

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R. v. Crawley*, 2015 NSPC 88

Date: 2015/09/04

Docket: 2475430

2475433

2475434

Registry: Dartmouth

Between:

Her Majesty the Queen

v.

David Cordell Crawley

Judge: The Honourable Judge Theodore K. Tax, J.P.C.

Heard: October 3, 2014; April 1, 2015 and June 25, 2015, in
Dartmouth, Nova Scotia

Decision September 4, 2015

Charge: Sections 270(1)(a), 264.1(1)(a), 175(1)(a)(i), 811 X 2 of the
Criminal Code of Canada

Counsel: Scott Morrison, for the Crown
Patrick Atherton, for the Defence

By the Court:

INTRODUCTION:

[1] As a result of an altercation on June 25, 2012, in the parking lot in front of the Access Nova Scotia location at 250 Baker Drive in Dartmouth, Nova Scotia, Mr. David Crawley was charged with unlawfully assaulting a peace officer engaged in the execution of his duty contrary to section 270(1)(a) of the **Criminal Code** and the breach of the clause contained in Recognizances issued on September 26, 2011 and on June 11, 2011, under section 810 of the **Criminal Code** to “Keep the Peace and Be of Good Behavior” contrary to section 811 of the **Criminal Code**. The Crown proceeded summarily on these charges.

[2] Trial evidence was heard on October 3, 2014 and on April 1, 2015. Counsel made their closing submissions on June 25, 2015 and the Court reserved its decision until today’s date.

[3] I should also note that Mr. Crawley also faced 2 other charges – one which alleged an offence contrary to s. 264.1(1)(a) of the **Criminal Code** for unlawfully uttering a threat to cause bodily harm or death to Const. Parasram. In terms of that charge, at the conclusion of the Crown’s case, I found him not guilty of that charge by virtue of a directed verdict. With respect to the other alleged offence contrary to

s. 175(1)(a)(i) of the **Criminal Code** of unlawfully causing a disturbance in or near a public place by shouting and swearing, I found him not guilty at the conclusion of the submissions of counsel on June 25, 2015.

POSITIONS OF THE PARTIES:

[4] During their submissions, both the Defence Counsel and the Crown Attorney indicated that there is not much dispute over the basic background facts to the legal issues in question.

[5] Defence Counsel acknowledges that, during the afternoon of June 25, 2012 shortly after Const. Parasram met with Ms. White, Mr. Fraser and Mr. Crawley, the 3 civilians became involved in a verbal dispute in relation to the ownership of a late model, blue 4-door Chevrolet Cavalier sedan which was parked in front of the Access Nova Scotia Office located at 250 Baker Drive in Dartmouth, Nova Scotia. Although Defence Counsel acknowledges that Const. Parasram was in the lawful execution of his duties as a peace officer at that time, he submits that when Const. Parasram placed his hand on Mr. Crawley and confirmed, in response to a question posed by Mr. Crawley, that he was not under arrest, Mr. Crawley simply pushed the police officer's hand off of his body because the officer had no legal authority to make contact with him. As such, Defence Counsel submits that Mr. Crawley did

not apply force to the police officer with the intent to assault him and that given the different versions of events with respect to Mr. Crawley's actions, the Court ought to be left in reasonable doubt as to whether the Crown has established all of the essential elements of the assault charge beyond a reasonable doubt.

[6] For his part, the Crown Attorney submits that factual context of this case shows that Const. Parasram found himself in the midst of a very dynamic situation while, at the same time, trying to conduct an investigation into the ownership of the late-model, blue Chevrolet Cavalier and also trying to preserve the public peace. In that context, it is the position of the Crown that the police officer, placing his hand on Mr. Crawley, was not for the purpose of arresting him, but rather, for the purpose of keeping him at a safe distance from the other people while he tried to sort out the ownership of the Chevrolet Cavalier. While the large majority of the factual background of the case is not in dispute, there are differences in the evidence with respect to the actions taken by the police officer and Mr. Crawley's actions or reactions to them. Therefore, the Crown Attorney submits that, after the Court has conducted a **R. v. WD** analysis of the evidence, the Court should not be left in reasonable doubt that Mr. Crawley assaulted the police officer in the lawful execution of his duties and that he had no legal justification for his actions.

