

**IN THE PROVINCIAL COURT OF NOVA SCOTIA**  
**Citation: R. v. Dennis Lewis Cameron, 2004 NSPC 43**

**Date:** August 3, 2004  
**Case No.(s):** 1153102  
**Registry:** Halifax

**Between:**

**R.**

**v.**

**Dennis Lewis Cameron**

**Judge:** The Honourable Judge C. H. F. Williams, JPC

**Heard:** Decision rendered orally on August 3, 2004  
in Halifax, Nova Scotia

**Counsel:** Leonard J. MacKay , for the Crown  
Jean C. Morris, for the Defence

## **By the Court**

### **Introduction**

- [1] The police have charged Dennis Cameron, the accused, with damaging a furnace external oil pipeline, the property of Kim Kline, with whom he had recently cohabited. They allege that after Kline had set him out of her home and life because of his intolerable jealousy the accused criminally harassed her and, earlier that night before they discovered the broken oil line, Kline saw the accused driving his vehicle past her property.
- [2] Because the accused, on his forced parting, in anger, had disconnected her deep freezer, taken some of her jewels and had commented that she should take care concerning the oil in her tank, Kline believed that it was the accused, in a grudge, who had damaged the oil line. Additionally, an occupant of the dwelling saw an unidentified vehicle leaving the area just before she discovered the oil leak. Further, when the police went to interview him, the accused appeared to know why they were present and expressed words that could amount to acknowledgement of some wrongdoing.
- [3] I think that this case is therefore a determination of whether, in all the circumstances, the evidence is consistent only with the guilt of the accused as the person who damaged the oil line and inconsistent with any other rational conclusion.

### **Findings of Fact and Analysis**

- [4] This case is based upon a series of circumstances that the Crown submitted created a web that has ensnared the accused. The Crown relies upon the facts that the accused was unhappy that Kline had rejected him; he had taken her jewels because he felt hurt; he had unplugged her deep freezer and told her to watch her oil drum because it would be getting cold; he told the arresting officer that he was sorry for what he did and that he did not mean to hurt anyone. Also, he was seen that night driving his vehicle in the area. Finally, the Crown contended that because he had malice, motive and knowledge of the premises, his mere denials do not exonerate him from culpability.
- [5] On the other hand, the accused denied that he damaged the oil line. He admitted that he was hurt when he and Kline broke up and that he accidentally unplugged the deep freezer but promptly informed her of the occurrence. Furthermore, because he was accustomed to paying for the oil supply and the weather forecast indicated a cold snap when he spoke to her about the oil he was merely alerting her to ensure that she had oil in the tank. He denied that he told the arresting officer that he was sorry for what he had done.
- [6] Moreover, I find that the expert testimony presented on his behalf, was not helpful in assisting me in determining the identity of the perpetrator. This testimony commented

mainly on generalities in the oil service industry and improved methods of oil tank installations. On the critical issue of probable causation and metallurgical structure and stress factors of copper pipe he was not qualified and was thus unable to offer, in my view, any constructive opinions.

- [7] On my observations of the witnesses as they testified and on my assessment of their testimonies with the total evidence, I accept and find that the accused was unhappy that Kline had ended their relationship. Additionally, I accept and find that he did make numerous unsolicited telephone calls to her that he has accepted as criminal harassment as evidenced by his plea of guilty to that offence. I accept and find that some person or persons damaged the oil pipe line, Kline's property, that caused extensive environmental damage.
- [8] Furthermore, I accept and find that the accused did tell Kline to watch the level of oil in her tank and, when interviewed by the police, he did say to the arresting officer that he did not mean to hurt anyone. I accept and find that Kline saw the accused in his vehicle drive past her property on the evening that the occupant discovered the oil leak. In addition, I accept and find that the occupant did see the tail lights of an unidentified vehicle departing from the area after she heard a bang and discovered the oil line was damaged and leaking.
- [9] I do not doubt that a crime had been committed. However, the only question here is whether it was the accused who had committed it. It is not a question of the intent or the state of mind of the accused but rather the identity of the person who committed the act. **R. v. Cooper**, [1978] 1 S.C.R. 860.
- [10] True, the accused was hurt when Kline forced him to end their relationship. However his explanation concerning the oil in the tank was reasonable and consistent with the fact that he had indeed during their cohabitation paid for the oil supply. When I consider that he admitted guilt to criminally harassing Kline, his spontaneous statement to the police that he was sorry and that he did not intend to hurt anyone, which I accept and find that he did say, was ambiguous and could well be an acknowledgement to causing mental and emotional distress to Kline because of his harassing telephone calls.
- [11] I do not doubt that he was near the premises in a motor vehicle earlier that evening. However, the occupant's testimony is unreliable or non-existent on what type of vehicle she saw after she heard a noise and soon afterwards experienced no heat in the premises and discovered the damaged oil line. There was no physical or forensic evidence, direct or indirect, that connects the accused or his vehicle in or at the vicinity of the oil tank at the critical time. His state of mind is not the issue but whether the bits and pieces of evidence of his conduct, particularly on the night in question, could, without doubt, be the only reasonable inference to be drawn from the proven facts.
- [12] On the evidence all that the accused did on the night in question was to drive by the residence. There was no suggestion that this act was out of the ordinary or in any way a malevolent act. The evidence is that he waved cheerfully to Kline and her companion. There

is nothing in the evidence to infer that the accused returned to the area later that night. The occupant could not describe the vehicle that she saw nor did she see who was driving it.

- [13] The burden is on the Crown to satisfy me beyond a reasonable doubt that on the circumstantial evidence the only inference that can be drawn from the proven facts is that the accused is the guilty party. That burden never shifts onto the accused. He does not have to prove his innocence. He is presumed to be innocent until proven guilty on credible, reliable and trustworthy evidence.

### **Conclusion**

- [14] Here, I do not find that there are sufficient evidential factors or indexes of his physical conduct, that when combined, created an irrefutable web of circumstances to persuade me beyond a reasonable doubt that it was only his alleged activities and no other that could have caused the damage which was the subject of the complaint. I am not satisfied that the evidence is consistent only with the guilt of the accused and inconsistent with any other rational conclusion. Put another way, I am not satisfied beyond a reasonable doubt that the guilt of the accused is the only reasonable inference to be drawn from the proven facts.
- [15] In the result, I find him not guilty as charged and will enter an acquittal on the record.

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