

PROVINCIAL COURT OF NOVA SCOTIA

Citation: *R v Brown-Beals*, 2025 NSPC 22

Date: 20250818

Docket: 8890987, 8890990, 8890991,
8890993, 8890994, 8890995, 8890997

Registry: Port Hawkesbury

Between:

His Majesty the King

v

Stephen Derez Brown-Beals

TRIAL ADJUDICATION

Judge: The Honourable Judge Del W Atwood

Heard: May 13, June 23, August 18, 2025, in Port Hawkesbury, Nova Scotia

Charge: Sections 85, 87, 91, 94, 129, 267, 320.14 *Criminal Code* [Code]

Counsel: Peter Harrison for the Nova Scotia Public Prosecution Service
Robyn Fougere for Stephen Derez Brown-Beals

By the Court:

[1] Stephen Derez Brown-Beals was charged initially in a 14-count information (information number 884130; cases 8890984-8890997) with a number of conveyance-, weapons-, and violence-related offences under the *Code*.

[2] The prosecution withdrew four counts (cases 8890984, 8890988, 8890992, 8890996).

[3] Mr Brown-Beals pleaded guilty to three:

- 8890985, flight from police, § 320.17;
- 8890986, dangerous operation of a conveyance, § 320.13; and
- 8890989, obstruction, ¶ 129(a).

[4] There remain seven counts for trial:

- 8890987: impaired operation of a conveyance, ¶ 320.14(1)(a);
- 8890990: pointing a firearm at Hannah Dugas [Ms Dugas], § 87;
- 8890991: use of a firearm while committing the offence of obstruction, ¶ 85(1)(a);

- 8890993: unlicensed possession of a firearm, § 91(2);
- 8890994: occupying a motor vehicle knowing that there was firearm in it, § 94(1);
- 8890995: unlawful confinement of Ms Dugas, § 279(2); and,
- 8890997: assaulting Ms Dugas with a weapon, ¶ 267(a).

[5] All of the offences are alleged to have occurred 2 August 2024 in the community of St Peters in Cape Breton.

[6] The prosecution proceeded indictably; Mr Brown-Beals elected to have his trial in Provincial Court and pleaded not guilty.

[7] This is Mr Brown-Beals's second trial on these charges. The first resulted in a mistrial [the "first trial"]. The reasons for the mistrial were not placed before the Court.

[8] There are no *Charter* applications before the Court.

[9] There is no controversy about the elements of the offence that are being tried. The issue is whether the prosecution has proven beyond a reasonable doubt that Mr Brown-Beals did what he is alleged to have done.

[10] The theory of the prosecution is that, on the evening of 2 August 2024, an alcohol-impaired Mr Brown-Beals tried to dodge getting stopped behind the wheel at a police checkpoint by forcing Ms Dugas at gunpoint into switching seats with him. After Ms Dugas got arrested at the checkpoint, Mr Brown-Beals quickly slipped back into the driver's seat and sped off, evading police pursuit.

[11] The theory of the defence is that the case for the prosecution rests almost entirely on the credibility and reliability of the evidence of Ms Dugas. Defence counsel argues that Ms Dugas should not be believed: her behaviour and conduct when taken into police custody were not consistent with someone who had just been confronted with a mortal threat; her statement to police omitted a material detail that a credible victim would not have forgotten; and Ms Dugas was incentivized to implicate Mr Brown-Beals criminally in order to escape criminal liability, herself. Without Ms Dugas's evidence, there remains insufficient evidence to support any of the contested charges.

[12] For the reasons that follow, the Court harbours a substantial and reasonable doubt about the testimonial credibility of Ms Dugas. As the case for the prosecution rests almost entirely on her evidence, the Court finds that the prosecution has failed to prove the essential elements of the offences before the

Court beyond a reasonable doubt. The Court finds Mr Brown Beals not guilty; this finding applies to the trial charges only.

Inventory of evidence--witnesses

[13] The prosecution called three witnesses. One of them—Cst Donald Shaw—was later recalled by defence counsel to address an issue that came up during the cross-examination of Ms Dugas; I considered this as a continuation of the cross-examination of Cst Shaw. Other than that, the defence called no evidence.

<i>Name of witness</i>	<i>Summary of evidence</i>
Cst Donald Kenneth Elias Shaw	<i>Direct examination</i> Cst Shaw was working a police checkpoint with Cst Brett MacDonald in the community of St Peter's, Richmond County, the evening of 2 August 2024. At around 11:30 pm, he saw a Lincoln-model motor vehicle [“the Lincoln”] stop short of the checkpoint. The Lincoln pulled into a nearby parking lot next to the RCMP detachment. This caught Cst Shaw's full attention: he was concerned that the persons in the Lincoln might be switching seats or dumping contraband. Cst Shaw observed the Lincoln re-enter the highway and drive toward, but then rapidly pull a U-turn and drive away from the checkpoint. Cst Shaw got into his police cruiser and gave chase; Cst MacDonald did the same. The officers closed the distance on the Lincoln quickly, and pulled it over in front of a motel just past the St Peter's canal.

Cst Shaw approached the driver's side of the Lincoln; Cst MacDonald went to the passenger side.

Ms Dugas was the driver. Cst Shaw observed that she displayed signs of impairment.

Ms Brown-Beals was the passenger.

Cst Shaw described Mr Brown-Beals's speech as "slurred". Mr Brown-Beals spoke up and said that he had had "four to five beer." There was no defence objection to this evidence.

The prosecution questioned Cst Shaw about Mr Brown-Beals:

Q. Okay. And what, if any, indicia of impairment was the *passenger* exhibiting? [Emphasis added.]

A. The *driver* appeared to be impaired. [Emphasis added.]

Q. Okay.

A. When I asked for the documents of the vehicle, she was also, she was slurring her words. She was shaky. Very, very shaky.

