

Citation: *R. v. Parker*, 2023 YKTC 42

Date: 20231005  
Docket: 20-00869  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before His Honour Judge Phelps

REX

v.

PATRICK ALLAN PARKER

**Publication, broadcast or transmission of any information that could identify the complainant or a witness is prohibited pursuant to s. 486.4 of the *Criminal Code*.**

Appearances:

Neil Thomson

Kevin W. MacGillivray

Counsel for the Crown  
Counsel for the Defence

**REASONS FOR JUDGMENT**

[1] PHELPS T.C.J. (Oral): Patrick Allan Parker is before the Court on a three-count Information alleging offences contrary to s. 151, s. 286.1(2), and s. 271 of the *Criminal Code*. The allegations involve a 15-year-old complainant and are alleged to have occurred on or between February 1, 2020 and February 28, 2020.

[2] The trial commenced in a *voir dire* to address an application by the Crown pursuant to s. 715.1 the *Criminal Code* to admit into evidence a video statement by the complainant made approximately 13 months after the alleged offence. The Crown called

the investigating RCMP officer and the complainant at the *voir dire*, and the parties agreed to the admissibility of their evidence provided in the *voir dire* at the trial proper. The video statement was ruled admissible, and the Crown proceeded to trial relying on the *voir dire* evidence and calling additional evidence from the complainant and her friend, S.G.

[3] The allegations against Mr. Parker, a thirty-two-year-old, are that in February 2020 the then fifteen-year-old complainant contacted him by text suggesting she would provide sexual favors in exchange for crack cocaine. The complainant was addicted to crack cocaine at the time. Mr. Parker accepted the proposition and met with the complainant in downtown Whitehorse. The two walked to a nearby secluded location where the complainant perform oral sex on Mr. Parker and received crack cocaine in return.

[4] In this decision, I will address:

1. Crown evidence;
  - a. Evidence of Cst. Emma Leslie
  - b. Video Recorded Statement of C.G.
  - c. *Viva voce* evidence of C.G.
  - d. Evidence of S.G.
2. Evidence of Patrick Parker;
3. The law of consent;

4. Defence position on the evidence;
5. Identification evidence;
6. Credibility and reliability of the witnesses; and
7. Proof beyond a reasonable doubt.

### **Evidence of Cst. Emma Leslie**

[5] Cst. Leslie is a regular member of the RCMP currently stationed in Prince Edward Island. On March 5, 2021, Cst. Leslie was stationed in Whitehorse, Yukon, as a member of the Specialized Response Unit, when she received a call from a social worker with Family and Children Services regarding a sexual interference investigation involving one of the social worker's clients. Cst. Leslie met with the social worker and with C.G. on March 8, 2021, at the Family and Children Services office on 4th Avenue in Whitehorse for the purpose of obtaining a statement from C.G. The statement taken was both audio and video recorded.

[6] Cst. Leslie confirmed that at the time of the incident, C.G. was residing at the River View Hotel in downtown Whitehorse. She knew the River View Hotel to be transient housing during the winter months, permitting people to live there on a month-to-month basis.

[7] Cross-examination of Cst. Leslie revealed that there was little follow-up investigation done with respect to this complaint. Attempts were not made to retrieve security video evidence from the River View Hotel, which apparently does have video inside the lobby and may have video facing outside, to verify the departure and arrival

date and times of C.G. and her friend on the evening of the incident. There were also no attempts made to determine whether there was access to City of Whitehorse owned “little blue building” close to the river near the River View Hotel as referenced in the complaint. The officer attended this location approximately one year after the complaint and took photographs. However, it appears as though those photographs were not preserved.

### **Video Recorded Statement of C.G.**

[8] C.G. provided the video recorded statement to Cst. Leslie when she was 16 years old.

[9] The video is not of great quality, and it is not possible to make out the identity of the individuals on the video by looking at the face. However, it is possible to see the likeness of C.G. in the image of the face and it is possible to observe her actions regarding movements, hand gestures, reaching for and using a tissue when upset, and other movements in relation to the interaction she was having with the police officer.