TRIAL EVIDENCE:

[7] On June 25, 2012, David Crawley drove a blue, 1992 Chevrolet Cavalier to the Access Nova Scotia location at 250 Baker Drive, Dartmouth, Nova Scotia to register that car in his name. At the same time, Belinda White and Murdoch Fraser were parked in the same parking lot in front of Access Nova Scotia, waiting for their daughter to complete her driver's test and to obtain her driving licence. Mr. Fraser and Ms. White had been in a relationship for about seven or eight years at the time of this incident, but they were not married, nor were they living together at that time. Mr. Fraser owned a blue, 1992 Chevrolet Cavalier 4-door sedan, which he had parked for some time on Highfield Park Drive in Dartmouth, Nova Scotia, until it was stolen a few months before late June, 2012. Mr. Fraser's vehicle was not in running order, and the battery was dead. Since he believed that he would never see the car again, Mr. Fraser had not reported his stolen vehicle to the police.

[8] When Ms. White and Mr. Fraser saw the blue, 1992 Chevrolet Cavalier parked in front of the Access Nova Scotia location at 250 Baker Drive, given the similarity of the make, model, age, color and location of rust spots of that car to Mr. Fraser's car, which had been stolen a few months earlier, Ms. White called 911. Approximately five minutes later, at around 11:10 AM on June 25, 2012, Const. Amit Parasram arrived to investigate the complaint made by Ms. White and

determine whether the car in the parking lot was, indeed, the car owned by Mr. Fraser. Mr. Fraser and Ms. White waited by the car until the police officer arrived.

[9] Once Const. Parasram arrived in the parking lot outside the Access Nova Scotia Office, he had a brief opportunity to speak with Mr. Fraser and Ms. White. While Const. Parasram was getting information from Ms. White and Mr. Fraser, Mr. Crawley came out of the Access Nova Scotia location and walked over to the 1992 Chevrolet Cavalier.

[10] As both counsel have indicated, there is no dispute in the evidence that Mr. Crawley walked by the police officer and the two people who were standing near the blue Chevrolet Cavalier, opened the rear door of the car and that he was in the process of placing a temporary vehicle permit sticker on the back window when Const. Parasram approached him. The police officer, in full uniform, explained to Mr. Crawley why he was there and added that he wanted to ask him a few questions about the ownership of the car. Mr. Crawley confirmed the evidence of the other witnesses that his response to the officer was that it was his car and in no uncertain words, he made it clear to the police officer that he did not have the time or any inclination to deal with that issue at that time.

[11] It was acknowledged by all of the witnesses in the trial, that Const. Parasram remained calm and professional at all times during his dealings with Mr. Crawley. It was also acknowledged by all of the witnesses that, as Const. Parasram was making inquiries to clarify the ownership of the vehicle, Mr. Crawley, and in particular Ms. White, became involved in a very heated verbal altercation which involved name-calling, yelling and swearing in loud voices. Although I find that Mr. Crawley's evidence certainly indicated his annoyance with the police officer because he was being asked questions about the ownership of the car, I also find that he downplayed his level of upset and agitation as he became involved in a heated verbal altercation, primarily with Ms. White. At the same time, I also find that Ms. White downplayed her level of agitation as well as her name-calling, yelling and swearing in a loud voice at Mr. Crawley. In short, I find that this was a very dynamic situation and I have no doubt that Const. Parasram found himself in the middle of a very heated verbal altercation, despite his best efforts to calm the situation and keep the parties separated while he was trying to get answers to his questions or information that would sort out the ownership of the late-model, blue Chevrolet Cavalier.

[12] I find that the evidence established that Const. Parasram and Mr. Crawley were on the driver's side of the car and that Ms. White and Mr. Fraser were

situated at the front of the car closer to the passenger side or on the passenger side at the front of the car when Const. Parasram stated that he wished to ask Mr. Crawley a few questions about the car. I find that the evidence established that Mr. Crawley had some papers in his hand and that while he appeared to be affixing a temporary licence permit to the back window of the car, he did so by reaching into the car through the open rear door on the driver's side of the four-door sedan. When Const. Parasram first approached the blue Chevrolet Cavalier, I find that the police officer advised Mr. Crawley why he was there and that he had a few questions about the ownership of the car. I accept Mr. Crawley's evidence which was supported by Const. Parasram that he told the officer that the car had been the family for years. However, I also find that Mr. Crawley did not show the ownership papers for the car, which he had just registered and had in his hands, to the police officer in response to his questions.