Later on, Cst Shaw appeared to grasp the point that the prosecution was interested in his observations of Mr Brown-Beals, rather than Ms Dugas:

Q. Okay. What, if anything, did you note about his speech?

A. His speech was slurred as well.

Q. Okay.

A. Which would make sense. Like, 'cause he told me that he had consumed alcohol.

Q. Did you notice any other conditions, impairment signs, the speech and the odour?

A. Again, he was sitting at — I believe he had his feet up on the dash or something at the time.

Q. Okay.

A. He was, again, noticeably impaired.

Cst Shaw directed Ms Dugas to exit the Lincoln. She was unsteady getting out. She blew a “fail” on the ASD. Cst Shaw then arrested Ms Dugas for impaired driving.

Cst Shaw told Cst MacDonald that the Lincoln was to be towed, and he seated Ms Dugas in the back of his cruiser.

Cst Shaw then heard Cst MacDonald yelling, “Stop, police!” He saw the Lincoln speeding away. Cst MacDonald gave pursuit in his cruiser.

Cst Shaw contacted his dispatch centre to advise the Port Hawkesbury Detachment what had just occurred; as he had Ms Dugas in the back seat of his cruiser, he did not join Cst MacDonald in the pursuit of the Lincoln.

Cst Shaw authenticated Exhibit No 1: a USB drive which captured CCTV video recorded at front of the St Peter’s RCMP detachment. The video shows the Lincoln pulling into the parking lot and the passenger and driver exiting to switch seats. Given the time/date marker displayed on the video, and Cst Shaw’s testimony of surrounding circumstances, the Court is able to infer reasonably that the video records Mr Brown-Beals pulling into the St Peter’s detachment parking lot after turning away from the Shaw/MacDonald checkpoint. Mr Brown-Beals can be seen exiting the driver’s side of the Lincoln, and Ms Dugas exiting the passenger side. They switch seats. Ms Dugas, now the operator, drives out of the parking lot.

Cst Shaw identified as Exhibit No 2, a crushed Budweiser beer can that he had found around the spot where the Lincoln had been parked when Ms Dugas and Mr Brown-Beals switched seats.

Cross examination

Cst Shaw agreed that, after the Lincoln was pulled over, he went to the driver’s side and Cst MacDonald went to the passenger side.

Mr Brown-Beals passed to Ms Dugas the registration and insurance papers that Cst Shaw had asked to see.

Cst Shaw had his flashlight out, pointed off to the side so that he could see Ms Dugas and her hands.

Cst Shaw agreed that Ms Dugas was very shaky.

Cst Shaw agreed that he did not see any weapons or firearms inside the Lincoln.

Cst Shaw agreed that Ms Dugas told him the only thing she had had to drink that evening was an energy drink in the centre console of the Lincoln.

Cst Shaw agreed that, at the first trial, he had testified Mr Brown-Beals had told him he had drunk 3 or 4 beers. Cst Shaw was not asked whether he adopted his first-trial testimony.

Cst Shaw agreed that Mr Beals had not provided him with a time frame for his beer consumption.

Cst Shaw agreed that he had never encountered Mr Brown-Beals before and was not familiar with his mannerisms.

Cst Shaw stated that he was leaning into the Lincoln “to obtain the odor.”

Cst Shaw agreed that Ms Dugas was slurring her words and speaking very, very fast. It was hard to make her out.

Cst Shaw read an ASD demand to Ms Dugas.

Ms Dugas was argumentative.

Ms Dugas failed the ASD.

Cst Shaw walked her back to his cruiser.

	Ms Dugas asked to return to the Lincoln to get her purse; Cst Shaw permitted her to do so. Cst Shaw did not hear Ms Dugas saying anything to Mr Brown-Beals when she was retrieving her purse. Defence counsel asked Cst Shaw about Ms Dugas' affect as he dealt with her at the roadside: Q. . . . So there's nothing in your notes that suggests that while at roadside, you observed Ms. Dugas' demeanour or behaviour to suggest that she had just been through any traumatic experience of any sort. Is that — do you agree with me on that? A. Yes. Q. There was nothing to suggest while at roadside that she presented as fearful for her safety. You'll agree with me on that? A. She did not present nothing. Q. Thank you. So she did not present as fearful for her safety at that time, correct? A. No. Again, during my testimony, previously as I explained, questions I asked Ms. Dugas, Mr. Beals was answering for her. Q. But when she was answering, she was argumentative with you, correct? A. Correct. Cst Shaw acknowledged that, as he interviewed Ms Dugas, she did not present as fearful, alarmed or traumatized to any degree. On the second day of the trial, Cst Shaw was recalled by defence counsel; he testified that Ms Dugas had not mentioned in her statement to him that she had seen a shotgun in the back seat of the Lincoln.
Cst Brett MacDonald	<i>Direct examination</i>

	Cst MacDonald described developments at the checkpoint much as the Court had heard from Cst Shaw. Cst MacDonald did not have much of an interaction with Mr Brown-Beals during the traffic stop as the passenger-side window of the Lincoln was rolled up. Recall that Mr Brown-Beals was seated on the passenger side at the time Cst Shaw and Cst MacDonald pulled Ms Dugas over. Cst MacDonald saw Mr Brown-Beals placing his leg over toward the driver's seat; he ran toward the driver's side to tell Mr Brown-Beals to stop. Mr Brown-Beals sped off, clipping Cst MacDonald's forearm and left hand with the driver's-side mirror. Cst MacDonald attempted to pursue Mr Brown-Beals, who already had a good head start. Cst MacDonald called off the pursuit and radioed an update to the dispatch centre. Cst MacDonald did not observe anything of Mr Brown-Beals's driving, other than his speeding away. <i>Cross examination</i> Cst MacDonald acknowledged that he did not see any firearms inside the Lincoln. He had done the best he could maintaining a close visual of the inside of the Lincoln.
Hannah Dugas	<i>Direct examination</i> Ms Dugas is the alleged victim. At the time of the trial, she was 21 years old and lived in Eastern Passage. She had met Mr Brown-Beals through Facetime. About a month or two later, they had their first face-to-face encounter; it was the day of the alleged offences (Ms Dugas testified mistakenly that it was 3 August 2024). She said it was the worst day of her life.

