Citation: *R. v. James,* 2026 YKTC 1

Date: 20260112
Docket: 24-00185
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before Her Honour Judge Cairns

REX

v.

KASHIES CHARLES ANDREW JAMES

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:
William McDiarmid — Counsel for the Crown
Kevin Drolet — Counsel for the Defence

This decision was delivered from the Bench in the form of Oral Reasons. The Reasons have since been edited without changing the substance.

REASONS FOR JUDGMENT

[1] CAIRNS T.C.J. (Oral): Kashies James is charged with sexually assaulting the then 14-year-old complainant, G., contrary to s. 271 of the *Criminal Code* (the "*Code*"), and touching her with a part of his body for a sexual purpose, contrary to s. 151 of the *Code*. Given G.'s age, by law, she was unable to consent to sexual activity. The offences are alleged to have occurred on or about June 25, 2023. The Crown proceeded by way of indictment.

[2] Several admissions were made at trial: date, jurisdiction, the identity of the accused, and the age of the complainant. Further, based on DNA evidence linking Mr. James to the complainant, sexual activity was admitted.

[3] The issues that remain for my consideration are whether the Crown has negated the statutory defence of mistaken belief in age raised by Mr. James and, if it has not, whether the Crown has proven that the sexual activity was not consensual.

[4] As with any *Criminal Code* trial, Mr. James is presumed to be innocent unless and until the Crown proves he is guilty beyond a reasonable doubt. It is essential to remember that the burden of proof rests on the Crown to prove that the sexual assault occurred on the standard of proof beyond a reasonable doubt. The burden of proof never shifts to Mr. James to establish his innocence.

[5] At trial, the Crown led evidence from a police officer and the complainant. The complainant's audio and video recorded statement, made on June 26, 2023, was admitted into evidence. Mr. James testified in his defence. After Mr. James testified, the Crown called a single witness to give rebuttal evidence.

[6] Given that Mr. James testified at trial, I must apply the test 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.

[7] As stated in *R. v. Berg*, 2025 SKCA 85, at para. 40:

> ...The *W.(D.)* framework is designed to ensure that a trier of fact understands the following:
>
> (a) the burden of proof remains on the Crown throughout the trial,
>
> (b) the Crown must prove the accused's guilt beyond a reasonable doubt, and
>
> (c) the question of whether the Crown has met its burden must be based on a consideration of the evidence as a whole and is not to be treated as a "choice between the accused's evidence and the Crown's evidence". ...

[8] Proper application of the *W.(D.)* framework requires that a trier of fact understand that, in a case where the accused person's exculpatory evidence is disbelieved, it does not mean that inculpatory evidence must necessarily be believed – nor that rejection of the accused's evidence automatically means the Crown has proven its case beyond a reasonable doubt (*Berg*, at para. 42).

[9] A criminal trial involves the assessment of all the evidence presented. The evidence of a complainant or an accused is not to be assessed in isolation and conflicting evidence is not to be approached as a credibility contest. Credibility and reliability are different. Credibility has to do with a witness's truthfulness and reliability with the accuracy of the witness's testimony.

[10] While Mr. James denies that he sexually assaulted G., describing instead a consensual sexual encounter with a person he says he believed was over 19 years old,

his evidence cannot be considered in isolation; it must be assessed against the backdrop of the entire evidentiary record. If, based on the whole of the evidence, I am left with a reasonable doubt as to the guilt of Mr. James, I must acquit.

Summary of Evidence

[11] The complainant's evidence was provided, in part, through an audio and video-recorded statement made by her to the RCMP on June 26, 2023. G. adopted the contents of her statement, and it was admitted into evidence pursuant to s. 715.1 of the *Code*.

[12] The complainant's evidence was that, while out walking, she was approached by a man near the Whitehorse Emergency Shelter. She says this man, later identified as Mr. James, paid her a compliment and then proceeded to follow her as she walked towards the waterfront. She said she became nervous and tried to determine if he was following her by changing direction several times. Her evidence was that they had minimal conversation. She said she recognized him but had never spoken to him and did not know his name. Upon reaching the dock on the waterfront, she says he grabbed her. She says she then told him she was only 14 years old and to leave her alone. She said he told her that he was 22 years old and it did not matter. He led her under the docks by her arm; her evidence was that she did not put up a fight. Once under the dock, she described him as standing in front of her. She says he carried out penile-vaginal intercourse without her consent, and that he ejaculated. She described herself as begging him to stop. She was able to provide a description of him, including tattoos on his chest. She said that after he ejaculated, she kicked him hard in the crotch. After

the intercourse, she made her way to the hospital, obtaining a ride from strangers. There, she submitted to an examination by the Sexual Assault Response Team.