[13] In these circumstances, I find that Mr. Crawley, by his words and actions, gave every indication to Const. Parasram that he did not wish to be delayed by the police officer's inquiries and that he was frustrated, agitated and was becoming increasingly angry as a result of the accusations of Mr. Fraser, and in particular Ms. White. I accept Const. Parasram's evidence that, as a result of the 911 call with respect to the late-model blue Chevrolet Cavalier, he was in the midst of

conducting a police investigation into the possible theft of that vehicle. I also accept Const. Parasram's evidence that when Mr. Crawley indicated, in no uncertain terms, that he had no time for the officer delaying him by asking him some questions about the vehicle, the officer advised Mr. Crawley that he could not leave because he was investigating a possible stolen vehicle.

[14] Furthermore, I accept Const. Parasram's evidence that, after he received the dispatch information from the 911 call, when he heard the circumstances surrounding the theft of Mr. Fraser's late-model blue Chevrolet Cavalier, he believed that the complaint "seemed frivolous from the start" that a car would be stolen, no report of that theft having been made to the police and that someone would then try to register that stolen car. I accept his evidence that when he arrived at the scene, he believed that if everyone had remained calm, it would only have taken him a few minutes to get the information from Mr. Crawley, confirm the ownership of the vehicle and then everyone would have been on their way. Parenthetically, I should also note here, that subsequent to the actions which gave rise to these charges, Const. Parasram did confirm that Mr. David Crawley was, in fact, the owner of the vehicle in question and that it was not the stolen car.

[15] Notwithstanding what the officer believed shortly after he arrived at the Access Nova Scotia parking lot, he was not able to calm the situation and the

verbal altercation became more heated between Ms. White and Mr. Crawley. In addition, Const. Parasram believed that Mr. Crawley intended to leave the scene without responding to his questions about the ownership of the vehicle. I accept the evidence of Const. Parasram, which was consistent with the evidence of the other witnesses, that after Mr. Crawley finished what he was doing in the back window of the car, he moved forward towards the front door on the driver's side of the vehicle. I also accept Const. Parasram's evidence that, given the fact that Mr. Crawley had demonstrated to him that he was quite aggravated by the whole situation and that he was in a heated verbal argument with Mr. Fraser, and in particular Ms. White, when Mr. Crawley moved towards the front of the car from the back door, he became concerned that Mr. Crawley might go past him and the front door of the vehicle to confront Ms. White and Mr. Fraser.

[16] I find that, as Mr. Crawley moved forward towards Const. Parasram and the front door of the vehicle, for the reasons set out above, the police officer put up his right hand to touch Mr. Crawley's chest in order to stop him from moving forward as well as from potentially leaving the scene. At that point, I find there is no dispute in the evidence between Const. Parasram and Mr. Crawley that Mr. Crawley asked the police officer if he was under arrest and that when Const. Parasram told him he was not under arrest, Mr. Crawley physically pushed or

slapped the police officer's hand away from his body and told the officer to get his "fucking hand off of him."

[17] Furthermore, I find that there is no dispute in the evidence that, immediately after that occurred, Const. Parasram warned Mr. Crawley that he had hit a police officer and if he did that again, he would be arrested. I accept Const. Parasram's evidence which was supported by Mr. Fraser and Ms. White that Mr. Crawley again moved forward towards the officer and the front door of the vehicle and that Const. Parasram again put up his hand, making contact with Mr. Crawley's chest. At that point, Mr. Crawley, once again, asked the officer if he was under arrest and Const. Parasram confirmed that he was not under arrest, but then Mr. Crawley pushed or slapped the officer's hand away from his chest a second time. At that point, Const. Parasram then advised Mr. Crawley that he was now under arrest for assaulting a peace officer. The officer turned Mr. Crawley around to face the vehicle and Mr. Crawley cooperated with the police officer's directions by placing his hands behind his back to be handcuffed.

[18] Finally, the Crown Attorney filed Exhibit 1, which is a certified copy of a Recognizance made pursuant to section 810 of the **Criminal Code**, dated September 26, 2011 which was for a term of nine months and required Mr. Crawley to keep the peace and be of good behavior. In addition, the Crown

Attorney filed Exhibit 2, which is also a certified copy of a Recognizance made pursuant to section 810 of the **Criminal Code**, dated June 11, 2012 which required, among other things, Mr. Crawley to keep the peace and be of good behavior for a period of six months. Both of those Recognizances were still in full force and effect on June 25, 2012.

