

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:)
)
HER MAJESTY THE QUEEN)
) *S. Rothman*, for the Crown
– and –)
)
A [REDACTED] A [REDACTED])
)
) *M. Montes*, for the Defendant
)
)
)
)
)
)
) **HEARD: February 18, 19, 20, 24, 26, 2020**

Pursuant to section 486.4 of the *Criminal Code*, there is an order that any information that could identify the complainant shall not be published in any document or broadcast or transmitted in any way.

REASONS FOR JUDGMENT

H. MCARTHUR J.:

Introduction¹

[1] A [REDACTED] A [REDACTED] is facing one count of sexual interference and one count of uttering a death threat in relation to the complainant, N.Z.

¹ Given the challenges posed by Covid-19, these reasons are being released by way of teleconference with the consent of all parties.

[2] The Crown alleges that from the summer of 2013 until sometime in 2016², Mr. A [REDACTED] touched N.Z. in a sexually inappropriate way many times. The Crown further alleges that Mr. A [REDACTED] threatened to hurt N.Z.'s father if she ever told anyone what was happening.

[3] The ultimate question in this case is whether the Crown has proven beyond a reasonable doubt that Mr. A [REDACTED] committed the alleged offences. In assessing this question, the key issues are reliability and credibility.

[4] The Crown called three witnesses: N.Z., her younger sister N.Y., and their mother, I.Y. The defence argues that the testimony of each witness was marred by internal and external inconsistencies and that the Crown has failed to establish its case. The Crown counters that N.Z. testified in a credible and reliable manner and that her evidence is supported in many material respects by her sister and mother. Looking at the evidence in its totality, he argues, the Crown has established its case to the requisite standard.

[5] In considering the arguments of counsel, I keep in mind that Mr. A [REDACTED] is presumed to be innocent, unless and until the Crown has proven the offences beyond a reasonable doubt. It is not enough for me to believe that Mr. A [REDACTED] is possibly or even probably guilty. I must be convinced of his guilt beyond a reasonable doubt. As a standard, reasonable doubt does not require proof beyond all doubt, nor is it proof to an absolute certainty. At the same time, reasonable doubt lies far closer to absolute certainty than it does to a balance of probabilities. I also keep in mind that the defence is not required to show a motive for why the complainant might lie.

[6] As I will set out in more detail below, I thought that N.Z. came across very well as a witness. Based on her evidence, I believe that Mr. A [REDACTED] probably sexually assaulted N.Z. and threatened her. There were, however, parts of her evidence that cause me some concern. Further, the testimony of N.Y and I.Y. was flawed by omissions and inconsistencies on material points. Their evidence does little to allay the concerns that I have about aspects of N.Z.'s evidence.

[7] Based on the totality of the evidence, while I am satisfied that Mr. A [REDACTED] likely committed the alleged offences, I am unable to find beyond a reasonable doubt that he did so.

[8] I propose to briefly outline the facts before turning to my analysis.

Brief Outline of the Facts

a) The Sweden Allegations

[9] N.Z. is now 16 years old. When she was younger, she and her family lived for many years in Sweden. So did Mr. A [REDACTED] and his family. Because her mother was good friends with Mr. A [REDACTED]'s sister, the two families often visited with each other.

² The Indictment specifies a date range of between and including June 1, 2013 to December 31, 2016 for both counts.

[10] In October 2012, when N.Z. was about eight and a half years old, her family moved to Canada. For a few weeks before they moved, N.Z. and her family stayed with Mr. A [REDACTED] and his family.

[11] N.Z. alleges that while she lived in Sweden, Mr. A [REDACTED] acted in a sexually inappropriate manner towards her many times. In oral reasons given on February 24, 2020, I held that her evidence with respect to what happened in Sweden was admissible as similar fact evidence.

[12] N.Z. testified in general that while in Sweden, every time she saw Mr. A [REDACTED], he would hug her and grab her waist or her bottom or her breasts, or, as a joke, slap her behind. N.Z. recounted four specific incidents that she recalled.

The Shower Incident

[13] N.Z. testified that that one day after she took a shower at Mr. A [REDACTED]'s home, she went to get her clothes, which had been left in Mr. A [REDACTED]'s bedroom. As she walked into the room, she realized that Mr. A [REDACTED] was there. He was in his underwear. N.Z. alleged that Mr. A [REDACTED] took his penis out and said, "touch it". She said "no" and ran out of the room.

