDonald's located at 8235 Bowridge Crescent NW. Mr. Candaele used the washroom, ordered a meal, and left at 06:22 hours on that same day.

c. 7-Eleven CCTV

[435] At 07:30 hours on February 10, 2020, Mr. Candaele entered the 7-Eleven Store at 6306 Bowness Road NW, where he purchased a sim card for a mobile phone. He had a conversation with Mr. Parker.

[436] Mr. Candaele informed Mr. Parker that his wife was missing and that she may have jumped off a bridge. Mr. Candaele left the 7-Eleven Store at 07:53 hours on February 10, 2020. This interaction was captured on the CCTV at the 7-Eleven Store.

d. Checker Cab

[437] At 08:32 hours on February 10, 2020, Mr. Candaele took a Checker Cab from 6520 Bowness Road NW to Space Place Storage at 119 Bowridge Drive NW. During the cab ride, Mr. Candaele tells the driver, Mr. Sra, that his wife is missing.

e. Safeway CCTV (11:57 hours)

[438] Mr. Candaele parked the U-Haul Vehicle in the parking lot of the Safeway located at 8120 Beddington Blvd NW. He left the Safeway area at approximately 11:57 hours on February 10, 2020 without the vehicle. This was captured on Safeway CCTV. The Calgary Police Service subsequently recovered the U-Haul Vehicle at this location.

3. Statements of Mr. Candaele

a. Probation Officer Dialogues

[439] Mr. Candaele has two phone calls with Mr. Shevalier on February 10, 2020. The relevant evidence is as follows (from transcript of call):

- Mr. Shevalier: "Okay, so then you met Melissa – you -- you met -- met Melissa at the McDonald's eh?" And Mr. Candaele replies, "Yes."
- Mr. Candaele explains that he does not know where Ms. Blommaert went.
- He says, "She fucking ran away, Jonathan, in the middle of the fucking road, at 1:30 in the morning, it was about -- around midnight, about 12 o'clock" and that it happened "this morning".
- Mr. Candaele says, "Yesterday, what time, Jonathan? About 1:00 -- 1:00 - - one o -- 1:30, it was about 1:30, one o'clock, 1:30, 1:00, 1:30 when she stormed out. And she ran Jonathan, just ran away from the truck."

b. Mandryk 911 Call

[440] Mr. Candaele called 911 for a “welfare check” concerning his wife at 15:07 hours on February 10, 2020. This is the Mandryk 911 Call. The relevant statements from that call are itemized under the evidence of Ms. Mandryk, above.

c. Arrest Dialogue

[441] Mr. Candaele was arrested at approximately 16:30 hours on February 10, 2020. He utters several statements. The relevant evidence is as follows:

- “My wife is missing, sir.”
- He repeatedly said he had “proof”, did nothing wrong and could account for his time.
- “And last night, my wife ran away from me at 11:30. Eleven -- it was, like, midnight, sir. I parked a U-Haul up at the McDonald’s, sir. Hey? That’s where I had it parked, sir, the whole night.”
- “The U-Haul – our U-Haul that we moved out of here, sir, is parked at Market Mall.”

d. Interview Dialogue

[442] Detective Bangloy interviewed Mr. Candaele commencing in the evening of February 10, 2020. That interview continued into February 11, 2020. The following statements were offered by Mr. Candaele, post Charter and Caution. The following portions are notable:

- Mr. Candaele alleged that during a telephone call with his mother, she told him that Ms. Blommaert was in the middle of the street and she had been burned and beaten.
- “Melissa, with the U-Haul. Left me. She ran away and said, Fine. You want this stuff, you can fucking deal with it.”
- When Det Bangloy asked what time this occurred, Mr. Candaele said “This was at --- what time were the police dispatched to Cindy’s on the 9th? We -- we – when the police rolled up, up front... -- we were on – behind the garbage can at 7-Eleven. If you look at the camera, you’d see that we --”
- Det Bangloy asked if that was today or yesterday, Mr. Candaele said, “Yesterday, the 9th” and “the 9th, which would be the 10th, early morning. Yeah, the 10th, early morning, we were together. If you look at the footage on -- by – in -- in Bowness, there’s the traffic circle up by the McDonald’s -- by Olympic Park.”
- Later in the interview he said, “I think she ran out on me probably 1:00 -- 1:00, 1:20 -- 1:30 on that road.”
- When Det Bangloy asks to clarify where this happened, Mr. Candaele finally mentions the area around 80th Street and 34th Avenue and that she disappeared around there.
- Later Mr. Candaele says, “Here. And then, I -- I -- she hops out of the truck, and I’m like, Melissa, what are you doing? No, no, no, no. And I am yelling at her.... Get back in the truck. Come on, let’s go.... Let’s go. And she runs down this way, and I run in front of the truck, and I’m like,

Melissa. And she's right – like, the truck's right here. She's right by the tail end of it.... Like, in the middle of the road, I turn around, get back in the truck, and that's when I don't know if she went this way or this way.”