Ms Dugas met Mr Brown-Beals at his parents' house in Mulgrave Park, HRM. They were there a few hours, drinking vodka and beer.

Mr Brown-Beals suggested taking a drive to Sydney. They left Mr Brown-Beals place at 8:30-9:00 at night, and drove straight through Truro heading to Cape Breton. Mr Brown-Beals was driving the Lincoln. Ms Dugas was in the passenger seat.

They had a quarter of a 40-oz bottle of vodka, as well as cans of Budweiser beer.

Mr Brown-Beals told Ms Dugas that she belonged to him now, she shouldn't talk to anybody, and she could make a lot of money.

Near the Canso Causeway, they stopped at an Irving to gas up, and then resumed driving.

As they approached St Peter's, they noticed a roadblock.

Mr Brown-Beals turned into the police detachment parking lot just short of the checkpoint; he told Ms Dugas to switch seats with him. He pulled a firearm out of the glovebox, pointed it in her face and told her if she didn't get out, he would kill her.

Ms Dugas and Mr Brown-Beals got out of the Lincoln and switched seats; Ms Dugas was now the driver.

Ms Dugas said she saw two firearms: the handgun that Mr Brown-Beals had taken from the glove compartment, and a shotgun.

She had seen the shotgun in the back of the Lincoln on the floor when she turned around. It made her scared.

Ms Dugas turned the car away from the roadblock and headed back to the Canso Causeway. She then got pulled over by police.

Ms Dugas got taken out of the Lincoln by Cst Shaw. She saw Mr Brown-Beals take off.

Ms Dugas did not have a driver's licence.

Mr Brown-Beals had consumed beer on the trip. Ms Dugas didn't know how many.

Ms Dugas was shown Ex 2, the Budweiser beer can seized by Cst Shaw from the detachment parking lot where Mr Brown-Beals and Ms Dugas had switched seats. She identified it as the exact brand of beer Mr Brown-Beals had been drinking.

Ms Dugas watched Exhibit No 1, and identified the point when she and Mr Brown-Beals switched seats in the detachment parking lot.

Cross-examination

The following were the informative points addressed during cross-examination.

Given the nature of Ms Dugas work, she could have lost her job because of an impaired-driving charge.

Ms Dugas knew that Mr Brown-Beals was subject to a conditional-sentence order, and was on house-arrest conditions.

Ms Dugas liked Mr Brown-Beals—he was easy to talk to and funny.

They discussed over social media a plan to hang out and have some drinks. Ms Dugas asked Mr Brown-Beals to pick up a bottle of Iceberg vodka.

Ms Dugas travelled to Mr Brown-Beals's parents place, where they met up.

They were both drinking and having fun.

They made the decision together to take a road trip—Mr Brown-Beals brought it up, and Ms Dugas agreed with it. The plan was to stay at a hotel Friday night. Ms Dugas had booked a room.

Ms Dugas didn't know what Mr Brown-Beals meant when he said she could make money.

Ms Dugas agreed that she had feelings for Mr Brown-Beals. She was kind of excited to be on a road trip with a new guy.

Their first stop on the drive was at an Irving Big Stop just west of the Canso Causeway. Ms Dugas needed to go to the washroom. Ms Dugas agreed that Mr Brown-Beals had no problem pulling over and stopping.

Ms Dugas ultimately agreed that, following the stop at the Irving, they had to stop again as they needed to gas up.

Ms Dugas admitted telling Cst Shaw that Mr Brown-Beals had not been drinking on the way; she testified she had not been in her right mind when she gave her statement.

Ms Dugas agreed she had been argumentative with Cst Shaw.

Ms Dugas agreed that, after she took over driving, she planned on driving through the checkpoint.

Mr Brown-Beals wanted her to turn around.

Ms Dugas acknowledged that the first time she mentioned having seen a shotgun was during her direct examination. She testified she had seen it for the first time before turning into the Big Stop. Ms Dugas stated she didn't consider it a danger to her at the time.

Ms Dugas admitted telling Cst Shaw she that she hadn't been drinking.

Ms Dugas agreed that she had told Cst Shaw that the Lincoln belonged to a former girlfriend of Mr Brown-Beals. She was not asked on cross whether she adopted the statement as being correct.

Ms Dugas acknowledged not telling Cst Shaw right away that Mr Brown-Beals had a gun; this was as the officer was arresting her and patting her down.

Ms Dugas acknowledged telling Cst Shaw that she didn't know what Mr Brown-Beals had done with the handgun when he got out of the Lincoln to switch seats, other than that she didn't see him taking it out of the vehicle.

Ms Dugas agreed that, once back at the detachment with Cst Shaw, she began crying and told the officer that she had never been in trouble with the law before. She testified that she had been scared the whole time.

Ms Dugas agreed she had known she was not going to pass the breath test. She agreed that it was then that she said to Cst Shaw that there was something she wanted to tell him. After she failed the first test, she told Cst Shaw about Mr Brown-Beals pointing a handgun at her. She agreed she told the officer more after she failed the second test.