ANALYSIS:

[19] At the outset of my analysis, it is important to note the general principles which apply in all criminal trials. First, Mr. Crawley is presumed to be innocent of the charges before the Court and the burden is on the Crown to prove the essential elements of the offences beyond a reasonable doubt. The effect of that presumption of innocence means that Mr. Crawley does not have to testify, present any evidence or prove anything. The burden of proof is on the Crown and it never shifts to Mr. Crawley.

[20] The presumption of innocence and the requisite standard of proof beyond a reasonable doubt are fundamental principles in our criminal law. The Supreme Court of Canada has established in cases such as **R. v. Lifchus**, [1997] 1 SCR 320 and **R. v. Starr**, [2000] 2 SCR 144 that “reasonable doubt” does not require the Crown to prove the allegations to an absolute certainty. Those cases have

determined that a “reasonable doubt” does not involve proof to an absolute certainty, but more is required than proof that the accused is probably guilty. If I find that the accused is probably guilty, I must acquit.

[21] The Supreme Court of Canada has also pointed out in those decisions that a reasonable doubt is not based upon sympathy or prejudice, nor is it an imaginary or frivolous doubt. It is a doubt based upon reason and common sense which is logically connected to the evidence or the lack of evidence. Reasonable doubt may arise through the evidence presented by the Crown, if the Court determines that the evidence was vague, inconsistent, improbable or lacking in cogency and therefore, did not constitute proof beyond a reasonable doubt. Of course, reasonable doubt can also arise from testimony of an accused or any other evidence tendered by the Defence from any other sources.

[22] In this case, the identification of the accused was not in issue, nor was the date, time and place of these events. The issues do, however, require an assessment of the credibility and reliability of the testimony, taken in the context of all of the evidence adduced at trial, as well as reasonable inferences from proven facts to determine whether I am convinced beyond a reasonable doubt of the guilt of the accused person. In considering the evidence adduced at trial, I may believe all,

some or none of the evidence of a witness or accept parts of a witness's evidence and reject other parts.

[23] As I said previously, both counsel have confirmed that there is no substantial dispute in the key background evidence with respect to the legal issues to be resolved in this case. I find that the evidence established that, during a heated verbal argument between Mr. Crawley and Ms. White and Mr. Fraser, Const. Parasram placed his hand on the upper chest area of Mr. Crawley, on two occasions, to stop Mr. Crawley as he moved forward, in the officer's opinion, from either entering the car and leaving the scene or for the purpose of getting closer to physically confront the other two civilians. In addition, there is no dispute in the evidence that Mr. Crawley asked the officer on those two occasions whether he was under arrest and when Const. Parasram confirmed that he was not under arrest, Mr. Crawley stated on at least one occasion, if not both times, "then get your fucking hands off me" and immediately thereafter, he pushed or slapped with some force, the hand of Const. Parasram away from him. Based upon this exchange and the totality of the evidence, I cannot accept Mr. Crawley's claim that he remained calm and that he was not angry or agitated, but rather that he was only "disappointed" during his interactions with Const. Parasram. I find that Mr. Crawley's own words and actions clearly demonstrated his increasing level of

anger over being confronted about the possible stolen car through his yelling and swearing during his heated verbal altercation with Ms. White and Mr. Fraser, his dismissive attitude towards the officer's enquiries and his belligerence towards the officer through his words and actions when dealing with Const. Parasram.

[24] After the first incident of Mr. Crawley slapping or pushing Const. Parasram's hand away with some force, which I find to have been very clearly intentionally applied, given his belligerent demeanor and his choice of words which preceded his actions, I also find that the evidence clearly established that Const. Parasram warned Mr. Crawley that he had hit him while he was investigating a possible offence and that he also warned Mr. Crawley that if he did that again he would be arrested for assaulting a peace officer. Moments later, I find that Mr. Crawley moved forward again and the police officer took a step towards him with his hand up, making contact with Mr. Crawley's chest for the purpose of keeping him a safe distance away from the other civilians who were, no doubt, yelling and cursing at Mr. Crawley, as well as for the purpose of completing his investigation. Mr. Crawley again asked if he was under arrest and Const. Parasram confirmed that he was not under arrest and with that Mr. Crawley again slapped or pushed the officer's hand, and at that point he was placed under arrest.