[13] When questioned, G. denied going into the Big Bear Liquor Store (the "Big Bear") on June 25, 2025, prior to encountering Mr. James, saying she did not drink at that point in her life and was not aware that Big Bear had an Off Sales location on Alexander Street at the time. She described Mr. James as carrying a Walmart bag full of booze, popcorn, and a chicken.

[14] During cross-examination, G. said she told Mr. James who her brothers were. She said that he offered her homemade brew, but she did not have any. She says he gave her juice from a storebought container; she explained that she was thirsty and needed water, so she said thank you. She agreed he had not forced alcohol on her unless it was in the juice, and he had laced the juice with alcohol.

[15] When it was put to her by counsel for Mr. James, G. denied the following: asking Mr. James if he wanted to hang out by the river to drink and party, telling him her name was Michelle, telling him that she had graduated from FH Collins, had a job at the Kopper King, or drank so much it was hard to hold a job, and telling him that she had quit smoking when she was 19 years old. She denied telling Mr. James that she had returned from Saskatchewan and then revised her evidence to say he heard her talking about it to her auntie. G. denied telling Mr. James she wanted to meet the right guy, settle down, and have kids. She denied yelling that she would call the police and say he had raped her. Contrary to the evidence of Mr. James and the police witness, Cst. Reid, G. said that it was not busy with foot traffic down at the waterfront.

[16] Mr. James' evidence differs significantly from the complainant's. He testified that he remembered the day in question clearly. He says he was positioned on the stoop of a building to observe the Big Bear on Alexander Street in the hopes of getting something to drink or some money to buy something to drink. He said he could see into the Big Bear from where he was sitting and acknowledged that he drank regularly at that time in his life. With respect to the encounter with G., he says he saw a woman – the complainant - exit from the Big Bear carrying a 26-ounce bottle of Smirnoff Vodka. When he gave her a compliment, she stopped, told him her name was Michelle, and asked if he wanted to hang out and share a bottle at the river. He said he went with her because she had booze and he did not. He said they walked together to the waterfront and that he listened to her talk. Once at the waterfront, he said they sat at a picnic table, he had a few shots from her bottle, and they started making out. He says she then grabbed his hand, led him over to the dock, climbing under the dock and he followed her. He says that consensual penile-vaginal intercourse followed, describing it as initiated by the complainant. He says he took off his shirt, laid it on the rocks, sat down on it, and she got on top of him.

[17] Mr. James described a conversation he says occurred as he walked with G. to the riverfront as being all about the complainant. He described her as trying to impress him and, when asked to clarify what he meant, he said she was trying to make herself sound like someone she was not. He says she talked about how hard it was to pay bills, that she had a job as a bartender, that she loved dogs but the place she had does not allow them, that she liked to drink and party, and meet new people. He says that, when he asked for a cigarette, she said she had not smoked since she was 19 years

old. Mr. James also said she told him she had graduated a few years before and had moved to Saskatchewan.

[18] Mr. James confirmed during cross-examination that he had never seen the complainant before. His evidence was that their total interaction was about one hour. He said the complainant presented as an older woman, having come out of the liquor store holding a bottle, and was dressed like a "hooker". He agreed she was wearing pink shorts and a tank top shirt. When pressed as to why he had not asked how old she was, he said:

> Somebody coming out of a liquor store with a bottle, why would you ask them how old they are? Don't you think they would have did that while the person was inside of there?

and,

> You don't just see some little kid packing around a bottle coming out of the liquor store with no adults around.

[19] He also said he told her his first name multiple times, and his last name after they were done "fooling around at the riverbank". When questioned about whether the Big Bear was still in operation on Alexander Street on June 23, 2023, Mr. James was steadfast that he had seen G. come out of the store that day and that he was not lying.