The Tea Incident

[14] N.Z. testified that Mr. A [REDACTED] once asked her mother to have N.Z. bring him a cup of tea downstairs, where he would be waiting in the garden. N.Z. recalls that when she did, Mr. A [REDACTED] made her sit on his lap and touched her breasts over her clothing.

The Computer Incident

[15] N.Z. testified that once when she and her sister were in Mr. A [REDACTED]'s bedroom watching something on the computer Mr. A [REDACTED] came in and gave her sister a kiss on the cheek. He then leaned over her sister, and kissed N.Z. on the mouth. She characterized this as a peck on the mouth that did not last for long.

The Living Room Incident

[16] N.Z. testified that one day, Mr. A [REDACTED] was sitting on the couch in the living room and made N.Z. sit on his lap. When her mother went to the kitchen, Mr. A [REDACTED] slipped his hand under N.Z.'s shirt and grabbed her chest area. When her mother came back, he stopped.

Evidence of the Other Witnesses about Sweden

[17] N.Y. does not recall anything of significance from Sweden.

[18] I.Y., said that she did not see Mr. A [REDACTED] acting inappropriately towards N.Z. in Sweden. I.Y. said, however, that because she did not like or trust Mr. A [REDACTED], she did not like to let her children be alone with him.

b) The Canada Allegations

[19] N.Z. and her family moved to Canada in October 2012.

[20] In the summer of 2013, Mr. A [REDACTED] came to Canada and stayed with N.Z.'s family. She believed that it was for a week or so. After he moved out, N.Z. would see Mr. A [REDACTED] when he visited her family, at her grandmother's or at the mall. N.Z. alleged that Mr. A [REDACTED] continued to sexually interfere with her, although she said he never assaulted her at her grandmother's.

[21] N.Z. testified that Mr. A [REDACTED] started with touching her breasts and that this escalated to touching her vagina. She said that on one occasion Mr. A [REDACTED] threatened to hurt her father if she told anyone about what he was doing.

[22] In addition to the threat, N.Z. detailed three specific sexual incidents that she recalled. She also testified about three other incidents where Mr. A [REDACTED] made her feel uncomfortable.

The Hookah Incident

[23] N.Z. testified that from the first day that Mr. A [REDACTED] arrived at her home in Canada, she tried to stay away from him so that he could not touch her. Mr. A [REDACTED] asked her where he could go to buy shisha tobacco for his hookah. N.Z. testified that after she told him about a local convenience store where he could find what he was looking for, he wanted her to take him there.

[24] N.Z. testified that she did not want to go with Mr. A [REDACTED] as she knew from Sweden that he would abuse her. As a result, she hid behind her mother and said, "Do not make me go anywhere with him." N.Z. said that her mother told Mr. A [REDACTED] he could not go with her and her mother and Mr. A [REDACTED] got into an argument.

The Barbie Movie Incident

[25] The first sexual incident in Canada that N.Z. specifically recalled was when she was in her room with her two younger sisters watching a Barbie movie on the computer.

[26] N.Z. said that her sisters were sitting on chairs placed just in front of the computer. N.Z. was sitting on a chair just behind them. Mr. A [REDACTED] came into the room and sat on one of the twin beds in the room, right by the chair upon which N.Z. was sitting.

[27] N.Z. said that Mr. A [REDACTED] grabbed her face and kissed her on the mouth. He then reached under her shirt from the bottom, reached up her stomach and touched her breasts.

The Movie Star Planet Incident

[28] N.Z. said that one morning she was sitting at a table in the living room playing the video game, Movie Star Planet and messaging a friend from school.

[29] Mr. A [REDACTED] came and sat down beside her and asked what she was playing. N.Z. said that within seconds, he put his hands down her pants and touched her vagina. He did so for about three to five minutes. He asked her if she liked it when he did that.

[30] N.Z. testified that Mr. A [REDACTED] left when he heard her mother getting up. He ran away and later came out of his bedroom as if he was just getting up.

The Couch Incident

[31] N.Z. testified that one day she was watching a movie with her sisters on a couch in the living room. The couch was angled such that she and her sisters had to kind of twist their bodies to see the television screen.

[32] N.Z. said that Mr. A [REDACTED] came and sat on the couch beside her. He then slipped his hand into her pants from behind her and touched her vagina. When he did so, it hurt and N.Z. said that she flinched and screamed “ow!”