[10] C.G. was providing her statement in relation to an incident that took place in February 2020, approximately 13 months prior. On the date of the incident, she was residing with S.G. at the River View Hotel in downtown Whitehorse. She described herself as being a drug addict and that she was in contact with Mr. Parker through text messaging in an attempt to try and obtain drugs from him on credit which she referred to as trying to “cuff a little“. That is, she was trying to get drugs on the date of the communication which she would pay for at a later date. She was trying to obtain three grams of crack cocaine which is valued at approximately \$150.

[11] During the text exchange she made what she referred to as a joke being that she would “suck his dick” for the drugs. He accepted the offer and messaged that he would be there in “5 minutes”. She understood that Mr. Parker was in Riverdale during the text message exchange and that he would travel to downtown to meet her. Mr. Parker told her that he would meet her by the train station near the River View Hotel. When C.G. met Mr. Parker, he had crushed some drugs which he then snorted upon her arrival. He asked her if she knew where they could go and she advised that she did not, so they started walking.

[12] Mr. Parker and C.G. walked to a little blue building surrounded by fence in a secluded area near the river in downtown Whitehorse. During the walk he explained to C.G. that she would have to make him “finish” before she would get the drugs and they could go their separate ways.

[13] Upon arrival at the blue building, there was a place in the fence that they could climb through. Inside the fence, they talked for a couple of minutes and Mr. Parker smoked a joint which he shared with C.G. C.G. was nervous and realized that she had made a mistake, advising Mr. Parker that she did not want to go through with it. Mr. Parker blocked her exit through the fence with his shoulder and advised her that she could not go until he finished, meaning that she completed the act of oral sex on him until he ejaculated. At that point she did as he asked.

[14] Once the sexual act was finished, Mr. Parker pulled up his pants and gave the drugs to C.G. C.G. turned away from him and walked towards the hotel and she is not sure where Mr. Parker went. When she arrived at the hotel room, S.G. was not there.

He arrived back at the hotel room approximately 10 minutes after her. C.G. sat on the bed in the hotel room alone with her hands shaking and felt “gross”. She told S.G. briefly what occurred but would not discuss it any further with him.

[15] S.G. told C.G. that he was confronted by Jenna, a resident at the River View Hotel, on a date after the incident occurred about being a sexual predator. This was after S.G. saw Mr. Parker speaking to Jenna. C.G. believed that Mr. Parker had told Jenna about this incident causing her to confront S.G., although she did not hear the conversation or see Mr. Parker speaking to Jenna.

**Viva Voce Evidence of C.G.**

[16] At the time of trial, C.G. was 19 years old.

[17] C.G. first met S.G. when she was 13 years old and S.G. was in his twenties. C.G. started living with him when she was 14 years old.

[18] C.G. first met Mr. Parker in 2019 and knew him for approximately one year prior to the incident before the Court. She did not know him very well, stating that she met him through S.G. on one occasion in downtown Whitehorse, and on another occasion at S.G.’s residence.

[19] C.G. was asked about why she said that she felt gross after the assault took place and she answered that she felt like she made a huge mistake.

[20] When asked for details about Mr. Parker using his shoulder to prevent her from exiting through the fence, C.G. advised that she did not really remember that part. She did clarify that during the time of the assault Mr. Parker was standing, and she was

kneeling in front of him. When she was finished performing the oral sex on Mr. Parker, he provided her with the agreed-to amount of crack cocaine in little baggies. The baggies were the corners of small plastic bags twisted to keep the crack cocaine inside. She further explained that this amounted to three grams of crack cocaine.

[21] C.G. clarified that while they agreed to meet in “5 minutes” that he actually called her when he got downtown. They met at the waterfront train station near the river in downtown Whitehorse.

[22] C.G. admitted that contrary to what she said in the video statement, it was actually S.G. that was texting with Mr. Parker. It was S.G. that sent the message saying that she would “suck his dick” for the drugs. S.G. went into the bathroom and was not present when C.G. made the arrangement to meet Mr. Parker.

[23] When asked about her relationship with S.G., she agreed that he was an emotional and financial support for her. She characterized their relationship as roommates.

[24] When asked if S.G. and Mr. Parker were friends, she believed that they were, but not after the incident before the Court.