[25] In terms of the essential elements of the offence of assaulting a peace officer contrary to section 270(1)(a) of the **Criminal Code**, I find that Const. Parasram was a “peace officer” at all relevant times and that there is no doubt that Mr. Crawley knew he was a police officer by virtue of his uniform, the marked police car that he was driving when he parked near the blue, Chevrolet Cavalier and by virtue of Mr. Crawley’s inquiries about whether he had been arrested after the police officer placed his hand on his chest and touched him. As I previously indicated, I find that the evidence established that Mr. Crawley intentionally applied force to Const. Parasram’s hand on two separate occasions, but most importantly for the purposes of this decision, I find that the critical action by Mr. Crawley was on the second occasion, as I find that the second incident occurred after Mr. Crawley had been warned by Const. Parasram that if he repeated his action and slapped or pushed the officer’s hand, he would be charged with assaulting a peace officer.

[26] Given those findings, the final essential element and the key issue in this case is to determine whether the Crown established beyond a reasonable doubt that Const. Parasram was “engaged in the execution of his duty” as a peace officer when Mr. Crawley intentionally pushed or slapped the officer’s hand away from his chest on the second occasion, after Mr. Crawley had been warned that a repeat

of his earlier contact with the police officer would result in him being arrested and charged with assaulting a peace officer.

[27] The powers and duties of a peace officer emanate from the common-law and statute. The common-law test for deciding whether a peace officer is engaged in the execution of his or her duty was initially described **R. v. Waterfield**, [1963] 3 All ER 659 (Eng.C.A.). Since then, the **Waterfield** test has been adopted on numerous occasions by the Supreme Court of Canada to outline the fact that the general common-law duty of a peace officer is to preserve the peace as it relates to the protection of life and property: see for example, **R. v. Stenning**, [1970] SCR 631; **R. v. Dedman**, [1985] 2 SCR 2 and **R. v. MacDonald**, 2014 SCC 3 (CanLii) at paras. 35-38.

[28] In Nova Scotia, those common-law duties have been codified in section 42 of the **Police Act** of Nova Scotia, SNS 2004, c. 31. In that section, a police officer has all the powers, privileges, rights and immunities under the common law, the **Criminal Code of Canada** and any other federal or provincial enactment. Section 42(2) of the **Police Act** also points out that the authority, responsibility and duty of a police officer includes, *inter alia*, maintaining law and order, enforcing the penal provisions of the province or any penal laws in force in the province and assisting victims of crime.

[29] The **Waterfield** test contemplates that a judge must address two key questions to determine if the police conduct constitutes a *prima facie* interference with the person's liberty or property: first, whether the conduct falls within the general scope of any duty imposed by statute or recognized by the common-law; and secondly, whether the conduct, albeit within the general scope of such a duty, involved an unjustifiable use of powers associated with the duty.

[30] I find that Const. Parasram responded to a 911 call about a possible stolen vehicle, by driving his marked police car to the parking lot in front of Access Nova Scotia to gain further information from Mr. Fraser and Ms. White, who were in that location on the morning of June 25, 2012. When Mr. Crawley approached the vehicle and was in the process of placing a temporary permit on the late-model Chevrolet Cavalier in the parking lot, I find that Const. Parasram was acting within the scope of his general duties as a peace officer to approach Mr. Crawley for information to investigate the alleged theft of the late-model, blue Chevrolet Cavalier which, of course, was the reason for which he was dispatched to that location in the first place. In those circumstances, I find that, in terms of the first part of the **Waterfield** test, Const. Parasram was acting within the general scope of his duties as a police officer to maintain law and order, assist victims of crime and enforce the laws of the province.

[31] In terms of the second part of the **Waterfield** test, the Supreme Court of Canada has recently provided some additional guidance as to the nature of the court's inquiry into whether the police officer's actions constitute a justifiable exercise the powers associated with their duty. In **MacDonald**, *supra*, at para 36, the Supreme Court of Canada, repeated what was held in **Dedman**, that:

The interference with liberty must be necessary for the carrying out of the particular police duty and it must be reasonable, having regard to the nature of the liberty interfered with and the importance of the public purpose served by the interference.