It was the first time Ms Dugas had even been locked up in a jail cell.

She did not see Cst Shaw again until 11:00 am on 3 August 2024.

Ms Dugas agreed she was sober at that point. She told Cst Shaw that she did not want to give a statement; Cst Shaw told Ms Dugas that he was taking her back to cells.

Ms Dugas was able to speak with a lawyer.

	Ms Dugas testified that Cst Shaw took her out of cells again; again, she declined to give a statement. Ms Dugas agreed that Cst Shaw then told her “let’s go back to cells”. After being shown a transcription of her statement she had given to Cst Shaw, Ms Dugas appeared uncertain whether she had told Cst Shaw that Mr Brown-Beals had pointed a handgun at her. Questions from defence counsel seemed to propose that it was Cst Shaw who had suggested the firearm-pointing to Ms Dugas, and that Ms Dugas then agreed with the officer’s suggestion. I approach this portion of Ms Dugas’s testimony with precaution, as the questions posed to her on cross were imprecise and did not project the required word-for-word accuracy when confronting an opposing witness with a prior statement. Ms Dugas agreed that she had asked Cst Shaw whether she was only getting charged with a DUI. Ms Dugas agreed she had asked Cst Shaw if she would be held until the investigation was over, and Cst Shaw did not answer her. Ms Dugas stated that she did not feel forced into giving a statement. Ms Dugas agreed that Cst Shaw told her that Mr Brown-Beals had been arrested and was giving police a different version of events. Ms Dugas agreed that hearing this pissed her off. Ms Dugas agreed that she was surprised that her statement to police was not matching up with what Mr Brown-Beals was saying. She agreed asking Cst Shaw whether what Mr Brown-Beals was saying was believable. Ms Dugas stated that her plan was to get stopped at the roadblock so she could get the fuck out of there.
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Inventory of evidence—exhibits

<i>Exhibit #</i>	<i>Tendered by</i>	<i>Description of exhibit</i>
1	Prosecution	CCTV video recording of area in vicinity of St Peter's RCMP Detachment parking lot.
2	Prosecution	Crushed Budweiser beer can seized from detachment parking lot by Cst Shaw.
3	Joint by consent	Video recording of interrogation of Ms Dugas by Cst Shaw.

Multiple-count trials

[14] In a trial involving multiple counts, the court must guard against propensity or bad-conduct reasoning. These terms describe a type of heuristic that would have a trier treat proof of one count as supporting convictions for other counts. The need for vigilance is elevated in this case, as Mr Brown-Beals has pleaded guilty to dangerous driving, flight from police, and obstruction, charges that form part of the 2 August 2024 fact matrix.

[15] As the prosecution has not sought count-to-count reception of similar-fact evidence, the court must treat each count as a separate indictment: *R v RTH*, [2007 NSCA 18](#) at ¶ 93; *R v DR*, 2021 ONCA 460 at ¶ 25. Nevertheless, the court may apply credibility findings across all the counts, provided that the court explain why it is doing so: *R v PEC*, 2005 SCC 19 at ¶ 1; *R v RAG*, 2008 ONCA 829 at ¶ 13; *R v Wright*, 2019 BCCA 234 at ¶ 57-58; *R v Barker*, [2023 NSPC 18](#) at ¶ 97-110.

Cross-examination on prior statements

[16] A statement made by a witness prior to trial may be the subject of cross-examination under either § 10 or 11 of the *Canada Evidence Act* [CEA].

[17] Section 10 permits cross-examination on any written or recorded statement “relative to the subject matter of the case”; note that the statement need not be inconsistent with the testimony of the witness. However, the statement must have been written or recorded.

[18] Section 11 allows for cross-examination on *any* statement “inconsistent with . . . [the] present testimony” of the witness. The statement need not have been written or recorded.

[19] Neither provision is a memory-refreshing mechanism, and so not constrained by the requirements of, say, *R v Fliss*, 2002 SCC 16; an opponent’s witness does not have to acknowledge being in need of memory refreshing as a condition precedent to counsel pursuing a § 10 or 11 CEA cross-examination.

[20] Should a witness admit making an earlier statement inconsistent with in-court testimony, the earlier statement does not become proof of the truth of what was said unless the witness should go on to adopt the statement: *R v Livermore*, [1995] 4 SCR 123 at ¶ 54; *R v Mauger*, [2018 NSCA 41](#) at ¶ 29. A statement is considered to have been adopted only if the witness (1) admits making the

statement, and (2) acknowledges its truth based on present memory: *R v Layne*, 2024 ONCA 435 at ¶ 51; *R v Abdulle*, 2020 ONCA 106 at ¶ 136; leave to appeal to SCC refused, [2020] SCCA No 156. If adopted, the prior statement gets incorporated into the testimony of the witness; if unadopted, the statement may be used to assess credibility only.

[21] Section 10 permits a judge to require counsel conducting a cross-examination to produce a statement when it is being used to contradict the testimony of a witness. However, regardless of whether § 10 or 11 of the *CEA* might govern, when a prior statement is used for cross-examination purposes, the statement is not put in as an exhibit, unless it has been the subject of extensive questioning: *R v Rowbotham*, [1988] OJ No 271 at ¶ 118-119; *R v Rodney*, 1988 CarswellBC 448 at ¶ 34 (CA), affirmed on unrelated grounds [1990] 2 SCR 687. The reason for not exhibiting a prior statement used in cross-examination is this: evidence is admissible if it is informative, relevant, material, not subject to an exclusionary rule, and of sufficient probative value as not to be outweighed by prejudicial effect. When a statement is the subject matter of cross-examination as to credit, only that portion of the statement as is used for cross-examination purposes meets this test for admissibility (and even that proposition is qualified, as the probative value of an unadopted statement is not clear; further, if a prior

statement should be adopted by the witness, then the testimony of the witness would render the prior statement superfluous). In such a case, receiving an entire statement as an exhibit—when only a small fragment of it would be pertinent legally, and even then, for a limited purpose only—would be inefficient and render the statement prone to misuse. But there will be exceptions, as will be discussed below.