[20] He says he left after the sexual activity when G. said that she wanted a relationship, to have kids, and to find the right guy. These statements caused him to have flashbacks to a prior toxic relationship, making him nervous, so he took her bottle of vodka and left. He said he told her he was going back to the Salvation Army and, if she ever wanted to hang out or find him again, that is where he would be. He says

when he was leaving with her bottle, she started screaming at him, saying she was going to charge him.

[21] Travis Milos, owner of the Big Bear for 10 years, was called by the Crown to give rebuttal evidence. He testified that the Big Bear on Alexander Street had emptied its shelves and closed to the public by June 1, 2023. A new location on 4th Avenue had opened by June 28, 2023. He said that the current and former location of the Big Bear had never been in business at the same time.

DNA

[22] Mr. James was not arrested until March 2024 after the DNA obtained from the complainant's shorts was analyzed and there was a hit on the DNA databank.

Mistake of Age Defence

[23] Pursuant to s. 150.1 of the *Code,* consent is not a defence to a charge of sexual assault against a complainant under the age of 16 years, except in prescribed circumstances. In Mr. James' circumstances, the defence is set out in s. 150.1(4) of the *Code*:

> 150.1(4) It is not a defence to a charge under section 151 or 152, subsection 160(3) or 173(2), or section 271, 272 or 273 that the accused believed that the complainant was 16 years of age or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.

[24] This defence has two elements:

(1) subjective: the accused honestly believed that the complainant was at least 16 years old at the time of the alleged offence; and

(2) objective: the accused took all reasonable steps to ascertain the complainant's age.

Does the defence of mistake of age have an air of reality?

[25] There is a threshold inquiry before the Court can consider the mistake of age defence. Mr. James has the evidential burden of demonstrating that there is an air of reality to the defence. This burden will be met if Mr. James is able to point to some evidence that, if believed, would be capable of supporting the defence (*R. v. Silavi*, 2019 BCCA 366, at para. 35). The air of reality analysis must be applied to each component of the defence, both subjective and objective (*R. v. Cinous*, 2002 SCC 29, at para. 95).

[26] To determine if the threshold is met, I must consider all the evidence and assume that the evidence relied upon by the accused is true. I am not to "make determinations about the credibility of witnesses, weigh the evidence, make findings of fact, or draw determinate factual inferences"; nor am I to assess the likelihood that the defence will succeed (*Cinous*, at para. 54). Any doubt as to whether there is an air of reality should be resolved in favour of leaving the defence with the trier of fact (*R. v. Cairney,* 2013 SCC 55, at para. 22*).*

[27] Given Mr. James' evidence in relation to the complainant exiting the Big Bear carrying a bottle of vodka and his evidence of the conversation between them as they

walked to the waterfront, I find that Mr. James has met the low threshold required to demonstrate that there is an air of reality to the defence.

[28] The initial threshold being met, the burden then falls to the Crown to negate the defence by proving, beyond a reasonable doubt, that the accused either:

1) did not honestly believe that the complainant was at least 16 (subjective); or

2) did not take "all reasonable steps" to ascertain the complainant's age (objective).

The subjective element: Has the Crown proven beyond a reasonable doubt that Mr. James did not honestly believe that the complainant was at least 16 years old?

[29] Disproving the subjective element, honest belief, requires the Crown to prove that Mr. James did not subjectively believe that the complainant was 16 years of age or older. To believe something is to accept it as true; therefore, an honest belief requires a higher degree of certainty than suspicion or supposition (*R. v. Hason*, 2024 ONCA 369, at para. 36).

[30] Mr. James' evidence was not, in fact, that he believed the complainant was at least 16 years old - his evidence was that he believed she was over 19 years of age. The evidence that Mr. James believed G. was over 19 relied heavily on his observation of G. exiting the Big Bear on Alexander Street carrying a bottle of vodka. He did not resile from that evidence at any point in the trial, even when it was put to him that the Big Bear was not open for operation that day. Having heard the testimony of Mr. Milos,

the owner of the Big Bear, I find that the Alexander Street location was not open to the public after June 1, 2023. As such, Mr. James' evidence that he saw the complainant exit the Big Bear on June 25, 2023, carrying a bottle of vodka is not credible. I reject Mr. James' evidence on this point and find that his credibility is significantly undermined.