[Emphasis Added]

Therefore, for the infringement to be justified, the police action must be *reasonably necessary* for the carrying out of the particular duty in light of all of the circumstances.

[32] In this case, Const. Parasram stated that his touching Mr. Crawley on the chest was not for the purpose of arresting him, but rather, for the purpose of keeping him at some distance from Mr. Fraser and Ms. White so that heated verbal altercation between them, did not escalate to a physical altercation. Furthermore, Const. Parasram also indicated that he placed his hand on Mr. Crawley's chest as a form of investigative detention or delay to obtain relevant information from Mr. Crawley with respect to the ownership of the car.

[33] The concept of investigative detention was discussed in **R. v. Mann**, 2004 SCC 52 (CanLii) and again in **R. v. Suberu**, 2009 SCC 33 (CanLii). The Supreme Court of Canada pointed out in those cases that there is a difference between significant physical or psychological restraint and general inquiries by a patrolling officer which presents no threat to freedom of choice. As the Court pointed out in **Suberu**, *supra*, at para 23, not every interaction with the police will amount to a detention for the purposes of the **Charter**, even when a person is under investigation for criminal activity, is asked questions or is physically delayed by contact with the police.

[34] In **R. v. Alexson**, 2015 MBCA 5 at paras. 16-20, the Manitoba Court of Appeal dealt with similar legal issues to this case. In **Alexson**, there was a 911 “hang up” call, police officers attended at the house from which the call was made and found themselves in the middle of a volatile domestic violence situation. The Court reviewed the **Waterfield** test as further enunciated in **MacDonald**, *supra*, and concluded that the officers were acting in lawful execution of their duties when they removed the respondent from the home without a warrant.

[35] In **Axelson**, *supra*, at para. 20, the Court added that “the justifiability of the officer’s conduct must always be measured against the unpredictability of the situation they encountered and the realization that volatile circumstances require

them to make quick decisions.” The Court held that those decisions are an exercise of discretion and judgment, often guided by experience and that second-guessing by the Court is not helpful as the officer must exercise discretion and judgment in difficult and fluid circumstances. The Court of Appeal overturned the acquittal of the accused and found him guilty of assaulting the police officer with no legal justification for his kicking the officer in the face during his arrest and removal from the house.

[36] In the case of **R. v. Guiboche**, 2011 MBQB 281, a summary conviction appeal judge overturned the trial judge’s acquittal of the accused in circumstances which were also quite similar to this case. In that case, there had been an assault outside a convenience store, a 911 call had indicated where the assault had occurred and the caller provided descriptions of the perpetrator and the two other people who were with him. Police officers went to that area of the city and they approached three people on a street in that area who matched the description provided by dispatch. When the police officers approached the accused, they identified themselves as police officers and said that they wished to speak to him for a moment. The accused did not turn around or acknowledge the police officer’s presence, but continued to walk down the street. When the police officer put his arm on the accused person, the accused immediately swung his right arm, with fist

clenched, towards the police officer's face, but the officer was able to avoid the punch. The accused was arrested for assaulting a police officer in the execution of his duty.

[37] In **Guiboche**, the summary conviction appeal judge found that the officers were acting reasonably in the execution of their duties as this was an investigative detention to make the necessary inquiries, and that the police officer putting his hand on the accused was not an assault, but a reasonable step taken in the course of an investigation. In the final analysis, the summary conviction appeal judge found the accused guilty and held that the accused was not entitled to respond to the officer's actions with an assault, regardless of whether his swing made contact with the police officer.

[38] In this case, when Const. Parasram attempted to obtain information from Mr. Crawley with respect to the ownership of the car, which he could have verified in short order, I find that Mr. Crawley essentially dismissed the police officer's initial inquiries about the possible stolen vehicle by refusing to make any eye contact with the officer and ignoring his inquiries and carrying on with what he was doing. Moreover, while the police officer was trying to speak to him, I find that Mr. Crawley became increasingly agitated by the whole situation and began to yell and swear at Mr. Fraser and Ms. White, who he had seen looking into his car as he

approached it, as he perceived that they were accusing him of having stolen the vehicle. It is obvious from these facts and circumstances that the situation facing Const. Parasram was a very dynamic one with the civilians' level of agitation with each other escalating rapidly. As I indicated previously, there is no dispute in the evidence that the one and only person involved in this incident who was able to remain calm and professional in his dealings with the three civilians, was Const. Parasram.