[22] Cross examination of an opponent's witness on the contents of a prior statement requires precision. When the prior statement that is the subject of an alleged inconsistency is in writing, has been transcribed from a sound recording, or is accessible in a digital or analog audio format, word-for-word precision is required; counsel must be prepared to quote exactly what the witness is supposed to have said previously.

[23] Cst Shaw was cross-examined extensively about the interrogation he conducted with Ms Dugas; the interrogation was recorded in a digital-audio format, and later transcribed. With the consent of counsel, a thumb drive with the audio file was entered as Exhibit No 3.

[24] Cst Shaw's part of the interrogation is able to be received as non-hearsay; the truth of his statements was not a live issue. What was relevant was what he

said to Ms Dugas that led up to her implicating Mr Brown-Beals and whether, as asserted by defence, it might have induced her to fabricate her account.

[25] Many of the questions asked of Cst Shaw on cross about his interrogation of Ms Dugas were quite lengthy; I had some difficulty understanding what defence counsel was alleging the officer had said to Ms Dugas.

[26] The most effective cross-examination questions are those that are economical, succinct and to the point. Confusing questions lead to confusing answers. Compound questions asked on cross are also problematic: if questions are embedded in other questions, a trier will be left in doubt about the meaning of an affirmative or negative answer given by a witness.

[27] To try to resolve some of the confusion about what Cst Shaw had said to Ms Dugas during his interrogation of her, counsel agreed that the digital audio recording be entered as a consent exhibit—Exhibit No 3. I audited only those portions of the recording that were the subject of defence cross-examination. In support of that approach, I relied on *1162740 Ontario Limited v Pingue*, 2017 ONCA 52 at ¶ 36; and on *R v Betker*, 1997 CanLII 1902, [1997] O.J. No. 1578, 115 CCC (3d) 421 (CA), at 430 CCC (leave to appeal refused, [1997] SCCA No 461). Having done so, I am satisfied that the questions put to Cst Shaw on cross

quoted his part of the interrogation accurately. However, this does not alter the fact that I did not always understand the questions put on cross to Cst Shaw and Ms Dugas.

Avoiding implicit bias

[28] Mr Brown-Beals is Black, and a member of the African-Nova Scotian community.

[29] Persons with this background have frequently faced profound structural disadvantages in the Canadian criminal justice system, simply because of their ancestry and personal histories. Courts throughout this country have taken judicial notice of anti-Black racism in Canada; that the criminal-justice system is implicated in it historically underlies the development of the Impact of Race and Culture Assessment sentencing instrument. This is not a sentencing hearing. However, the Court must be alive to the historical truth of the over-policing of Black communities in Nova Scotia.

[30] The Court must assess the evidence presented in this trial in a way that does not implicate biased or stereotypical reasoning based on race: see *R v Markos*, [2025 NSPC 21](#) at ¶ 28-31; *R v Muirhead*, [2025 NSPC 18](#) at ¶ 57-59.

[31] The risk of racial profiling by police is a legitimate basis for inquiry by the defence; however, the issue was not pursued, and there is no evidence of it having occurred in this case.

Reasonable doubt and the credibility of Ms Dugas

[32] The charges that are before the Court for trial hinge on the credibility and reliability of Hannah Dugas. She was the only witness to testify about what happened inside the Lincoln with Mr Brown-Beals as they approached the checkpoint that was being run by Csts Shaw and MacDonald.

[33] A recent unreported decision rendered by my colleague Hatt J in *R v Izzard* (24 June 2025), Pictou 8739112-8739163 (NSPC) presents a useful reminder of the crucial role that credibility assessments play in criminal trials. Reasonable doubt applies to credibility assessments, such that if the evidence led by the prosecution does not rise to the beyond-a-reasonable-doubt level required of a criminal conviction, an accused cannot be found guilty simply because they are disbelieved, or, as in this case, because the accused elected not to call evidence: see also *R v Kruk*, 2024 SCC 7 at ¶ 61-62.

[34] In my view, there are many credibility questions which weight against the testimony of Ms Dugas.

Ms Dugas not prosecuted

[35] First of all, there is at least the appearance that her cooperation with the state involved some form of immunity-from-prosecution arrangement. Cst Shaw testified to it on cross-examination:

MS. FOUGERE: ...isn't it true that Ms. Dugas was never actually charged with — or never actually charged or prosecuted for impaired driving because

A. She was not prosecuted, she was charged.

Q. Okay. But that charge was withdrawn because she agreed to provide evidence against Mr. Brown-Beals, correct?

A. No.

[36] Cst Shaw was questioned further:

MS. FOUGERE: Okay. Okay. But so she was never prosecuted?

A. She was not.

Q. Okay. And she was never presented with a notice to appear in court at all?

A. Not at all, no.

[37] More followed:

A. I believe that she was given all the documents for the impaired while she was there 'cause the determination had not been made at that point.

Q. Sorry, what's — I'm not, I'm not certain what — if I understand what determination you mean. Oh, determination not to proceed?

A. What?

Q. So you made the determination not to proceed with the impaired charge against her?

A. Yes, she had no idea at that point that I was going to — or I didn't even know that I was going to drop the impaired charge.