[31] Mr. James also said that G. presented as an older woman, in part, by her attire, describing her as dressed like a "hooker". Other than confirming that she wore pink shorts and a tank top on what was a warm summer day, Mr. James did not explain why this clothing made her appear as an older woman. He said:

> That's not how just any woman would dress. When you're wearing short clothes like that, clearly you want someone to look. Clearly, you're trying to show parts of your body to people…

[32] There was no other evidence about G.'s physical appearance. This was not a case where there was evidence that the complainant looked or acted older than her age, obviating the need for further inquiries (*R. v. Chapman*, 2016 ONCA 310).

[33] Mr. James' evidence about his belief in G.'s age also rests on the conversation he says occurred while he and G. were enroute to the waterfront. As set out above, Mr. James says G. told him, among other things, that she worked at a bar, had graduated from high school, and had her own place. He also pointed to evidence that G. told him that she had quit smoking when she was 19 years old. Based on this conversation, Mr. James' evidence is that he thought G. was older than 19. I will return to the evidence of this conversation below.

[34] In determining whether the Crown has proven beyond a reasonable doubt that Mr. James did not subjectively believe G. was over 16 years of age, I must also consider G.'s evidence. G. denies that the conversation as described by Mr. James took place. However, I have concerns with the credibility, plausibility, and consistency of some of her evidence, as follows:

- G.'s testimony about the conversation between Mr. James and herself varied from "no conversation" to "very little" to agreeing that she told him who her brothers were.

- When it was put to her by counsel for Mr. James that she had told Mr. James that she had just returned from Saskatchewan, her answer appeared contrived:

> Question: You told him that you had just returned from Saskatchewan?
>
> Answer: Yes, 'cause that. No, no, I didn't. I didn't tell him that. But or did I? No, I didn't. No, I was talking to someone else about that and he saw, heard me talking about it.

G. went on to explain that she had seen her auntie, now deceased, down the street and told her she was back from Saskatchewan and that this was just before Mr. James came up to her. She explained this omission from her direct testimony by saying that she does not speak about this auntie because she is dead.

In contrast, however, during her direct examination, in response to being asked if anyone else was around when Mr. James first

approached her, her answer was no. Further, in her statement to police, G. said that the woman she had been talking to was not there when Mr. James first walked up to her. As a result, I find her evidence that Mr. James overheard her saying that she had returned from Saskatchewan not credible.

- G. testified that Mr. James was following her and, in her statement to police, she said it was "kinda creepy". However, upon arrival at the waterfront, her evidence is that she accepted a drink of storebought juice (Gatorade) from Mr. James, explaining that she was thirsty. I find this implausible. If she had explained that she accepted the drink from him because she was scared, or afraid of what he might do if she refused, I may not have found this evidence implausible, but she did not say anything like that. Her evidence was simply that she was thirsty and she thanked him for the drink. This evidence undermines the credibility of her testimony that Mr. James followed her to the river and that she was scared.

- When asked if Mr. James had forced alcohol on her, I find that she responded in a contrived manner. She said:

> Not that I'm aware of, no. Not unless he put it in the juice.

When asked if he forced her to drink juice, she said:

> No, but if he put alcohol in it, I didn't take the alcohol willingly. So yes, he would have laced it. That would have been lacing.

The suggestion that Mr. James had laced the juice with alcohol was not tethered to any of the prior evidence nor her statement to police. When asked why she did not previously mention taking juice from Mr. James at the waterfront, either in-court testimony or in her statement to police, she said she did not think it would need to be told and, by way of explanation, emphasized her age in a contrived manner, saying:

> I was young, I was a kid, I was a baby.

- G. said that when Mr. James grabbed her, she yelled that she was 14 years old and to let go of her. I find it implausible that the first thing she said to Mr. James was her age.

- Along the same lines, during the trial, when questioned by counsel for Mr. James about whether she had asked for help from people nearby, she again drew attention to her age in a manner that appeared contrived, saying,

> I was too scared. I was 14 years old. I was a child.

- In describing the sexual activity under the dock, she said Mr. James was standing in front of her, which, based on the evidence about the height of the dock that I accept, would have been impossible. That

evidence came through photograph exhibits and the evidence of Cst. Reid.

- G. testified that she begged Mr. James to stop. However, she made no mention of this in her statement to police the day after the incident.

- G. denied that lots of people were around the waterfront that day, evidence that was contradicted by Cst. Reid and Mr. James.