[33] Her sister turned to ask if she was ok, and N.Z. said that her back hurt.

The “If She Was Older, I Would Marry Her” Incident

[34] N.Z. testified that once Mr. A [REDACTED] said something about her like, “If she were older, I would marry her”. N.Z. said that this comment made her very uncomfortable.³

The Albion Mall Incident

[35] N.Z. said that she saw Mr. A [REDACTED] one day when she was at the Albion Mall with her mother, aunt, grandmother, her sisters, and her baby brother. There is no dispute between the parties that, based on the age of her brother, this incident happened in the summer of 2016.

[36] N.Z. testified that she was sitting by her mother, and Mr. A [REDACTED] tried to sit close to her. N.Z. moved closer to her mother, as she did not want him to sit by her, as when he did, he would touch her thigh and make her uncomfortable.

[37] N.Z. testified that Mr. A [REDACTED] asked her mother why N.Z. did not want to sit beside him anymore. Her mother replied that she was growing up and did not feel comfortable anymore.

The Threat Incident

[38] N.Z. testified that one of the reasons she did not come forward earlier about what Mr. A [REDACTED] was doing to her was because he threatened her. According to N.Z., one day she was on

³In my view this evidence is disreputable conduct and is thus presumptively inadmissible. However, in oral reasons delivered in February 2020, I held that this evidence was admissible.

the computer in her sister's room. Mr. A [REDACTED] came up to her and said that if she ever "opened up" about what he was doing, that he would hurt her father.

[39] N.Z. said that when Mr. A [REDACTED] made the threat, he spoke Arabic. She *never* heard him speak English.

Evidence of N.Y. about Canada

[40] N.Y. testified that her sister was visibly uncomfortable around Mr. A [REDACTED] and that she saw him touch her sister in a sexual way. N.Y. detailed three specific incidents.

[41] First, N.Y. testified that once Mr. A [REDACTED] was over at their place fixing their computer. She and her sister were in their bedrooms, in bed. Mr. A [REDACTED] came into their room, went over to N.Z., grabbed her by the arms and kissed her on the lips. He then left.

[42] Second, N.Y. testified that she witnessed the threat incident. She said that she and her sister were in their beds. She saw Mr. A [REDACTED] grab her sister by the shoulders and whisper, in a loud way, that if she ever told her parents, the police or if anyone ever found out, that he would hurt her dad. Her sister was shocked and mad and pushed him away. Mr. A [REDACTED] then left.

[43] Third, N.Y. testified that she recalled being at the Albion Mall sitting at a table with her cousin and her sister, when Mr. A [REDACTED] came up and hugged N.Z. from behind. As he did so, he touched both of N.Z.'s breasts with the palm of both of his hands. He held N.Z.'s breasts for about five to seven seconds. N.Z. seemed uncomfortable, confused and shocked.

Evidence of I.Y. about Canada

[44] I.Y. testified that while in Canada, she noticed that N.Z. seemed uncomfortable around Mr. A [REDACTED]. I.Y. said that Mr. A [REDACTED] only lived with them for a few days in Canada. After he moved out, he came to visit them about three times a week, but he stopped coming over because she would not open the door for him. They also saw him when visiting family on occasion or at the mall.

[45] I.Y. testified about three specific incidents.

[46] First, she recalled one time that when Mr. A [REDACTED] was staying with them, he wanted N.Z. to take him to Tim Horton's. She did not want N.Z. to go anywhere with Mr. A [REDACTED], so she would not let her go. She and Mr. A [REDACTED] got into a big argument over this.

[47] Second, I.Y. recalled an incident where Mr. A [REDACTED] said that if N.Z. were a bit older, he would have married her. She said at the time he said this, he was hugging and kissing N.Z. I.Y. said that she was shocked by this comment as N.Z. was just a child.

[48] Third, I.Y. recalled being at the Albion Mall in the summer of 2016 with her children and her sister's family. Mr. A [REDACTED] came over and held her as a joke. He then went over to N.Z. and hugged her from behind. As he did this, he put his hand on N.Z.'s breast. N.Z. seemed scared. I.Y. told Mr. A [REDACTED] not to behave that way. I.Y. said that she discussed this incident with N.Z. after it happened.

Analysis

[49] As I said at the outset of these reasons, I thought that N.Z. came across well. I was impressed with the confidence that she showed at such a young age. She was poised, composed and articulate. She seemed to be trying to answer the questions to the best of her ability. She seemed genuine and sincere.