[38] Ms Dugas confirmed on cross-examination that she was never prosecuted for an impaired charge:

MS. FOUGERE: Ms. Dugas, you'll agree with me that you were never prosecuted for that impaired charge, correct?

A. What does that mean?

Q. You never went to court to deal with that charge?

A. Right.

[39] The evidence placed before the Court from Cst Shaw established that Ms Dugas operated a conveyance on 2 August 2024 in the community of St Peter's Nova Scotia. The evidence established that Ms Dugas did so with a prohibited blood-alcohol concentration in her body. She was certainly chargeable—but was not charged.

[40] This would appear to suggest circumstantially that there was some form of immunity-from-prosecution arrangement with Ms Dugas in place. It does not necessarily follow that immunity was exchanged for testimony; it might have been simply a charitable decision based on the belief that Ms Dugas had been a victim of violence, and coerced by Mr Brown-Beals into driving. However, it is, in my view, a matter that might usefully have been clarified by the prosecution at the outset of the trial. That best practice is inherent in the special measures that prosecutors are obligated to apply when dealing with immunity situations: see Nova Scotia, Public Prosecution Service, *Crown Attorney Manual: Prosecution*

and Administrative Policies for the PPS: Immunity from prosecution, DPP Policy issued 23 Nov 2015, online at:

https://novascotia.ca/pps/publications/ca_manual/ProsecutionPolicies/Immunity_from_Prosecution.pdf.

[41] That this matter was not clarified is not the fault of Ms Dugas. However, the evidence that she was never charged criminally adds complexity to the assessment of her credibility.

Prolonged investigative detention of Ms Dugas

[42] Even absent an immunity agreement, Cst Shaw's treatment of Ms Dugas strongly incentivized her giving an inculpatory statement against Mr Brown-Beals.

[43] The evidence establishes clearly that Cst Shaw embarked on charging Ms Dugas with a ¶ 320.14(1)(b) over-80 offence. He arrested her after she blew a "FAIL" during roadside screening. He made an evidentiary breath demand of her. He read her a right-to-counsel notification. He took her to the St. Peter's detachment and obtained two breath samples from her, the last one at 00:59 hrs on 3 August 2024. Cst Shaw could have released her then on process: he had nailed down her identity, he had collected all the evidence about her charge that he needed, and there was no risk of her continuing to commit an offence. All the

preconditions for a release from custody following an arrest without warrant were in place.

[44] Instead, Cst Shaw took Ms Dugas to the Port Hawkesbury detachment and lodged her in cells.

[45] Cst Shaw then went off duty.

[46] Ms Dugas remained in Port Hawkesbury cells until Cst Shaw returned at 10:30hrs the morning of 23 August 2024.

[47] It is clear from Cst Shaw's cross-examination evidence that he considered Ms Dugas detained:

Q.

She was a detainee at this point. You'll agree with me, correct?

A. Yes.

[48] Ms Dugas confirmed on cross that she felt she was being detained:

Q. So you still were under the impression that you were detained?

A. Yes.

Q. And that you were not free to leave, correct?

A. Yes.

[49] Ms Dugas was returned to cells by Cst Shaw twice—if not three times, his evidence on cross was unclear—when she was not forthcoming providing the information Cst Shaw wanted.

[50] Mr Brown-Beals does not have standing to litigate Ms Dugas' *Charter* rights. Nevertheless, it appears to the Court that the circumstances under which Ms Dugas provided her originating information to police—originating, in that it was what led to Mr Brown-Beals being charged with the counts that are controversial in this trial—had the appearance of being oppressive.

[51] Ms Dugas was detained. She was not being detained on her own charges—charges that were never laid for reasons that remain unclear. Cst Shaw confirmed on cross that Ms Dugas, herself, was no longer under investigation once the over-80 piece got wrapped up. Rather, she was detained to advance an investigation against Mr Brown-Beals.

[52] It was an investigative detention.

[53] Investigative detentions are subject to strict constitutional limitations: they must be of brief duration: *R v Mann*, 2004 SCC 52 at ¶ 22. Keeping Ms Dugas in cells, from the time Cst Shaw went off shift until he returned later in the day, does not demonstrate a compliance with the brief-duration limitation.

[54] Cst Shaw initially described the circumstances of Ms Dugas' detention by stating that Ms Dugas was not in cells; he then segued to stating that, while she was in a cell, she wasn't in a locked cell, as if it might be considered the equivalent of a waiting room.

[55] The evidence is clear. Ms Dugas was lodged in cells for an extended period of time after the investigation against her was concluded. Cst Shaw brought her from cells to take a statement from her; I draw what I consider to be the reasonable inference that this was done in an interview room. When Ms Dugas did not deliver to Cst Shaw what he wanted from her, he informed her that she would be going back to cells.

[56] Ultimately, Ms Dugas gave a statement to Cst Shaw implicating Mr Brown-Beals in the offences for which he is being tried.

[57] When statements are obtained by police from witnesses in circumstances such as this, concerns about credibility and reliability will arise. Is the witness providing a truthful account—or, is the witness simply delivering a get-out-of-jail fiction that will please the interrogator?

[58] Adding to these circumstances were the hints that Cst Shaw acknowledged offering to Ms Dugas that a statement—and, by that, he clearly meant a statement

implicating Mr Brown-Beals—would make things go better for her. This was a prospect offered to Ms Dugas that, indeed, appears to have been borne out by the fact that she was never prosecuted for an over-80 offence.