- When asked about what neighbours heard, Mr. Candaele says, “It was nothing. I didn't say anything. I was like, Fine, fuck you then. I'll go.”
- He says that his time estimates about where he was might be out by “10 minutes”.
- When Det Bangloy has left the room, Mr. Candaele says out loud to himself, “Yeah, probably about the time I seen her. 1:21, 1:30, last time.” This point was repeated to Det Bangloy.
- When asked about a witness hearing, “I am going to fucking kill you!” at the time of the incident, Mr. Candaele denied saying that and said that he said, “I -- I – I think I said, I feel like someone's gonna kill you, or something.” On this point, again after being confronted with these witness statements, Mr. Candaele said, “You're --you're -- something is gonna kill you, like, something's gonna hurt you, and I -- it wasn't me. I didn't do it.”
- Det Bangloy asked him again, “Okay, but do you remember saying that specifically last night?” and the Mr. Candaele replied, “No, sir, no, no, I don't remember that specifically”
- He denied being angry: “I would never -- not -- no angry, no rage, nothing enough to do that to her, man.”
- Mr. Candaele said that he did not feel anything, when it was suggested that he was driving fast.
- Mr. Candaele described several times exactly where he was during specific times throughout the interview claiming, “And I got a good memory”, but denied being with Ms. Blommaert at the time the U-Haul Vehicle is depicted at approximately 04:00 hours when the incident happened. When confronted with the video evidence of the incident at 04:00 hours, Mr. Candaele replied, “There's no way, man” and “It might've been later, 2:00, 2:30, 2:00.”
- Mr. Candaele said, “I had no idea this happened. I could feel something was wrong, but I didn't know what it was.”
- He told Det Bangloy he went to find Ms. Blommaert at Cindy's, but left after he could not get in because there was a brace on the door. Instead he left saying, “...she was sleeping, passed out, so I just -- I didn't wanna wake her up, so I just locked it.” He then and came back later.

D. Applying the Law to the Facts

1. Second-Degree Murder

[443] The remaining elements concerning the charge of second degree murder that I must address are embedded in the following questions. First, did Mr. Candaele cause Ms. Blommaert's death? Second, did Mr. Candaele cause Ms. Blommaert's death unlawfully? Third, if so, did Mr. Candaele have the state of mind required for murder? In the course of addressing each of these questions, I must determine whether the Crown has proved each of these remaining elements beyond a reasonable doubt.

a. Did Mr. Candaele cause Ms. Blommaert's death?

[444] The first question is whether Mr. Candaele caused the death of Ms. Blommaert. This question relates to the *actus reus*. If this component of the *actus reus* is not established, Mr. Candaele must be acquitted.

[445] To establish that Mr. Candaele caused Ms. Blommaert's death, I must be satisfied, beyond a reasonable doubt, that Mr. Candaele caused the death of Ms. Blommaert. If I am satisfied that Mr. Candaele caused the death of Ms. Blommaert, then I also will need to be satisfied, beyond a reasonable doubt, that Ms. Blommaert did not die by accident. I turn to address these questions.

i. Primary Issue – Cause of Death?

[446] Mr. Candaele made statements to a number of individuals in an effort to distance himself from the 34th Avenue Scene during the morning of February 10, 2020. I find those statements by Mr. Candaele are neither credible nor reliable. I make that determination because: (i) the Pre-Incident Bowfort Gas Station CCTV captures Mr. Candaele in the passenger seat of the U-Haul Vehicle at approximately 04:05 hours on February 10, 2020; (ii) the Second 34th U-Haul Vehicle Photo (and related CCTV footage) captures Ms. Blommaert exiting the U-Haul Vehicle in the area of the 34th Avenue Scene at approximately 04:10 hours on February 10, 2020, and also captures her walking down 34th Avenue NW; (iii) the 34th Avenue Camera Location CCTV captures Mr. Candaele getting into the driver's seat immediately after Ms. Blommaert vacates the U-Haul Vehicle; and (iv) in relation to identification, Mr. Candaele admits in the Agreed Statement of Facts that he was the driver of the U-Haul Vehicle on the early morning of February 10, 2020.

