

In the Court of Appeal of Alberta

Citation: R v Roan, 2026 ABCA 260

Date: 20260805
Docket: 2501-0082A
Registry: Calgary

Between:

His Majesty the King

Respondent

- and -

Leon Daniel Roan

Appellant

Restriction on Publication

Identification Ban – See the *Criminal Code*, section 486.4.

By Court Order, information that could identify the complainant must not be published, broadcast, or transmitted in any way.

NOTE: Identifying information has been removed from this judgment to comply with the ban so that it may be published.

The Court:

The Honourable Justice William T. de Wit
The Honourable Justice Jane Fagnan
The Honourable Justice April Grosse

Memorandum of Judgment

Appeal from the Conviction by
The Honourable Justice G. Hatch
Convicted on the 22nd day of April, 2024
(2024 ABCJ 117, Docket: 221069834P1)

Memorandum of Judgment

The Court:

Introduction

[1] The appellant, Leon Daniel Roan, took part in a robbery during which the complainant was assaulted and stripped naked in a public alley and his clothing and possessions stolen. Following a trial by judge alone, the appellant was convicted of sexual assault, robbery and breaching a recognizance. He appeals his convictions for robbery and sexual assault, arguing, among other things, that the trial judge erred in finding that the forcible stripping of the complainant was a sexual assault and that the appellant had the requisite *mens rea* for sexual assault.

[2] For the reasons that follow, the appeal is dismissed. The trial judge did not err in finding that the assault of the complainant occurred in sexual circumstances that violated the sexual integrity of the victim, and that as such it constituted a sexual assault. Nor did the trial judge err in finding that the appellant was a party to both the sexual assault and robbery. We see no error in the trial judge's approach to the appellant's evidence with respect to the *mens rea* for sexual assault. That evidence does not raise a reasonable doubt that, when the appellant directed the other perpetrators to "strip" the complainant, the appellant had the requisite knowledge that they would remove all of the complainant's clothing.

Trial decision

Factual findings

[3] On June 15, 2022, at approximately 6:30 pm, the complainant was assaulted, stripped naked and robbed of his clothing, wallet, credit and bank cards and driver's license in an alleyway behind the Turning Point Drop-in Centre in Red Deer, Alberta. There were four individuals involved in the assault against the complainant, including the appellant. The entire incident was recorded on CCTV video, which provided a high-quality video recording but no audio. The video recording was tendered as evidence at the appellant's trial and the trial judge's description of the incident and the subsequent arrest of the appellant was based on his review of the video as well as the testimony of the complainant, the appellant and police witnesses.

[4] Because the appellant's knowledge and intentions regarding the nature of the assault of the complainant are at issue on this appeal, we will review his actions as found by the trial judge in some detail.

[5] The video shows the complainant entering the area where the incident took place, sitting down in a corner behind the building and rummaging through his belongings. Adjacent to the building is an alleyway through which a number of people pass, including the four individuals involved in the incident.

[6] The video shows the appellant and another individual, identified as Nepoose, walk into the frame. They are standing approximately 10 feet away from the complainant and looking at him while talking with each other. Based on the oral evidence, the trial judge found that Nepoose asked the complainant if he had any drugs on him, to which the complainant answered “no”. The appellant leaves the area but returns a short time later carrying a sharp pointed instrument the appellant described as a knife sharpener. Another individual, identified as Abraham, enters the frame.

[7] At about this point, Nepoose and a fourth individual, Hadikin, move toward the complainant. Hadikin gives a knife to Nepoose. Nepoose walks over to the complainant and, while standing over him, grabs at the complainant and the complainant’s belongings.

[8] The appellant briefly leaves the scene but returns carrying a 2 x 4 piece of lumber approximately 4 feet in length. He approaches the corner where Abraham, Nepoose and the complainant are located and briefly watches the escalating situation. For the next couple of minutes, the appellant moves about the alley carrying various pieces of lumber, including what the trial judge described as the frame of a wooden pallet, and continues to carry the 2 x 4 in his hand.

[9] The appellant returns to Abraham and Nepoose, still carrying the 2 x 4 and the frame, and has a conversation with them. Based on the evidence of the complainant and the appellant, the trial judge found that the appellant told the other two to “strip him”. On this point, the trial judge accepted the complainant’s evidence that this was a direction from the appellant to Nepoose to “strip” the complainant. Abraham takes the 2 x 4 from the appellant and the appellant leaves the scene. The trial judge rejected the appellant’s evidence that he did not intend to give the lumber to Abraham, noting that the video showed the appellant’s lack of reaction when Abraham takes the lumber from his hand. The trial judge found it was a deliberate “handing off” of the lumber and that the appellant’s evidence on this point was deliberately false.

[10] As the appellant hands Abraham the lumber and walks off screen, Hadikin and Nepoose immediately begin to remove the complainant’s clothing, which the trial judge found was in response to the appellant’s direction to “strip him”. The trial judge found, “he [the appellant] said so, and [Hadikin] and Nepoose immediately obeyed”. They remove the complainant’s shoes; the appellant, who has been coming and going from the scene, takes the shoes with him.