[35] While additional discrepancies between G.'s in-court testimony, her statement to police, and the notes in the hospital records were highlighted by Mr. James' counsel in written submissions, I need not review each point raised. Given my concerns about the consistency, credibility, and plausibility of some of the complainant's evidence, I find that the Crown has failed to prove beyond a reasonable doubt that Mr. James did not subjectively believe that the complainant was over 16 years of age. Specifically, I do not accept G.'s evidence that she told Mr. James she was 14 years old. While I do not necessarily believe Mr. James' evidence about the conversation with G., his testimony raises a reasonable doubt on the subjective element.

The objective element: Has the Crown proven beyond a reasonable doubt that Mr. James failed to take all reasonable steps to ascertain G.'s age?

[36] In *R. v. Hadvick*, 2024 YKCA 2, at para. 84, the Court described the defence in s. 150.1(4) of the *Code*, as reflecting Parliament's decision to draw "a bright-line age of protection for children". The "all reasonable steps" requirement is an "enhanced standard", requiring a practical, common sense approach, one that is informed by the overarching purpose of the provision, which is clearly to protect young people by

assigning responsibility to ascertain age to adults (*R. v. W.G.*, 2021 ONCA 578, at para. 62; *Hason*, at para. 38). To rely on this defence, the law requires adults to have taken all reasonable steps to ascertain the complainant's true age before engaging in sexual activity, the purpose being to protect children from sexual abuse (*R. v. Angel,* 2019 BCCA 449, leave to appeal ref'd, [2020] SCCA No. 35, at para. 59).

[37] The requirement to take "all reasonable steps" is not a "casual requirement" (*R. v. Osborne* (1992), 102 Nfld. & P.E.I.R. 194 (Nfld. C.A.).

[38] As noted in *Hason*, at para. 39:

> Parliament's choice of the word "all" means what it says: Adults must take all reasonable steps, not merely some.

[39] This is a high bar and favours requiring adults to take more, not fewer steps (*R. v. George*, 2017 SCC 38, at para. 2).

[40] A reasonable person would require compelling information that establishes a complainant's age to a high degree of certainty before accepting as true that the complainant was of legal age (*Hason*, at para. 40). As noted in *Hason*, "steps to ascertain age are only meaningful if they obtain compelling information that establishes the complainant's age with a high degree of certainty. If they do not, then the accused must take additional steps" (*Hason*, at para. 42). However, an accused is not required to take all "possible" steps; rather, they are required to take all steps a reasonable person would take in the circumstances known to them at the time" (*George*, at para. 9).

[41] The general rule is that the more reasonable an accused's perception of the complainant's age, the fewer steps reasonably required of them (*George*, at para. 9). Reasonable steps cannot be based upon stereotypical assumptions. In the context of ascertaining age, reasonable steps should not be based on myths that an underage person would not dress provocatively, drink, smoke, stay out late, be sexually active, or take sexualized photographs (*Angel*, at para. 59). There must be an earnest inquiry or some other compelling factor that obviates the need for an inquiry (*R. v. Tannas*, 2015 SKCA 61, at para. 25). I find that neither existed in this case.

[42] As noted in *George*, at para 9, "determining what raises a reasonable doubt in respect to the objective element is a highly contextual, fact-specific exercise". The context here involves a significant age gap; it is presumed that, the greater the disparity in ages, the more inquiry will be required (*Chapman*, at para. 46). At 28 years old, Mr. James was twice the complainant's age of 14 years. Mr. James' evidence that G. exited the Big Bear carrying liquor has been rejected. Further, Mr. James did not know the complainant, had no factual information nor "external benchmarks" from which to infer her age, and spent only about one hour with her. He did not ask how old she was. He described her as trying to impress him but made no efforts to determine why that might be the case.

[43] Although Mr. James described G. as presenting as an older woman, there is no objective evidence to support a finding that her physical appearance obviated the need to take further steps to ascertain her age. As noted in *Hason,* a reasonable person would appreciate that underage young people can look like they are 16 or older and would be wary of relying on appearance to jump to conclusions about age. Further,

while visual observation may be sufficient in some circumstances, these circumstances will be rare because it is not a reliable indicator (*Hason,* at para. 44).