### **Evidence of S.G.**

[25] S.G. testified that he was at the River View Hotel with C.G. on the evening of the assault. He had engaged Mr. Parker in a conversation through texting, pretending to be C.G., during which he jokingly offered a “blowjob” in exchange for crack cocaine. He went to the bathroom to have a shower and when he got out of the bathroom C.G. was

gone. S.G. saw more texts on the phone and realized that C.G. had gone to meet Mr. Parker. He left the hotel to try and find C.G. but was unable to do so. When he returned to the hotel room, C.G. was there, and he could tell that she was extremely distraught. She was in the bathroom brushing her teeth. C.G. would not talk to him about what happened, and she had crack cocaine.

[26] S.G. was not sure how long C.G. was gone from the hotel room as he was in the bathroom when she left. He was gone looking for her for about 10 minutes before he returned and found her at the hotel.

[27] S.G. indicated that he met Mr. Parker approximately seven years ago, which was about one and one-half years after he moved to Whitehorse from Calgary. He had addiction issues and was homeless when living in Calgary and moved to Whitehorse for a fresh start. S.G. testified that Mr. Parker was involved in the drug trade in Whitehorse and that is how he got to know him. He said that he got along with Mr. Parker but that they were not necessarily friends. He was a drug addict and Mr. Parker always had drugs.

[28] S.G. was shown Facebook Messenger messages from 2021 between J.J. and Mr. Parker. He admitted that he used the name J.J. on Facebook because he was not supposed to use social media at the time. He further indicated that the messages were intended to blackmail Mr. Parker.

[29] S.G. did consider C.G. his girlfriend after she turned 16 years old. He also stated that he was a close emotional and financial support for her.



[30] S.G. testified that he was confronted by a woman named Jenna who also lived at the River View Hotel. He said that she accused him of being a predator of C.G. and that he sold his girlfriend, meaning C.G., to Mr. Parker.

### **Evidence of Patrick Parker**

[31] Mr. Parker testified on his own behalf as the only witness called for the defence.

[32] He stated that he did not know C.G., that he has never met her, and that he did not sexually assault her.

[33] Mr. Parker testified that he has a prescription for oxycodone for a knee surgery that he had a number of years ago. He indicated that he does not otherwise do drugs but does smoke a fair amount of marijuana. Aside from the marijuana and the oxycodone he does not drink alcohol and does not do drugs.

[34] Mr. Parker testified that he did know who S.G. was, as his girlfriend in 2020 was friends with the mother of a girl that was the victim of S.G. on criminal charges. He thought that S.G. was a disgusting predator, and he repeated this belief to many people in 2020.

[35] He explained that the reason why Jenna at the River View Hotel learned that S.G. was a sexual predator from him is that he knew Jenna from high school and had recently run into her in Whitehorse. They ended up talking and at one point he provided her a ride home to the River View Hotel. During these conversations he told her his views about S.G.

[36] In relation to the Facebook Messenger messages, he indicated that he did not know the person referred to as “C” in the messages. Although he did not ask in the message exchanges, he knew which “S” it was because of the reference to his friend Jenna. That is, he had told Jenna his views about S.G. and believed the “S” messaging him was the same person as S.G.

[37] Mr. Parker denied that he had ever been to S.G.’s home or that he ever sold drugs to S.G. or C.G.

[38] In cross-examination he did admit that he had used crack cocaine and had possessed crack cocaine in the past that was in twisted baggy corners. He further indicated that crack cocaine comes in all kinds of packaging.

### **The Law of Consent**

[39] Mr. Parker was in his late twenties at the time of the alleged offence while C.G. was 15 years old at the time. Accordingly, whether C.G. consented to the sexual activity was not in issue at this trial. The defence of consent is specifically addressed in s. 150.1 (1) of the *Criminal Code*:

Subject to subsections (2) to (2.2), when an accused is charged with an offence under section 151 or 152 or subsection 153(1), 160(3) or 173(2) or is charged with an offence under section 271, 272 or 273 in respect of a complainant under the age of 16 years, it is not a defence that the complainant consented to the activity that forms the subject-matter of the charge.

[40] Given Mr. Parker's denial of having ever met C.G., the defence of mistaken belief as set out in s. 150.1(4) of the *Criminal Code* is not raised in this case.

## Defence Position on the Evidence

[41] The defence does not seek to challenge the credibility of C.G. regarding the interaction with a male giving rise to the charges before the Court. The argument put forward is that the Crown did not produce sufficient evidence to establish beyond a reasonable doubt that it was Mr. Parker that was the male involved in the incident.