[447] Based on these facts and my analysis of the overall evidence, I find that Mr. Candaele commenced driving the U-Haul at the 34th Avenue Scene at approximately 04:10 hours on February 10, 2020.

[448] The death of Ms. Blommaert is not a contested element in this case. We have a body, and the evidence is that a doctor at the Foothills Medical Centre declared Ms. Blommaert deceased at 06:55 hours on February 10, 2020. Continuity of the body had been maintained by Cst Petersen from the 34th Avenue Scene to that hospital.

[449] As a result, I move to causation. The general test for causation in all homicides is a "significant contributing cause": see *R v Smithers*, 1977 CanLII 7, [1978] 1 SCR 506; and *R v Nette*, [2001] 3 SCR 488 at para 71.

[450] Sections 223 to 228 of the *Criminal Code* review various circumstances and modify the law for causation. These sections address the rare circumstances, such as where improper medical intervention causes the death, the acts of a third person, or the acceleration of death in a "thin skulled" victim. None of those circumstances apply in this case.

[451] In this case, we have medical evidence concerning the nature of the injuries to Ms. Blommaert. Dr. Bol testified that upon completion of his examination, his opinion was that the cause of death was the multiple blunt force injuries. Dr. Bol also testified that the constellation of injuries described would be consistent with being run over by the U-Haul Vehicle.

[452] We also have DNA evidence that connects Ms. Blommaert with the U-Haul Vehicle. The evidence is that a Rear Differential Swab of the U-Haul Vehicle contained DNA that matched a DNA sample taken from the post mortem of Ms. Blommaert. The related evidence is that the probability of the two DNA samples matching at random is 1 in 4.2 quintillion.

[453] In considering this evidence, I acknowledge that Dr. Bol also testified that there was no evidence to indicate that Ms. Blommaert was involved in a head-on collision with the U-Haul Vehicle. However, Dr. Bol then went on to testify that he would not expect to see such markings in every case. As a result, I do not view the absence of evidence of a head-on collision between the U-Haul Vehicle and Ms. Blommaert to be a factor that raises a reasonable doubt in respect of causation because the DNA evidence on the Rear Differential Swab creates a direct link between the vehicle and the Deceased.

[454] As I found above, Mr. Candaele was driving the U-Haul Vehicle at the 34th Avenue Scene at approximately 04:10 hours on February 10, 2020. This is approximately the time of the incident that killed Ms. Blommaert.

[455] Based on the facts and analysis, I find that Mr. Candaele caused the death of Ms. Blommaert. I make this determination because the Crown has established, beyond a reasonable doubt, that Mr. Candaele ran over Ms. Blommaert with the fully loaded U-Haul Vehicle. While I acknowledge that Dr. Bol could not opine on the way Ms. Blommaert was run over, he did testify that her injuries were consistent with being run over by the tires. That action crushed Ms. Blommaert, and was a significant contributing cause of her death.

ii. Alternative Argument – Accident Asserted

[456] Mr. Candaele raised the theory that Ms. Blommaert may have died by accident. In advancing this argument, Mr. Candaele argues that Ms. Blommaert could have been standing on the side of the road and fell on the ground as the U-Haul Vehicle was going by in circumstances where she was struck by the tires and the undercarriage of the vehicle.

[457] If that chain of events had occurred, Mr. Candaele asserts that such a sequence could have caused the injuries that were inflicted on Ms. Blommaert. Further, Mr. Candaele suggests that the injury could have happened either when he was driving the U-Haul Vehicle eastbound on the 34th Avenue Scene or after he turned around and proceeded westbound on that same avenue.

[458] Typically, “accident” means that the accused did not mean to execute the *actus reus*. That is, the consequences of the *actus reus* were unintended.

[459] In reviewing the governing principles in this area of the law, appellate Courts have commented that the criminal law uses the term “accident” in the context of two discrete sets of circumstances. The first circumstance has to do with the *actus reus* element of a crime – an unintentional act, in contrast to an intentional act: *R v Parris*, 2013 ONCA 515 at para 106; see also *R v Mathisen*, 2008 ONCA 747 at para 70.

[460] Where it is a specific intent offence such as murder, an accident relates to a denial of voluntariness of the act or denial of intention to cause the act or the outcome. As an example, an individual driving an automobile is typically not held accountable for an unanticipated stroke or heart attack that involuntarily causes an accident and the consequential death of another. The underlying rationale is that the death resulted from an unanticipated and involuntary act.

