

Citation: *R. v. Chalmers*, 2011 YKTC 03

Date: 20101118
Docket: 10-00499
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON

Before: His Honour Judge Faulkner

REGINA

v.

RAYMOND ALLEN CHALMERS (aka BIRD)

Appearances:

Eric Marcoux
Melissa Atkinson

Counsel for the Crown
Counsel for the Defence

REASONS FOR JUDGMENT

[1] FAULKNER T.C.J. (Oral): The accused, Raymond Allen Chalmers, is charged with assaulting Anna Maria Battaja on October 12, 2010, at the Chilkoot Trail Inn here in Whitehorse, Yukon, where the accused and Ms. Battaja, who were in a relationship, were staying.

[2] Two entirely different versions of the incident in question were provided by the Crown and the defence. To put the matter shortly, the two versions cannot reasonably coexist.

[3] In my view, the evidence of Ms. Battaja and the accused, which is essentially to the effect that there was no assault at all, cannot be true or even raise a reasonable

doubt, unless the evidence of Mr. Bobarai, who was the hotel clerk, is disbelieved. Is there any reason to disbelieve Mr. Bobarai?

[4] It seems that one of the theories is that this claim of assault has been concocted by Mr. Bobarai in aid of evicting the accused and his girlfriend from the hotel. To simply state this theory is to also state how preposterous it is. There is simply no reason at all to suppose that the hotel or Mr. Bobarai were sufficiently devious to invent an incident of assault, which coincidentally was done at a time when the police would discover things like blood and so on that would support this false claim. So there is no reason at all to suppose that Mr. Bobarai has made any of this up.

[5] The other theory, which was developed more in argument, was that Mr. Bobarai really did not see what he says he saw; that he is mistaken. I take the point that Mr. Bobarai may have been distracted momentarily as he phoned 9-1-1. He obviously was behind the hotel desk, but such desks are usually situated to give a reasonably clear view of the lobby, and that certainly seemed to be the indication from Mr. Bobarai's evidence. He was able to see what was happening as the couple came down the stairs and the incident developed in the lobby.

[6] It was suggested that Mr. Bobarai's evidence should not be believed because he seemed as if he wanted to please the Court. I did not get that impression at all from his evidence. I got the impression that he was simply quite sure of what he saw because he saw it at close quarters, and he was sufficiently concerned by what he saw to phone 9-1-1.

[7] At the end of the day, there is no reason whatever to doubt the veracity of what Mr. Bobarai says, and what Mr. Bobarai says, and I accept, is that the accused assaulted Ms. Battaja. I find him guilty.

FAULKNER T.C.J.