[50] Defence counsel raised several issues with N.Z.'s evidence. In my view, many of the issues raised by defence counsel can be explained. That said, there are other issues that are somewhat troubling. Moreover, looking at some of the issues raised by defence counsel in their totality causes me some concern about N.Z.'s evidence. I turn now to assess some of the issues raised by defence counsel.

[51] Defence counsel argues that N.Z. seemed to be confused or clearly wrong about many aspects of her timeline. For example, she said that Mr. A [REDACTED] lived with her for three to four weeks. But her mother, who would be in a much better position to recall such details, testified that Mr. A [REDACTED] stayed with them for only a few days. Defence counsel points out that N.Z. was unclear as to when she thought Mr. A [REDACTED] had returned to Sweden. She was unsure as to when she had been in the hospital or when she first spoke to the police in relation to her hospitalization. Of import, defence counsel argues, N.Z. was unable to say with certainty how many times Mr. A [REDACTED] assaulted her, when he assaulted her, or in what order the assaults occurred.

[52] But in my view, this submission of defence counsel glosses over that N.Z. is a 16-year-old girl, who is recounting events from, in some cases, many years earlier. It would be unreasonable to expect the same precision from a child witness as an adult. A child who is abused over a lengthy period may not be able to recount the exact details of each assault or the order in which events occurred. Given that N.Z. was relating some memories which were formed when she was a much younger child, I make allowances for some faulty recollections, particularly when they relate to peripheral matters. Thus, N.Z.'s uncertainty with respect to timelines and chronology of events does not cause me to question the reliability of her account.

[53] Defence counsel also notes that the first time N.Z. said anything about the "living room incident" from Sweden, was at this trial. She failed to say anything about this incident in any of her previous statements to the police or at the preliminary hearing. Arguably, mentioning this assault for the first time at trial is of more concern than issues with the chronology. But I keep in mind again that N.Z. is a young witness who is recounting events from long ago. She testified that Mr. A [REDACTED] sexually assaulted her many times. The fact that she only recounted the details of this specific assault at trial, while of some concern, can be explained.

[54] Defence counsel next argues that N.Z.'s account is implausible for many reasons. For example, N.Z. said that Mr. A [REDACTED] sexually assaulted her several times while her sisters were in the same room. Mr. A [REDACTED], he argues, would never take such a big risk. But N.Z.'s sisters were younger and preoccupied with screens when she says Mr. A [REDACTED] touched her sexually. Thus, arguably Mr. A [REDACTED]'s behaviour could be seen as less brazen than opportunistic.

[55] Defence counsel also notes that N.Z.'s mother testified that even in Sweden, she disliked Mr. A [REDACTED] and would not let her children alone with him. That, he says, makes N.Z.'s tea incident allegation impossible. I agree that N.Z.'s allegation is somewhat difficult to reconcile with her mother's evidence. On the other hand, when pressed, her mother rejected the suggestion that she would never have asked N.Z. to take Mr. A [REDACTED] a tea.

[56] Defence counsel also highlights numerous inconsistencies in N.Z.'s evidence. For example, defence counsel points out that N.Z. testified that she did not make noise when Mr. A [REDACTED] assaulted her, as she did not want to bring attention to the situation. At the preliminary hearing, however, she agreed that she yelled whenever Mr. A [REDACTED] touched her inside her vagina. In my view, however, this inconsistency seemed to stem from a genuine confusion on N.Z.'s part about what it meant to be touched *inside* her vagina. This confusion was unfortunately compounded by somewhat unclear questions at the preliminary hearing. As a result, I am not concerned by this inconsistency.

[57] Defence counsel further notes that in her evidence in chief, N.Z. did not say anything about Mr. A [REDACTED] touching her during the shower incident. In a statement she gave to the police, however, she said that he grabbed her arm as she tried to leave the room. Similarly, she testified that during the shower incident, she said "no" and left the room and that she did not make any other noise. She told the police, however, that she yelled to get him to stop. This variation in N.Z.'s account of this incident is of some concern. That said, N.Z. is a young teenager who was trying to recall events from years earlier. Arguably these discrepancies are not surprising given how long ago this alleged incident occurred.