[461] While Mr. Candaele's assertion that the death of Ms. Blommaert was an accident is worthy of consideration in the first instance, the argument is displaced by the evidence presented by the Crown. As has been stated by appellate Courts, the Crown need not negate "every possible conjecture, no matter how irrational or fanciful, which might be consistent with the innocence of the accused": *Villaroman* at para 37.

[462] In advancing the accident argument, Mr. Candaele is correct that the Court has no evidence as to exactly how the incident unfolded. That said, we do have a body. Ms. Blommaert is dead and the DNA from the Rear Differential Swab of the U-Haul Vehicle matches her DNA. Further, I found above that Mr. Candaele was driving the U-Haul Vehicle when it rolled over Ms. Blommaert.

[463] Importantly, when the body of Ms. Blommaert was found it was situated approximately in the centre of the road at the location of the 34th Avenue Scene. Further, the evidence of Dr. Bol was that Ms. Blommaert was so badly injured that she would not have been able to move.

[464] Contrary to the assertions of Mr. Candaele, the Crown asserts that the death of Ms. Blommaert was neither an accident nor a "whodunit" circumstance. In considering the Crown's argument, I have reflected on where the body was found and how badly she was injured.

[465] In assessing the "accident" argument that Mr. Candaele is advancing, I note that the evidence before the Court includes the fact that: (i) Ms. Blommaert vacated the driver's seat of the U-Haul Vehicle when it stopped in the vicinity of the 34th Avenue Scene at approximately 04:10 hours on February 10, 2020; (ii) Mr. Candaele gets in the driver's seat of the U-Haul Vehicle almost immediately thereafter; (iii) coincidental with this shifting of drivers, the evidence from a number of witnesses was that Mr. Candaele was yelling profanities at Ms. Blommaert; (iv) the revving of an engine is heard by witnesses; (v) the U-Haul Vehicle is captured on CCTV stopping, reversing and driving forward at the 34th Avenue Scene and then coming in the opposite direction between approximately 04:10 hours to 04:12 hours on February 10, 2020 (actual time); and (vi) the U-Haul Vehicle must have left the vicinity of the 34th Avenue Scene at approximately 04:12 hours because it was subsequently caught on the Post-Incident Gas Station CCTV at approximately 04:14 hours on February 10, 2020. I make this latter comment because the evidence is that the gas station is approximately two minutes away from the 34th Avenue Scene.

[466] Medical evidence was provided on the nature of the injuries to Ms. Blommaert. As I noted above, Dr. Bol testified that upon completion of his examination, he was of the opinion that the cause of death was the multiple blunt force injuries.

[467] Dr. Bol testified that the constellation of injuries described would be consistent with being run over by the U-Haul Vehicle. That said, he also testified that there was no evidence to indicate that Ms. Blommaert was involved in a head-on collision with the U-Haul Vehicle. However, Dr. Bol then went on to testify that he would not expect to see such markings in every case.

[468] When re-examined by the Crown, Dr. Bol testified that the injuries present to the chest, abdomen, and pelvis of Ms. Blommaert were most consistent with having been run over by the tires of the U-Haul Vehicle. However, Dr. Bol also testified that he could not speak to the circumstances by which the tires went over Ms. Blommaert. He further clarified that he could not say whether it was the front or back tires of the U-Haul Vehicle.

[469] Regarding the expert witness, I emphasize that I found the testimony of Dr. Bol to be both credible and reliable. Specifically, he spoke only to his expertise as well as to his experience in practice. He conceded or agreed to hypotheticals or other possibilities suggested to him by Defence counsel, and provided cogent reasons for his opinions. In summary, Dr. Bol provided unbiased and professional testimony that was of assistance to the Court.

[470] In considering the argument that was advanced by Mr. Candaele, there are three key reasons why I do not accept that Ms. Blommaert was killed by an accident. First, the evidence establishes, beyond a reasonable doubt, that the U-Haul Vehicle passed over her body. That fact is established by virtue of the DNA of Ms. Blommaert found on the Rear Differential Swab of that vehicle. Second, the body of Ms. Blommaert was found very close to the centre of the road at the 34th Avenue Scene. Given the testimony of Dr. Bol, I infer that is the location where the U-Haul Vehicle ran over Ms. Blommaert because, based on the evidence, she would not have been able to move. Her injuries were too serious. Since she was in the middle of the road, common sense tells me that Mr. Candaele would have seen Ms. Blommaert as he was driving toward her. Third, the evidence of Cst Spear was that the ruts caused by the snow were in the neighbourhood of four or five centimetres. Based on the testimony from Cst Spear, my review of the photos of the 34th Avenue Scene and common sense, I find that Mr. Candaele would have felt the impact of the U-Haul Vehicle going over the body of Ms. Blommaert because it would have caused a distinctive lift to the vehicle.