[42] Despite this position of the defence, I will consider all the evidence of the witnesses in order to assess whether the allegations are established beyond a reasonable doubt. The credibility of C.G. regarding all of her testimony has been considered.

## Identification Evidence

[43] Defence counsel filed the decision of *R. v. Pierce*, 2011 BCCA 485, which deals with identification evidence at paras. 39 and 40:

39 While recognition evidence may be more reliable than eyewitness identification of a stranger, special caution must still be taken when using it to identify an offender, as it is still merely a statement of a witness's opinion about what he or she saw. Like all identification evidence its weight or reliability will depend on such circumstances as the nature, length and memorable features of the witness's previous contact with the accused. ...

40 The trial judge in this case was clearly alive to the caution needed in considering the identification evidence of the Crown witnesses. To that end, he engaged in a critical review of the evidence of each of the witnesses and concluded that, in spite of some discrepancies and inconsistencies in the evidence, the cumulative effect of the evidence established beyond a reasonable doubt that Mr. Pierce was the male patron at the pub on the day of the incident and the individual who robbed Mr. McFadden. That is the task of the trier of fact as it was aptly described in *R. v. Keshane* (1992), 11 B.C.A.C. 86:

...

[14] There is no special formula by which to assess eyewitness identification. Rather, such evidence is to be examined on a case by case basis. And even where the witness' identification is not based on the recognition of a distinctive characteristic of the accused this does not necessarily undercut the efficacy of the identification. Similarly, where there is a discrepancy between the description given by a witness and the person subsequently identified by that witness, this is not necessarily fatal to a positive identification. The sufficiency of the identification evidence will depend on the circumstances surrounding the original identification, the nature of the discrepancy, and whether there is other cogent evidence in the case pointing away from the guilt of the accused. [citations omitted]

...

[44] Defence counsel also relied on *R. v. Virk*, 2015 BCSC 981, wherein the Court reviewed precedent, including *Pierce*, and set out principles for consideration in recognition identification cases at para. 117 and para. 140:

117 Accordingly, the applicable principles from *Turnbull*, *Smith* and *Pierce* as they relate to the case before me can be distilled to the following:

1. as the trier of fact, I must be alive to the caution needed in considering the identification evidence of the Crown witnesses, even in a recognition case, and I bear these principles in mind in analyzing the evidence in this case;
2. as the trier of fact, I must engage in a critical review of the evidence of the identification witnesses;
3. a number of factors should be considered in assessing recognition identification evidence including:
  - (a) the duration and conditions under which the witnesses who made their observations including whether anything impaired their ability to make their observations;
  - (b) the extent of any earlier dealings between the witness and the accused;

- (c) the time elapsed between the incident and subsequent identification of the accused by the witness;
- (d) whether there were any intervening factors between the sighting and the statements to the police such as tainting or contamination through discussion with friends;
- (e) whether the witnesses provided detailed descriptions or merely generic, vague descriptions of the assailant;
- (f) whether there was any material discrepancy between the description of the assailant given by the witness and the appearance of the accused; and
- (g) any other factors such as possible independent confirmatory evidence (for instance, forensic evidence such as DNA, fingerprints or positive police photo pack identification evidence).

...

140 When the evidence of the circumstances surrounding the observations of the various identification witnesses is considered as a whole, I find that the combination of fleeting glances under stressful circumstances, low level lighting conditions for the first attack, and the fleeting glances, albeit for some under better lighting conditions, but in confusing and stressful circumstances for the second attack, coupled with the intervening discussions about who may have been the perpetrator of these vicious attacks before statements were provided to the police, causes me to have a reasonable doubt as to the identification of Mr. Virk as Mr. Dinh's assailant.

[45] The identification evidence in *Virk*, as noted in the quote, is distinguishable from the matter before this Court. C.G. testified about two occasions prior to the matter before the Court when she interacted with Mr. Parker, including on one occasion in downtown Whitehorse, and on another occasion at S.G.'s residence. Her evidence correctly falls within the recognition evidence category.