[59] And so there was a strong incentive for Ms Dugas to implicate Mr Brown-Beals. It offered her the prize of securing her liberty and, as she indirectly acknowledged on cross, protecting her job. To be sure, implicating Mr Brown-Beals did not necessarily mean Ms Dugas fabricated a criminal complaint against him. However, the risk of her doing so is not imaginary. If her account was fabricated, Ms Dugas would have been locked into it, as a recantation—either before or during the trial—would have revived the risk of being charged criminally and losing her employment.

[60] There are other credibility questions that arise from Ms Dugas' conduct when she and Mr Brown-Beals were first stopped.

Ms Dugas's conduct when first detained

[61] When stopped and questioned by Cst Shaw, Ms Dugas denied drinking, which was not truthful.

[62] After being removed from behind the wheel and taken back to Cst Shaw's cruiser, Ms Dugas asked to go back to the Lincoln to get her purse. This does not

seem consistent with Ms Dugas' evidence on cross that she wanted to get caught at the checkpoint so that she could "get the fuck out of there."

[63] Cst Shaw described Ms Dugas as argumentative; she did not present to him as fearful.

[64] This sort of behaviour does not project the level of mortal fright one would reasonably expect to be exhibited by a person who has just escaped from a high-risk-of-lethality experience. The prosecutor makes the point that there is no one way for victims of violence to react. That might be so. However, judges are permitted to rely on logic, reason and common sense in assessing witness credibility: *R v ARD*, 2017 ABCA 237 at ¶ 8-9, aff'd 2018 SCC 6; cited with approval in a minority concurring opinion in *R v Kruk*, 2024 SCC 7 at ¶ 186.

While different people might react differently to traumatic situations, this surely cannot prohibit a court from drawing reasonable credibility inferences from the proven way a person did react. When Ms Dugas was dealing with Cst Shaw roadside, she did not appear concerned—rather, she was confrontational. That is not the reaction of someone who had just been terrorized with a handgun.

A late-breaking revelation

[65] And then there is Ms Dugas' testimony about a shotgun in the back seat, on the floor. That evidence came out in Ms Dugas' direct examination. She did not mention anything about a shotgun in her statement to Cst Shaw. Ms Dugas sought to explain away that oversight by stating on cross that she did not consider the shotgun to have been a danger to her at that time she first saw it. Although defence counsel erroneously quoted Ms Dugas as having seen a "sawed-off" shotgun, the point is nevertheless well made. This was a material omission from her original account given to Cst Shaw. While I accept that even truthful witnesses can forget to mention important details when interviewed by police using the one-and-done-statement-taking method, this is neither a neutral nor negligible lapse, and I must factor it into my assessment of Ms Dugas' credibility.

R v Vetrovec

[66] I must consider as well the fact that Ms Dugas was a principal to the offence of operating a conveyance while impaired.

[67] She was also either a principal or a party to the offence of obstruction by switching seats with Mr Brown-Beals.

[68] There should be no controversy in this.

[69] Ms Dugas' acts might be taken as constituting disreputable conduct.

[70] It is true that Ms Dugas said that she made the switch and drove the Lincoln because she was coerced; however, that part is controversial.

[71] I believe that this is a circumstance when the Court ought to direct itself in accordance with the unsavory-witness guidance in *R v Vetrovec*, 1982 CanLII 20 (SCC), [1982] 1 SCR 811; the Court should look for other independent evidence which tends to confirm the material parts of Ms Dugas' evidence. This is particularly important in this trial, as Ms Dugas' evidence is essential to the case for the prosecution: *R v Khela*, 2009 SCC 4 at ¶ 35.

[72] Mr Brown-Beals was seen in the Lincoln with Mr Dugas, and then fled from police afterward; Csts Shaw and MacDonald witnessed this. However, their evidence does not serve to confirm in any way that there were firearms in the Lincoln or that Mr Brown-Beals pointed one at Ms Dugas. In fact, the officers testified that, in approaching the Lincoln in a safety-conscious and observant manner, neither of them could see any firearms inside the passenger compartment.

[73] Based on the combined effect of these factors, the Court is left in a state of real and substantial doubt about Ms Dugas' credibility. I am simply unable to accept her evidence about Mr Brown-Beals confining her, pointing a handgun at her, or having any firearms in the Lincoln at all.

Flight as consciousness of guilt

[74] The prosecution asserted in closing that Mr Brown-Beals's flight from police could be treated as post-offence-consciousness-of-guilt evidence. In my view, Mr Brown-Beals's sudden flight is a no-probative-value circumstance. This is because, on 2 August 2024, he was, as came out during the trial, subject to house arrest under the terms of a conditional-sentence order [CSO]. When post-offence conduct—such as flight from police—is equally attributable to two or more offences, a trier properly treats the conduct as having no probative value: *R v Arcangioli*, 1994 CanLII 107 (SCC), [1994] 1 SCR 129 at 145-146. In this case, Mr Brown-Beals's sudden departure was as consistent with not wanting to get caught being AWOL while on house arrest, as it was with escaping with firearms after having menaced Ms Dugas.

Evidence of impairment

[75] With respect to the impaired-operation charge, the only evidence left before the Court, once Ms Dugas's doubtful testimony is removed from the inventory, is the testimony of Cst Shaw.

[76] Cst Shaw testified that Mr Brown-Beals told him roadside that he had consumed “four to five beer”. This statement by an accused to a person in authority was received without an objection from the defence. The prosecution

asserted in closing that this represented a waiver of a voluntariness *voir dire*. I do not agree. A voluntariness *voir dire* is always necessary unless defence has expressly waived it; a failure to object is not a waiver: *R v Park*, CanLII 56 (SCC), [1981] 2 SCR 64 at 69 *et seq*; *R v Erven*, 1978 CanLII 19, [1979] 1 SCR 926 at 931 [*Erven*]. Even apparently volunteered statements given to a person in authority are admissible only after a voluntariness *voir dire*: *Erven* at 935.¹

[77] However, upon further review of the trial record, I find there to have been an express waiver by defence. This occurred when defence counsel cross-examined Cst Shaw on his roadside interaction with Mr Brown-Beals:

Q. Okay. And when you mentioned that you could smell alcohol coming from the inside of the vehicle, you testified that Mr. Brown-Beals had interjected and said that he had — I believe your evidence today was that he had told you he had had — sorry. You testified that the passenger spoke up and said that you had four — that he had four or five beers?