[471] My finding on this point is supported by the Fifth 34th U-Haul Vehicle Photo and the Sixth 34th U-Haul Vehicle Photo, both of which capture the U-Haul Vehicle in the vicinity of the 34th Avenue Scene where the body of Ms. Blommaert was discovered. While this view is through some trees, CCTV clips are clear enough to record the back-end of the U-Haul Vehicle visibly dropping down after the wheels, in my view, rolled over the body of Ms. Blommaert as the vehicle was moving in an eastward direction on 34th Avenue NW (the “**Rollover Incident**”). Based on the totality of the evidence, I find that the Rollover Incident is what inflicted the fatal injuries on Ms. Blommaert.

[472] In the circumstances, common sense tells me that this was not an inadvertent accident by Mr. Candaele. The fact that he continued to drive the U-Haul Vehicle eastward toward 79th Street NW, and then turned the vehicle around immediately and proceeded back westward down 34th Avenue NW to the 34th Avenue Scene where the Rollover Incident occurred reinforces my conclusion that this was not an accident. He was returning to the scene of the crime to check things out. If this had been an accident of which he was unaware, there would be no reason for Mr. Candaele to turn the vehicle around and return to the 34th Avenue Scene.

[473] Based on the totality of the evidence, I find the Crown has proved, beyond a reasonable doubt, that Ms. Blommaert did not die by accident. She was driven over by Mr. Candaele in the Rollover Incident, and he did not stop to assist her in a time of critical need. Common sense informs me that there are just too many contrary factors in evidence for the accident theory to raise any doubt. In summary, I make this finding based on the fact that her body was found in the middle of the road at the 34th Avenue Scene and the evidence that the back-end of the U-Haul Vehicle visibly dropped down after the wheels rolled over the body of Ms. Blommaert. As a result, I find the Crown has proved, beyond a reasonable doubt, that Ms. Blommaert did not die by accident.

[474] For completeness, I also considered the question as to whether anyone else would have had an opportunity to inflict the injuries on Ms. Blommaert. After Ms. Blommaert vacated the U-Haul Vehicle at approximately 04:10 hours on February 10, 2020, the evidence is that Mr. Candaele was driving the vehicle for the remainder of the morning on that date. There is no contrary evidence, and no evidence that anyone else was subsequently in the U-Haul Vehicle, other than Mr. Candaele. As mentioned above, the DNA from the Rear Differential Swab of the U-Haul Vehicle matched the DNA of Ms. Blommaert thereby connecting the vehicle with her fatal injuries.

[475] In addition to the DNA connection between the U-Haul Vehicle and Ms. Blommaert, the CCTV footage of the 34th Avenue Scene does not record any other vehicles on that avenue between: (i) the incident between the U-Haul Vehicle and Ms. Blommaert at approximately 04:11 hours on February 10, 2020; and (ii) approximately 05:32 hours on February 10, 2020 when headlights of another vehicle are seen on the avenue. That other vehicle stopped in the vicinity of the 34th Avenue Scene, which is where the body of Ms. Blommaert was discovered (the “**Unknown Vehicle**”). The Unknown Vehicle remains stationary until it reverses and leaves the area. There is no further evidence concerning the Unknown Vehicle, and neither the Crown, nor Mr. Candaele suggest that it was involved in the injuries to, or death of, Ms. Blommaert.

[476] Based on the evidence and my analysis, I find the Crown has proved, beyond a reasonable doubt, that Mr. Candaele caused the death of Ms. Blommaert. This finding satisfies the first element of the *actus reus*.

b. Did Mr. Candaele Cause Ms. Blommaert’s Death by Means of an Unlawful Act?

[477] The second question is whether Mr. Candaele caused the death of Ms. Blommaert unlawfully. This second question also relates to the *actus reus*. If this component of the *actus reus* is not established, Mr. Candaele must be acquitted.