[58] Defence counsel also notes that N.Z. testified that during the Barbie Movie incident, Mr. A [REDACTED] touched her breasts by putting his hand under her shirt at the bottom and reaching up. She testified at the preliminary hearing, however, that he touched her breasts by putting his hand down through the neckline of her shirt. This variation in N.Z.'s memory is of some concern, as she professes to have a good memory of this event. On the other hand, whether Mr. A [REDACTED] reached up or down her shirt is arguably a relatively minor point and I keep in mind that N.Z. is recounting events from some time ago.

[59] Defence counsel also points out that N.Z. testified that she was never worried that Mr. A [REDACTED] would hit her; indeed, she said that the thought of Mr. A [REDACTED] hitting her "never crossed" her mind. But in a statement to the police, she said that she was worried that if she ever tried to stop him, that he would "hurt" or "punch" her. N.Z. sought to explain this inconsistency by saying that at the time Mr. A [REDACTED] abused her, she "maybe" felt that way; but today, "looking back at it", she knows Mr. A [REDACTED] would not have hurt her. N.Z.'s explanation for her changing position on whether she thought Mr. A [REDACTED] would hit her could reasonably be true. That said, the fact that she said it had "never" crossed her mind is difficult to reconcile with her position that she thought he would hit her at the time.

[60] Defence counsel further notes that N.Z. testified that the Movie Star Planet incident ended when Mr. A [REDACTED] heard her mother getting up and he quickly left. In her statement to the police, however, she said that the assault ended when her mother came into the room and said hello to both N.Z. and Mr. A [REDACTED]. When confronted with this inconsistency, N.Z. said she knew that Mr.

A [REDACTED] must have left before her mother came in, because she has discussed the incident with her mother. In my view, this change in N.Z.'s account is somewhat troubling as it seems she changed her evidence, consciously or unconsciously, to conform with what her mother told her.

[61] Defence counsel also highlights that in her first statement to the police, N.Z. failed to say anything about Mr. A [REDACTED] threatening her or her father in any way. It is concerning that N.Z. did not say anything about the threat when she first spoke to the police. On the other hand, on that occasion, N.Z. had gone to speak to the police about another matter and the allegations against Mr. A [REDACTED] emerged unexpectedly in response to a question from the police. Given that, it is arguably not surprising that N.Z. might neglect to tell the police about the threat.

[62] But, as defence counsel notes, N.Z. went to speak to the police a second time, this time to talk specifically about Mr. A [REDACTED]. Yet, despite going to provide details about what Mr. A [REDACTED] had done, N.Z. again failed to tell the police that he had threatened to hurt her father if she disclosed the abuse. I agree that it is difficult to understand why, given the context, N.Z. failed to say anything to the police about this threat.

[63] At the end of the day, while there are potential explanations for the difficulties with N.Z.'s evidence, the cumulative effect of the issues leaves me with some overall concerns about her account.

[64] The Crown argues, however, that N.Z.'s evidence does not stand alone. He says that both her mother and her sister provided powerful evidence in support of N.Z.'s version of events. He submits that this confirmation should alleviate any concerns about N.Z.'s account.

[65] I cannot agree. There were a number of issues with N.Y.'s evidence. N.Y. gave her evidence in a hesitant, tentative and unsure manner. Of course, N.Y. is only 14 years old. Even for adults, testifying can be frightening. When I assess her evidence, I keep that in mind. But even with that caveat, I had concerns watching N.Y. testify that she was having great difficulty differentiating between what she actually saw herself and what she had been told by others.

[66] My concerns over N.Y.'s evidence were compounded by the many inconsistencies in her evidence on material points.

[67] N.Y. said that she witnessed Mr. A [REDACTED] threaten N.Z. This was a shocking and upsetting event to her. Yet despite the emotional impact that witnessing the threat had on her, N.Y. failed to say anything about the threat in her first statement to the police. She also failed to say anything about the threat in her second statement to the police. The omission of such an important observation – twice – is troubling. I also note that it seems somewhat odd that N.Z. also omitted to say anything about the alleged threat made by Mr. A [REDACTED] in her first two police statements.

[68] Before me, N.Y. said that Mr. A [REDACTED] grabbed her sister's upper arms as he threatened her. But in a statement to the police, she said that at the time of the threat, Mr. A [REDACTED] held his hand over her sister's mouth. N.Y. could not explain why she said Mr. A [REDACTED] had taken such violent action against her sister, when she now has no memory of it.