A. Yes.

Q. Okay. I'm going to suggest to you again, at the last trial, you testified that Mr. Brown-Beals had told you that he had drank three or four beers. Would you agree with that?

A. Yes.

Q. Okay. And he did not — so did you understand — you understood — would you agree with me that you understood at the time that Mr. Brown-Beals was trying to provide an explanation as to why there was a smell of alcohol in the vehicle?

¹ It might be argued reasonably that Mr Brown-Beals's statements to Cst Shaw about his beer consumption might be admissible as roadside-screening evidence under *R v Orbanski*; *R v Elias*, 2005 SCC 37; if received under that authority, the statements would be able to be used only to substantiate grounds for evidentiary breath/blood/bodily-substance demands, and no demands were made in this case as Mr Brown-Beals sped off before police could formulate any grounds.

A. Yes.

Q. Okay. And Mr. Brown-Beals never provided a timeline with respect to when he may have drank those beers? Assuming that he had drank them and wasn't just trying to — I guess —

A. I don't, I don't remember. Not, not to the best of my knowledge he didn't say when.

Q. No timeline. Okay.

[78] Defence counsel sought admission of the presumptively inadmissible statements made by Mr Brown-Beals to Cst Shaw about his alcohol consumption in order to defend against the impaired charge. In my view, this was an informed, tactical and express choice to waive the requirement of a *voir dire*.

[79] The Court takes that point that was being made by defence counsel during that part of the cross-examination of Cst Shaw: There is no evidence before the Court pinpointing when Mr Brown-Beals consumed the beer he told Cst Shaw he had drunk. The discarded beer can (Exhibit No 2)—assuming for the sake of argument that Mr Beals had thrown it from the Lincoln—is not informative of recency of consumption.

[80] Excising Ms Dugas's evidence from the inventory of admissible evidence, the Court is left with Cst Shaw's evidence that Mr Brown-Beals was "noticeably impaired", that "his speech was slurred" and he had consumed beer at some undetermined earlier time; Cst Shaw did not respond to the prosecutor's prompting

to describe other “*indicia* of impairment the passenger was exhibiting”, as well as “any other conditions, impairment signs, the speech and the odor.”

[81] Slurred speech may be received as some evidence of impairment of a person’s ability to operate a conveyance, but not necessarily as a proof of it in the absence of other *indicia* of impairment: I find *R v Landes*, 1997 CanLII 11314 (SKQB) persuasive on this point. A general reference by an investigator to a motorist exhibiting slurred speech at roadside is not sufficient for a trier to make an independent assessment of impairment: I find *R v Lozanovski*, 2005 ONCJ 112 at ¶ 33 persuasive on this point.

[82] In a ¶ 320.14(1)(a) prosecution, the evidence need not establish that the person being tried was substantially impaired; proof of even slight impairment by alcohol of the ability to operate a conveyance is sufficient: *R v Stellato*, 1994 CanLII 94 (SCC), [1994] 2 SCR 478, aff’g 1993 CanLII 3375, 12 OR (3d) 90 (ONCA). However, there is a qualitative difference between evidence of slight impairment, and slight evidence of impairment. The Court believes that the evidence of impairment in this case is sparse and slight.

Findings of fact

[83] Having found the evidence of Ms Dugas not credible and the evidence of Cst Shaw on the issue of alcohol impairment inconclusive, the Court would make the following pertinent findings of fact:

- On 2 August 2024, Mr Brown-Beals was operating the Lincoln in the vicinity of St Peter's Nova Scotia. Ms Dugas was a passenger.
- As Mr Brown-Beals approached a checkpoint being operated by Csts Shaw and MacDonald, he pulled off the highway and into a parking lot adjacent to the RCMP detachment.
- Mr Brown-Beals and Ms Dugas traded places; Mr Brown-Beals did not want to be behind the wheel of the Lincoln at the checkpoint as he was concerned about criminal liability; he was breaching his CSO house-arrest condition.
- Ms Dugas resumed driving toward the checkpoint, but then turned around and headed in the opposite direction.
- Police gave pursuit, and Ms Dugas pulled over a short distance later.
- Cst Shaw had a brief conversation with Ms Dugas and Mr Brown-Beals. Cst Shaw observed Mr Brown-Beals's speech as slurred, and Mr Brown-Beals told him he had consumed a quantity of beer.

- Cst Shaw had Ms Dugas exit the Lincoln; he allowed Ms Dugas to retrieve her purse.
- Mr Brown-Beals then entered the driver's seat of the Lincoln and sped off in a manner that was dangerous to the public. He evaded police pursuit.
- The Court is unable to make findings of fact regarding whether Mr Brown-Beals had firearms inside the Lincoln, whether he threatened Ms Dugas with them, whether he kept Ms Dugas confined, or whether his ability to operate the Lincoln was impaired to any degree by alcohol.

[84] Based on these findings, the Court records acquittals in relation to cases: 8890987, 8890990, 8890991, 8890993, 8890994, 8890995, and 8890997.

[85] The Court will schedule a sentencing hearing for the matters to which Mr Brown-Beals has pleaded guilty.

Atwood, D., JPC