[478] For purposes of this second question, I note that an unlawful action is one that any reasonable person, in the circumstances, would think would likely put another person at risk of harm or injury that interferes with a person’s health or comfort in more than a brief or minor way: see *R v Adkins*, 1987 CanLII 2413 (BCCA) at para 37.

[479] The evidence in this case establishes the Ms. Blommaert was run over by the tires from, and struck by the rear differential of, the U-Haul Vehicle. As noted above, this has been proved, beyond a reasonable doubt, because, amongst other factors, the DNA located on the Rear Differential Swab from the U-Haul Vehicle matched the DNA of Ms. Blommaert.

[480] The evidence also establishes that Mr. Candaele was driving the U-Haul Vehicle at the location of the 34th Avenue Scene by approximately 04:10 hours on February 10, 2020. Given that it has been established that Ms. Blommaert did not die by accident when the U-Haul Vehicle rolled over her, I find Mr. Candaele caused the death of Ms. Blommaert by means of an unlawful act. To reiterate the principle of law referred to above, an unlawful action in these circumstances is one that any reasonable person, in the circumstances, would think would likely put another person at risk of harm or injury that interferes with a person’s health or comfort in more than a brief or minor way. Insofar as I have found above that Mr. Candaele drove the U-Haul Vehicle over Ms. Blommaert, any reasonable person in these circumstances would recognize that such an action would put her at risk of harm or injury that interferes with her health or comfort in more

than a brief or minor way: see *R v Javanmardi*, 2019 SCC 54; *R v Adkins* (1987), 39 CCC (3d) 346 (BCCA); and see also *R v Vaillancourt* (1995), 105 CCC (3d) 552 (Que CA).

[481] While I recognize Mr. Candaele made various statements to the effect that he did not harm Ms. Blommaert, I find the numerous declarations by him to be unreliable and incredible. I make this finding because, based on my review of the evidence, his version of events shifts with each interaction he has with the Second 911 Operator, his probation officer and the police officers. Further, there are several inconsistencies in his statements when I compare them to other sources of evidence before me. For example, Mr. Candaele tells the Second 911 Operator that he last saw Ms. Blommaert at 23:00 hours on February 9, 2020. In contrast, he is recorded on CCTV with her at approximately 04:00 hours on February 10, 2020 at the Bowfort Road Shell Gas Station. Similarly, when Det Bangloy confronts Mr. Candaele with CCTV footage, he denies being with Ms. Blommaert any later than approximately 02:30 hours on February 10, 2020. When considered in the context of all the evidence presented during trial, the statements that Mr. Candaele made to the various witnesses after the Rollover Incident cannot be accepted at face value.

[482] That said, a trial is not a credibility contest. That is the guidance which flows from *W(D)*. Just because I reject Mr. Candaele's evidence, that does not mean I can merely accept the Crown's version of events. Rather, I must carefully consider all the evidence to determine whether the Crown has met its onus.

[483] The Crown has established that the U-Haul Vehicle rolled over, and struck, Ms. Blommaert. This was confirmed by the DNA on the Rear Differential Swab, which matched the DNA of Ms. Blommaert. The CCTV taken of the 34th Avenue Scene at approximately 04:11 on February 10, 2020 corroborates this impact. There is no doubt that running over an individual in these circumstances is an unlawful act. That being the case, the *unlawful act* requirement imposed by section 222(5)(a) of the *Criminal Code* as a condition precedent to a blameworthy killing has been satisfied in this case.

[484] Based on the evidence and my analysis, I find the Crown has proved, beyond a reasonable doubt, that Mr. Candaele unlawfully caused the death of Ms. Blommaert. Insofar as Mr. Candaele was driving the U-Haul Vehicle at the time that it ran over Ms. Blommaert at approximately 04:11 hours on February 10, 2020, I am of the view that any reasonable person would think that the impact of the U-Haul Vehicle on Ms. Blommaert put her at risk of harm in a manner that would interfere with her health and well-being in more than a minor way. This finding satisfies the element that Mr. Candaele caused the death of Ms. Blommaert unlawfully.

[485] Since both the first question and second question have been answered in the affirmative, the *actus reus* in this case is established.

c. Did Mr. Candaele have the state of mind required for murder?

[486] The next step in the analysis requires me to determine whether Mr. Candaele meant to cause Ms. Blommaert's death or meant to cause bodily harm that he knew was likely to cause her death and was reckless as to whether or not death ensued. This concerns the *mens rea*.

[487] The mental element must be present at the time of the impugned act. This requires that I address the question: did Mr. Candaele intend to run over Ms. Blommaert with the U-Haul Vehicle?

