

IN THE TERRITORIAL COURT OF YUKON
(Before His Honour Judge Faulkner)

REGINA

v.

TRACY MAY BLANCHARD

Ludovic Gouaillier

Appearing for Crown

Gordon Coffin

Appearing for Defence

REASONS FOR JUDGMENT

[1] FAULKNER T.C.J. (Oral): The accused, Tracy May Blanchard, is charged with assaulting Stacy Asp, on the 12th of April, 2002. The complainant, Stacy Asp, testified that the assault occurred on a city bus which both she and the defendant were passengers.

[2] According to Ms. Asp, some words had been earlier exchanged and at one point as the bus came up to a bus stop, the accused got up and came up to Ms. Asp, leaned over her and again more words were exchanged. Ms. Asp started to get up whereupon she was attacked by the accused, who punched Ms. Asp, pulled her hair

and pushed her around the bus.

[3] There was an independent witness to the events and that was Kory Sawrenko. I say he was independent because even though he was an acquaintance of Ms. Asp, he was only a schoolmate. There was no suggestion they were close friends and certainly Mr. Sawrenko's evidence was given in a manner that did not show any degree of favoritism towards Ms. Asp. My impression was that Mr. Sawrenko was attempting to give his own independent version of what he saw. He confirms that the accused went up to Ms. Asp, leaned over her and uttered some provocative words. He also confirms that Ms. Asp started to get up out of her seat, at which point the accused attacked Ms. Asp.

[4] The portion of Mr. Sawrenko's evidence that the accused points to is that Mr. Sawrenko was of the view that when Stacy Asp started to get up she looked like she was spoiling for a fight. He came to that view because she had an angry expression on her face and had put down her bag before she started to get up.

[5] I, in fact, accept Ms. Asp's evidence that she did not get up with the intention of starting a fight, but only to show she was not afraid of the accused and could not be intimidated. Nevertheless, since it appeared to Mr. Sawrenko that Ms. Asp was looking for a fight, it may well have also appeared to the accused that Ms. Asp was looking for a fight. However, that is not the end of the matter because whether or not the accused thought that Ms. Asp was spoiling for a fight, nevertheless, the accused not only started the fight, but clearly on Mr. Sawrenko's evidence, carried it on beyond any implied consent that might have been involved in what Ms. Asp did. To use Mr. Sawrenko's impression's again, he said at one point, "It looked like the accused had won but she kept on." More pointedly, and I think this is pretty much a

direct quote, "It was about to be a fight until it just became an assault."

[6] On the whole of the evidence, I am satisfied that the charge has been made out.

FAULKNER T.C.J.