[39] Given the very dynamic situation which faced Const. Parasram, I find that the police officer was well justified in placing his hand on the chest of Mr. Crawley to keep him at a safe distance from the other two civilians who were involved in the heated verbal altercation and also to momentarily delay his possible departure from the area in the suspected stolen vehicle, in order to complete his investigation by responding to a couple of questions and/or producing the proper papers for the late-model, blue Chevrolet Cavalier. Furthermore, I find that Const. Parasram's warning, after the first time, that Mr. Crawley pushed or slapped the officer's hand away from his chest, was a very reasonable way of carrying out the police duties, which took into account the volatility of the situation. I also find that the warning provided Mr. Crawley with a reasonable opportunity to reflect on his actions while the officer was attempting to investigate the possible stolen vehicle

allegation based upon the 911 call and at the same time, it also served to keep the peace and maintain law and order by keeping the people involved in the heated verbal altercation at a safe distance from each other to ensure that the situation did not escalate into a physical altercation.

[40] In these circumstances, I find that Const. Parasram's actions were reasonably necessary for carrying out the particular police duties under the common-law, the **Police Act** of Nova Scotia and the **Criminal Code of Canada**. As it turned out, Mr. Crawley was, in fact, the registered owner of the late-model, blue Chevrolet Cavalier four-door sedan that was parked in front of Access Nova Scotia on the morning of June 25, 2012. However unlikely as it may have been, I find that the evidence established that the 20-year-old cars owned by Mr. Crawley and the vehicle which had been stolen from Mr. Fraser were very similar, if not identical, in their appearance. Despite the strongly held beliefs of Mr. Fraser and Ms. White that the blue Chevrolet Cavalier was their car and the equally strongly held belief of Mr. Crawley, supported by the registration documentation, that this was his car, I find that Const. Parasram believed that he could quickly sort out whether this was, in fact, the stolen vehicle while the car was there and, at the same time, he could speak with all of the parties who could provide him with the pertinent information about that vehicle.

[41] Furthermore, notwithstanding the fact that Mr. Crawley was subsequently confirmed to be the lawful owner of that vehicle, it does not change the fact that I find that Const. Parasram was engaged in the execution of his police duties when he informed Mr. Crawley as to why he was there and that he was conducting an investigation to follow up on the 911 call with respect to a stolen vehicle complaint. Knowing that he had the proper documentation, had Mr. Crawley remained calm during the brief delay in his activities of the day, instead of becoming increasingly agitated, yelling and swearing at the other civilians and expressing his agitation and dismissal of the officer's inquiries, he could have produced the proper documentation, which the officer would have been able to verify in short order and then he could have proceeded on his way.

[42] Instead, I find that Mr. Crawley intentionally assaulted the police officer, even after he had been warned about the consequences of repeating his initial slap or push of Const. Parasram's hand from his chest. Once again, I find that Const. Parasram's warning to Mr. Crawley after his first intentional slap or push of the police officer's hand away from him, was another indication of the reasonable manner in which the police officer was carrying out his particular police duties.

[43] After having considered the totality of the facts and circumstances of this case, I find that Const. Parasram was engaged in the execution of his duties as a

police officer and that he did so in a logical, lawful and laudable manner given the very dynamic and deteriorating circumstances in which he found himself. In addition, I am satisfied that the Crown has established all of the essential elements of the charge of assaulting a peace officer in the execution of his duties contrary to section 270(1)(a) of the **Code** beyond a reasonable doubt.

[44] Furthermore, after having considering the totality of the facts and circumstances of this case, I am not left in any reasonable doubt with respect to my finding that Mr. Crawley committed the act of slapping or pushing the officer's hand away from him with some force and that he intentionally did so.

[45] Finally, I find that that there was no legal justification for Mr. Crawley's actions. As a result, I find Mr. Crawley guilty of having assaulted a peace officer in the execution of his duties contrary to section 270(1)(a) of the **Criminal Code**.

[46] Having reached that conclusion, I also find Mr. Crawley guilty of the two charges contrary to section 811 of the **Code** for having breached the condition that obliged him "to keep the peace and be of good behavior" which was one of the conditions in the two Recognizances which were made under section 810 of the **Criminal Code**, which were in full force and effect on June 25, 2012.

Theodore K. Tax, J.P.C.