[488] If Mr. Candaele intended to run over Ms. Blommaert and thereby inflict the subject injuries on her, then he is guilty of second-degree murder. If Mr. Candaele did not intend to inflict these injuries, then he may be guilty of manslaughter.

[489] To determine Mr. Candaele's state of mind and what he meant to do, I must consider the following three questions: (i) what did Mr. Candaele do or not do, (ii) how did Mr. Candaele do or not do it; and (iii) what did Mr. Candaele say or not say?

[490] To determine his state of mind, it is necessary to look at words and conduct of Mr. Candaele: (i) before; (ii) at the time of; and (iii) after the unlawful conduct that caused Ms. Blommaert's death. All of these details shed light on Mr. Candaele's state of mind at the time.

[491] I turn to the first of these three questions, which concerns the issue of what Mr. Candaele did or did not do. Concerning this question, the following conduct is important.

[492] First, the evidence is that Mr. Candaele yelled at Ms. Blommaert while they were situated at the 34th Avenue Scene. The yelling from a couple of different witnesses included profanities and at least one threat. While there are some discrepancies amongst the witnesses concerning the utterances, there is enough consistency as to the time and the thrust of the comments that I am satisfied the Crown has proved, beyond a reasonable doubt, that Mr. Candaele was yelling at Ms. Blommaert at or around 04:09 hours on February 10, 2020 in the vicinity of the 34th Avenue Scene. Based on the evidence, I find there was some degree of rage in the comments made by Mr. Candaele when he and Ms. Blommaert were situated at the 34th Avenue Scene.

[493] Second, both the evidence and the Agreed Statement of Facts places Mr. Candaele in the driver's seat of the U-Haul Vehicle during the early morning hours of February 10, 2020. Based on my review of the evidence, I find that Mr. Candaele was situated in the driver's seat of the U-Haul Vehicle at approximately 04:10 hours on February 10, 2020, immediately after Ms. Blommaert exited the vehicle. As a result, Mr. Candaele had care and control of the U-Haul Vehicle at the relevant time.

[494] Third, the engine of the U-Haul Vehicle was heard to be revving. I find that this revving was consistent with, and supportive of, the apparent rage that some of the witnesses heard Mr. Candaele displaying.

[495] Fourth, the evidence is that: (i) Ms. Blommaert was wearing a dark coat; (ii) there was snow on the road, which would have contrasted with the dark coat; (iii) the lights on the U-Haul Vehicle were working; and (iv) the street lamps were working. Based on the fact that the body of Ms. Blommaert was found in the middle of the road at the 34th Avenue Scene in circumstances where she would have been visible to Mr. Candaele while he was driving the U-Haul Vehicle (i.e., her dark coat against the white snow on the road), I find that he would have seen her as she was making her way eastbound down the area of the 34th Avenue Scene at approximately 04:10 hours on February 10, 2020.

[496] Fifth, the U-Haul Vehicle was seen in the CCTV to proceed eastward on the road at the 34th Avenue Scene, and then turn around and proceed westward on that same road. The evidence is clear that the U-Haul Vehicle impacted Ms. Blommaert at some point. The evidence to support that fact is the Rear Differential Swab from the U-Haul Vehicle. I found above that this occurred at the time of the Rollover Incident. As I also stated above in the context of reviewing the question as to whether Ms. Blommaert could have been injured in the context of an accident, I view the traversing in the U-Haul Vehicle by Mr. Candaele eastward on 34th Avenue NW

followed immediately afterward (*i.e.*, within a minute or two) by the vehicle turning around and traveling westward on 34th Avenue NW as very strong evidence that he was pursuing Ms. Blommaert for the purpose of imposing harm. That is, Mr. Candaele had intent at the time of the Rollover Incident.

[497] If he had no intent to impose harm on Ms. Blommaert, common sense tells me that he would have simply left the vicinity of the 34th Avenue Scene. If he had left in circumstances where it was an accident, then it is possible that he would have been unaware of the gravity of the injuries to Ms. Blommaert. In this case, he did not leave. Instead, he returned to, and then bypassed, Ms. Blommaert and did not offer any assistance.

[498] I turn to the second of these three questions, which concerns the issue of how Mr. Candaele did or did not do it. In this case, Mr. Candaele drove over Ms. Blommaert with the U-Haul Vehicle. Based on all of the evidence before me, Mr. Candaele did so by simply driving over her in the middle of the road at the 34th Avenue Scene.