[69] N.Y. also testified at the preliminary hearing that Mr. A█████ made the threat in English. But when N.Y. testified before me, she said that he made the threat in both Arabic and English. When pressed, N.Y. said that the only word Mr. A█████ said in Arabic was “father” and the rest of the threat was in English. In addition to being internally inconsistent, N.Y.’s evidence before me is inconsistent with her sister’s, as N.Z. said that she *never* heard Mr. A█████ speak English.

[70] N.Y. also testified before me that Mr. A█████ said that if N.Z. told the police, he would hurt her father. When she testified at the preliminary hearing, however, she failed to say that Mr. A█████ mentioned the police when he threatened N.Z.

[71] Further, in the first interview N.Y. gave to the police, she failed to say anything about seeing Mr. A█████ hugging N.Z. and touching her breasts at the Albion Mall. She also failed to say anything about seeing Mr. A█████ touch N.Z.’s breasts at the Albion Mall in her second interview. Indeed, N.Y neglected to say anything about seeing Mr. A█████ sexually assault her sister at the mall in her second interview, despite specifically mentioning to the police that she had seen Mr. A█████ at the mall on occasion. In my view, that makes N.Y.’s failure to specifically recount this incident to the police particularly odd.

[72] There were also issues with I.Y.’s evidence. I.Y. testified before me that one of the reasons she wanted Mr. A█████ to move out of her home was the Tim Horton’s incident. But at the preliminary hearing, she failed to mention the Tim Horton’s incident as a reason why she wanted Mr. A█████ out of her home. Arguably, this is a minor point. However, at the preliminary hearing, on her own initiative, I.Y listed several reasons why she wanted Mr. A█████ to move out. In my view it is somewhat odd that despite purposefully listing the reasons she wanted him to move out, she failed to mention the Tim Horton’s incident.

[73] I.Y. also agreed that she *only* saw Mr. A█████ put his hands on N.Z.’s breasts *one* time, and that was at the Albion Mall incident in the summer of 2016. Yet at the preliminary hearing, she testified that when she heard Mr. A█████ say, “if she was older, I would have married her”, she saw him put his hand on N.Z.’s breast, an allegation that she failed to make before me. I.Y. had no explanation for this significant inconsistency in her evidence.

[74] I also note that N.Z. did *not* testify that Mr. A█████ sexually assaulted her at the Albion Mall, only that she felt uncomfortable when he wanted to sit with her. It is difficult to understand how both her mother and sister testified that they saw him touch her breasts at the mall, when N.Z. does not say that he did.

[75] The Crown argues that maybe N.Z. has simply forgotten this sexual assault, or the witnesses are speaking about a different incident at the mall. But it is clear from the surrounding details, including the presence and age of N.Z.’s infant brother, that all parties are speaking about the same day and incident at the Albion mall.

[76] This incident took place around June 2016. N.Z. first went to the police in February 2017, approximately eight months after the incident at the Albion Mall. Given how close in time this incident was to when she went to the police, it is difficult to accept the Crown position that perhaps N.Z. has simply forgotten this assault. Moreover, N.Z. testified clearly about being at the Albion

Mall that day. N.Z. testified clearly about what happened that day. And N.Z. did not say that Mr. A [REDACTED] even touched her that day, let alone touched her sexually. Thus, I.Y. and N.Y.'s evidence is inconsistent with N.Z.'s evidence on an important point.

[77] I had other difficulties with the evidence of both I.Y. and N.Y., but do not believe it is necessary to continue detailing them. Suffice to say that based on the issues I have set out, I have concerns about the evidence of each witness. Thus, their testimony does not assist in addressing the concerns that I had with N.Z.'s evidence. Their testimony does not assist the Crown in establishing the case against Mr. A [REDACTED] to the requisite standard.

Conclusion

[78] I thought that N.Z. came across very well as a witness. That said, I have concerns about some aspects of her evidence. Those concerns are not alleviated by the evidence of her sister or mother, as there were significant difficulties with the evidence of each witness.

[79] Based on the totality of the evidence, while I believe that Mr. A [REDACTED] likely committed the alleged offences, I am unable to find beyond a reasonable doubt that he did so.

[80] As a result, I find Mr. A [REDACTED] not guilty of both counts.



Justice Heather McArthur

Released: June 10, 2020

R. v. A [REDACTED], 2018 ONSC 3531

ONTARIO

SUPERIOR COURT OF JUSTICE

HER MAJESTY THE QUEEN

– and –

A [REDACTED] A [REDACTED]

REASONS FOR JUDGMENT

Justice Heather McArthur

Released: June 10, 2020