[46] Defence counsel argues that there is insufficient evidence of C.G.'s ability to observe Mr. Parker at the time of the offence. C.G.'s evidence, as previously noted, includes:

1. C.G. met Mr. Parker in downtown Whitehorse where she testified that she observed Mr. Parker crushing and snorting drugs, which he offered to share with her;
2. The two walked a short distance together to a secluded location and navigated through a fence for privacy;
3. Mr. Parker presented a marijuana joint and the two consumed it while talking;
4. C.G. tried to leave and was physically blocked by Mr. Parker; and
5. Mr. Parker provided the crack cocaine to C.G. after the sexual act was complete, as previously discussed.

[47] In cross-examination C.G. did not attempt to exaggerate the lighting conditions, instead agreeing that it was dark out but that there was light from nearby street lamps that was sufficient for them to navigate the route to the little blue building. She had considerable opportunity to satisfy herself that the person she met was Mr. Parker, the individual that she made the arrangement to meet with. C.G. did not provide a detailed description of Mr. Parker as he is someone she claimed to be acquainted with.

[48] I find that there is sufficient evidence on identification and that the question before me is whether the evidence is credible and establishes proof beyond a reasonable doubt.

### **Credibility of the Witnesses**

[49] The British Columbia Supreme Court addressed the assessment of witness credibility and reliability in the decision of *R. v. Dionne*, 2022 BCSC 959, at paras. 37 to 39:

37 Reliability has to do with the accuracy of a witness's evidence, such as whether they have a good memory, if they are able to recount the details of the event, and whether the witness is an accurate historian: *R. v. Nyznik*, 2017 ONSC 4392 at para. 15.

38 Credibility relates to the witness's veracity. A witness who is not telling the truth is not providing reliable evidence. However, the reverse is not the case. Sometimes, an honest witness will be trying their best to tell the truth and will believe the truth of what they are relating, but nevertheless be proven to be mistaken in their recollection. Although honest, their evidence is not reliable: *Nyznik* at para. 15.

39 Determining the credibility of a witness requires the court to consider a number of factors. These include the internal and external consistency of the witness's evidence, motive to fabricate, the inherent plausibility of the evidence in the context of the case as a whole, and demeanour: *R. v. Swain*, 2019 BCSC 1300 at para. 48.

[50] The utility of Cst. Leslie 's evidence is limited to the introduction of the video statement taken by her from C.G. Beyond this, it is clear that there was little follow-up investigation undertaken with respect to this matter and she does not provide further evidence useful to this Court.

[51] C.G.'s evidence was presented to the Court through both the audio and video recording in 2021 and her *viva voce* evidence at trial. While the audio and video

recording was of a relatively poor quality, the Court was able to observe her emotional state as she provided the statement. She provided thorough and clear responses to the questions posed throughout the statement. During her *viva voce* evidence at trial, C.G. presented emotionally but provided clear and thorough responses to the questions. She presented as honest with her responses to both direct and cross-examination, advising where appropriate that she had limited recollection due to the passage of time. I found C.G.'s evidence to be both credible and reliable.

[52] S.G. presented in a manner that was confrontational, particularly to the defence counsel. He was prone to outbursts and had difficulty focusing his testimony on answering the questions posed. He had a tendency to go on a tirade regarding Mr. Parker even when asked very straightforward questions. However, despite these difficulties, his evidence with respect to the incident before the Court was consistent with the evidence of C.G. Given his clearly articulated disdain for Mr. Parker, I am cautious about the weight to attribute to his evidence. I do accept that he was residing with C.G. on the date of the incident, he participated in the text messaging with Mr. Parker, and that he knew Mr. Parker as an individual who could provide crack cocaine. Further, I accept that he has known Mr. Parker for up to seven years.

[53] Mr. Parker's evidence could be described as an outright denial. I found his evidence to be self-serving and implausible, examples of this include:

- a. His characterization of his relationship with S.G. as well as his lack of knowledge of C.G. was contradicted by the evidence of C.G. and S.G. S.G. was forthright about his drug addiction and the nature of his



relationship with Mr. Parker and C.G. provided credible evidence regarding her prior interactions with Mr. Parker.

- b. He described a random encounter with an old friend from high school, Jenna, and that during their discussion catching up he explained his disdain for S.G. as a predator. There is no explanation for why he would choose to discuss S.G. with Jenna, especially as they had not talked in years, which I find to be fabricated in order to explain Jenna's confrontation of S.G.
- c. I find his characterization of himself and his denial of being involved in the drug trade is directly contradicted by the evidence that I accept as credible from C.G. and S.G.