[499] I defined this act above as the Rollover Incident. Having found that Mr. Candaele deliberately ran over Ms. Blommaert, I infer that he intended to cause serious bodily harm knowing that it was likely to cause death: ***R v Ariaratnam***, 2018 ONCA 1027 at para 37.

[500] I turn to the third of these three questions, which concerns the issue of what Mr. Candaele said or did not say. After the Rollover Incident, Mr. Candaele had a lot to say to a number of individuals. His message was consistent. He denied being with Ms. Blommaert in the early morning hours of February 10, 2020, notwithstanding there was video evidence to the contrary. Perhaps the most telling comment is one that Mr. Candaele made to Cst Black immediately before his arrest. In particular, he tells the police officer that his wife is missing. Mr. Candaele volunteered this statement before he was arrested and, indeed, before Cst Black ever referred to Ms. Blommaert. I infer from this comment to Cst Black that Mr. Candaele knew what he had done and what had happened to Ms. Blommaert.

[501] As I stated in my above assessment of credibility and reliability, and throughout my analysis, I found the statements Mr. Candaele made to various parties to be neither credible nor reliable. I make this finding because his story kept shifting, and many of his comments did not make sense when considered in the context of the collective body of evidence.

[502] The inconsistency of the statements made by Mr. Candaele is evident from, for example, his reporting to the Second 911 Operator to the effect that he last saw Ms. Blommaert at approximately 11:00 hours on February 9, 2020. That statement to the Second 911 Operator is not consistent with the Pre-Incident Bowfort Gas Station CCTV, which captures Mr. Candaele with Ms. Blommaert at the approximate time of between 04:03 hours and 04:08 hours on February 10, 2020.

[503] That said, the Crown still has the onus to prove, beyond a reasonable doubt, that Mr. Candaele had the requisite intent at the time he inflicted the injuries on Ms. Blommaert.

[504] The aggregate of these facts is not just compelling. It persuades me, beyond a reasonable doubt, that Mr. Candaele had the requisite intention at the time that drove the U-Haul Vehicle over her, and inflicted the injuries on Ms. Blommaert. The evidence is that those injuries caused her death.

[505] Based on the evidence and analysis, I find that the aggregate of the evidence persuades me, beyond a reasonable doubt, that Mr. Candaele is guilty of second degree murder. In coming

to this conclusion, I acknowledge the special considerations required when I examine the various statements made by Mr. Candaele to those who became witnesses, including Cst Black, Det Witt and Det Bangloy. Even if I do not accept the accused's exculpatory statements, as in this case, I cannot just accept the Crown's theory of the case. Rather, I must critically assess the totality of the evidence to determine if I am satisfied, beyond a reasonable doubt, of the accused's guilt.

[506] In this case, I am satisfied that the Crown has proved, beyond a reasonable doubt, that Mr. Candaele had the requisite intent for murder. In drawing my conclusion, the Crown needs to prove, beyond a reasonable doubt, only one of two possible states of mind on the part of an accused. That is, the Crown must prove either that Mr. Candaele intended to cause the death of the Deceased or that Mr. Candaele intended to cause the Deceased bodily harm, which he knew was likely to cause her death and was reckless as to whether death ensued or not.

[507] Based on the aggregate of the evidence, I find that the Crown has at least proved, beyond a reasonable doubt, the latter branch of this test. In making this finding, I need not consider the lesser included offence of manslaughter.

2. Manslaughter

[508] Based on the aggregate of the evidence above, I found above that the Crown has proved, beyond a reasonable doubt, all of the elements of second degree murder. As a result, I need not consider the lesser included offence of manslaughter.

VIII. Conclusion

[509] In consideration of the foregoing, I find that the Crown has established, beyond a reasonable doubt, that Mr. Candaele committed culpable homicide under section 229 of the *Criminal Code*. Therefore, on the single count in the Indictment, I find Mr. Candaele guilty of the second degree murder of Ms. Blommaert, on or about the 10th day of February 2020, at or near Calgary, Alberta, contrary to section 235(1) of the *Criminal Code*.

Heard on the 19th to 23rd days of April, 2021, the 26th to 29th days of April, 2021, the 3rd day of May, 2021 and the 6th day of May, 2021.

Dated at the City of Calgary, Alberta this 7th day of July, 2021.

D.B. Nixon
J.C.Q.B.A.

Appearances:

Hyatt Mograbee and Robert Marquette
for the Crown

Kim Ross
for the Accused