[44] For the purposes of this analysis, even accepting that the conversation Mr. James described between himself and G. took place, I find that the Crown has proven beyond a reasonable doubt that Mr. James fell short of taking all reasonable steps. As noted, Mr. James had no external benchmarks against which to test G.'s representations about her age (*W.G.*, at para. 80); if Mr. James' testimony as to G.'s representations about her age is to be accepted, he did nothing more than simply accept them. Given that it is well-recognized that young people often misrepresent their age (*George*, at para 9), I find that, in the circumstances, this approach was not sufficient to meet the "all reasonable steps" requirement.

[45] The need for additional steps is heightened in this case as Mr. James and G. were essentially strangers when the sexual activity took place. Despite knowing nothing about her, he asked no questions of G. Viewed objectively, I find that, based on one conversation with an otherwise unknown person, and no other factual information, by failing to make any inquiries of the complainant, Mr. James' efforts to accurately determine G.'s age fell well-short of what a reasonable adult would do to ensure that he was not engaging in sexual activity with a young person not of an age to consent. The details of the conversation with G. as presented in Mr. James' evidence did not provide a high degree of certainty as to G.'s age. There were no other compelling factors that obviated the need for an earnest inquiry. Absent any prior context for believing G.'s assertions about her age, I find a reasonable person would have taken additional steps to ascertain her age. Obvious reasonable steps would have included asking to see

some form of government identification (*R. v. Sieber*, 2023 BCSC 1590, at paras. 133 to 135).

[46] The Crown has proven beyond a reasonable doubt that Mr. James failed to take all reasonable steps to ascertain the complainant's age.

Conclusion

[47] The DNA evidence in this case established that there was sexual activity between 28-year-old Mr. James and the 14-year-old complainant. Mr. James argued the statutory defence of mistaken belief in age pursuant to s. 150.1(4) of the *Code*. While Mr. James demonstrated an "air of reality" to this defence, I find that the Crown negated the defence. To negate the defence, the Crown must prove, beyond a reasonable doubt, either that the accused person:

(1) did not honestly believe the complainant was at least 16 (the subjective element); or

(2) did not take "all reasonable steps" to ascertain the complainant's age (the objective element) (*George*, at para. 8; *Angel*, at para. 56).

[48] With respect to the subjective element, I find that the Crown has not proven beyond a reasonable doubt that Mr. James did not believe that G. was at least 16 years old. However, I find the Crown has proven the objective element beyond a reasonable doubt, namely, that Mr. James failed to take all reasonable steps to ascertain the complainant's age.

[49] By proving to the requisite standard that Mr. James failed to take all reasonable steps to ascertain G.'s age, the Crown has also satisfied its burden of proving the requisite *mens rea* – i.e. that Mr. James' subjective belief was not objectively reasonable and was therefore reckless (*Angel,* at para. 49; see also *R. v. Jerace*, 2021 BCCA 94, at paras. 37, 38, 401 CCC (3d) 464, leave to appeal ref'd, [2021] SCCA No. 132).

[50] Before concluding, I note that, relying on *Carbone, c*ounsel for Mr. James argues that the Crown must do more than prove Mr. James failed to take all reasonable steps to ascertain G.'s age; the Crown must also prove that Mr. James had one of three blameworthy mental states: belief, wilful blindness, or recklessness. I decline to follow the reasoning in *Carbone*, preferring the reasoning of the British Columbia Court of Appeal in *Angel* and *Jerace.* In both *Angel* and *Jerace*, cases denied leave to appeal to the Supreme Court of Canada, the British Columbia Court of Appeal held that such an extra step was not required and that the Supreme Court of Canada decision in *R. v. Morrison*, 2019 SCC 15, has not reshaped the Crown's burden of proof in the face of a mistake of age defence (*Angel*, at para. 30; *Jerace*, at paras. 31 and 33). Nothing more is required to convict Mr. James of the offences charged (*R. v. George*, at para. 26; *Angel*, at paras. 51 and 52; *Jerace*, at para. 37).

[51] As the Crown has negated the defence in s. 150.1(4) of the *Code*, I need not go on to consider the issue of consent.

[52] Mr. James, I find you guilty of the offences charged. As the Crown is seeking a conviction on the s. 151 *Code* offence, the offence contrary to s. 271 of the *Code* is conditionally stayed.

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CAIRNS T.C.J.