[54] I find that Mr. Parker lacked credibility.

### **Proof Beyond a Reasonable Doubt**

[55] I am mindful that the trial before me is not a credibility contest between Mr. Parker and the other witnesses. The Crown is required to prove the offences against Mr. Parker beyond a reasonable doubt. The principle of innocent until proven guilty and the standard of proof beyond a reasonable doubt is set out in *R. v. Nyznik*, 2017 ONSC 4392 at paras. 5 to 7:

5 The presumption of innocence, and along with it the standard of proof beyond a reasonable doubt, are important safeguards to ensure that no innocent person is convicted of an offence and deprived of his liberty. Without these protections, there would be a serious risk of wrongful

convictions -- an outcome that cannot be accepted in a free and democratic society.

6 The concept of proof beyond a reasonable doubt is not an easy one to define. It is clearly more rigorous than the balance of probabilities standard applied in civil cases. The balance of probabilities requires the party bearing the onus to establish that the proposition they advance is "more likely than not" -- *i.e.* better than 50/50. In its landmark 1997 decision in *R. v. Lifchus*, the Supreme Court of Canada held that the following definition would be an appropriate instruction for a criminal jury:

[...]

A reasonable doubt is not an imaginary or frivolous doubt. It must not be based upon sympathy or prejudice. Rather, it is based on reason and common sense. It is logically derived from the evidence or absence of evidence.

Even if you believe the accused is probably guilty or likely guilty, that is not sufficient. In those circumstances you must give the benefit of the doubt to the accused and acquit because the Crown has failed to satisfy you of the guilt of the accused beyond a reasonable doubt.

On the other hand you must remember that it is virtually impossible to prove anything to an absolute certainty and the Crown is not required to do so. Such a standard of proof is impossibly high.

In short if, based upon the evidence before the court, you are sure that the accused committed the offence you should convict since this demonstrates that you are satisfied of his guilt beyond a reasonable doubt.

7 This instruction, with very little modification, is now the standard instruction on reasonable doubt given to criminal juries throughout Canada. The same standard is applied by judges sitting without a jury on criminal trials. The bottom line is that probable or likely guilt is insufficient. If all I can say is that the defendants in this case are likely guilty, I must acquit. It would not be safe to convict someone of a criminal offence with only that degree of confidence. Before I can find the defendants guilty, I must be sure that they committed the offence charged.

[56] Despite my concerns regarding the credibility of Mr. Parker, I am also mindful that as I consider each count on the Information, I must apply the three-step procedure

as set out by the Supreme Court of Canada in *R. v. W.(D.)* [1991] 1 S.C.R. 742, at para. 28:

...

First, if you believe the evidence of the accused, obviously you must acquit.

Second, if you do not believe the testimony of the accused but you are left in reasonable doubt by it, you must acquit.

Third, even if you are not left in doubt by the evidence of the accused, you must ask yourself whether, on the basis of the evidence which you do accept, you are convinced beyond a reasonable doubt by that evidence of the guilt of the accused.

[57] Given my findings on credibility, I do not believe the evidence of Mr. Parker and am not left with a reasonable doubt by it.

[58] This takes me to the third step in the *W.(D.)* analysis. I must consider whether, based on the evidence I do accept, I am convinced beyond a reasonable doubt of the guilt of Mr. Parker.

[59] The evidence of C.G. in the video statement was accepted as credible and reliable. During her *viva voce* testimony, she admitted to changing the narrative of the text messaging to Mr. Parker to include the involvement of S.G. She also conceded that some interactions surrounding the offence were less clear to her given the significant passage of time, which is understandable considering the time it has taken for this matter to proceed through the court process. I found C.G. to be otherwise consistent in her testimony, that she was not shaken in cross-examination and, as noted previously, found her to be credible. Despite the concerns I noted with the demeanour of S.G., I

accepted his evidence on certain important points that corroborate the evidence of C.G. and that directly contradict the evidence of Mr. Parker.

[60] Given these findings, I am not left with a reasonable doubt.

[61] I find Mr. Parker guilty of the three charges before the Court, contrary to ss. 151, 286.1(2), and 271 of the *Criminal Code*.

[62] I apply the *Kienapple* principle regarding the rule against multiple convictions and direct a stay of proceedings on the s. 271 *Criminal Code* offence.

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PHELPS T.C.J.