[11] Hadikin and Nepoose continue to remove the complainant’s clothing; when he resists, Abraham hits him in the legs with the 2 x 4. The appellant returns to the scene. At this point, the

complainant has been stripped to his underwear and all four individuals, including the appellant, are standing near him. Hadikin walks over to the pile of the complainant's clothing and the appellant joins her. They begin searching through the complainant's clothes and the appellant takes banking and credit cards and a driver's license, the complainant's wallet, and his jacket. The appellant walks over to where the complainant is sitting, holds up a bank card and demands the complainant's banking PIN number. The trial judge rejected the appellant's evidence that he took the bank card for "safekeeping" and asked for the PIN to mask his intentions from Nepoose. The appellant throws the complainant's empty wallet and his jacket at the complainant's feet and walks off the scene.

[12] At this point, Nepoose uses a knife to cut off the complainant's underwear, leaving him naked. The video shows the complainant leaving the scene while attempting to cover his genitals with his hands.

[13] Within a short period of time the appellant was arrested by the police. The complainant's driver's license and bank card were found on the appellant's person, as well as a number of knives and the knife sharpener.

Decision on conviction

[14] The appellant's trial took place on March 4 and 5, 2024. On April 22, 2024, the trial judge delivered a brief oral decision finding the appellant guilty of robbery, sexual assault and breach of a release order. At that time, he advised the parties that he would release more detailed written reasons for his conclusions; those written reasons were issued on May 29, 2024: *R v Roan*, 2024 ABCJ 117. The appellant was sentenced on November 15, 2024 (*R v Roan*, 2024 ABCJ 228), and an appeal from conviction and sentence was filed on March 21, 2025.

[15] The oral decision is brief; the trial judge described it as a summary of his reasons. With respect to the robbery, the trial judge accepted the complainant's evidence that the appellant was "armed with a knife" and relied on the video evidence as demonstrating the appellant's involvement with the group assault. He rejected the appellant's exculpatory evidence as to his involvement and his reasons for taking the complainant's bank cards. With respect to the sexual assault, the trial judge accepted the appellant did not have a sexual purpose in committing the assault, but held the analysis did not turn on that finding. He found that the appellant told the others to strip the victim naked and that this direction was taken seriously and acted upon. He cited three decisions in concluding that what elevates an assault to sexual assault depends on the circumstances of the case; that it is an act of power, aggression and control that does not require a sexual motivation; and that the "forced non-consensual tearing and movement of clothing" to expose genitals or other sexual parts of the body may be characterized as a sexual assault: *R v Bernier* (1997), 119 CCC (3d) 467 at 475, 1997 CanLII 9937 (QCCA), aff'd *R v Bernier*, [1998] 1 SCR 975, 1998 CanLII 830 (SCC); *R v V(KB)* (1992), 71 CCC (3d) 65 at 70, 1992 CanLII 7503

(ONCA), aff'd *R v V(KB)*, [1993] 2 SCR 857, 1993 CanLII 109 (SCC); *R v GI*, 2011 YJCN 1 at para 102.

[16] In the written reasons, the trial judge set out his factual findings in detail, based largely on his review of the video evidence of the incident, which shows the events with some clarity. He also reviewed the testimony of the appellant and complainant and the law regarding credibility and explained his reasons for rejecting much of the exculpatory evidence of the appellant, which he found to be “incredible” and in contrast with the video evidence. He found the appellant’s evidence “appeared to have been constructed to attempt to avoid liability”. For example, as noted, he rejected the appellant’s evidence that he picked up the complainant’s bank card for “safekeeping” and asked for the PIN in order to hide his intentions from Nepoose, finding the more obvious explanation – that the appellant stole the cards and wanted access to the complainant’s accounts – to be the true one. The trial judge also found that the appellant gave the piece of lumber, later used to strike the complainant, to Abraham and thereby armed him, and that he told the others to “strip” the complainant and they immediately followed that direction.

[17] In reviewing the evidence of the complainant in comparison to the video evidence, the trial judge recognized that the complainant was mistaken when he said the appellant was holding a knife at the same time he was holding the lumber and frame. He found the appellant was armed, at various times, with what the appellant described as a knife sharpener, which the trial judge found to be approximately 8-12 inches in length, apparently pointed, and resembling a knife. The trial judge found it was an “imitation of a knife” and an “offensive weapon”.

[18] The trial judge concluded that the appellant was a principal offender to the offence of robbery, as he participated in and benefited from the proceeds of the robbery, while armed with an imitation of a knife. He also concluded that the appellant aided the robbery pursuant to section 21(1)(b) of the *Criminal Code* by providing Abraham with a length of lumber to use as a weapon against the complainant, abetted the robbery pursuant to section 21(1)(c) by directing the other parties to the offence to strip the complainant for the express purpose of “getting what [they] wanted”, and was a party to the offence of robbery, having formed a common intention with the group, pursuant to section 21(2). Finally, he concluded that the appellant’s direction to “strip” the complainant constituted counselling the offence pursuant to section 22(1).

[19] In convicting the appellant of sexual assault, the trial judge recognized that sexual intent on the part of the offender is not a constituent element of sexual assault. In addition to the authorities cited in his oral decision, he relied on the Supreme Court of Canada’s statement in *R v Chase*, 1987 CanLII 23 at para 11, [1987] 2 SCR 293 (SCC), that “[s]exual assault is an assault ... committed in circumstances of a sexual nature, such that the sexual integrity of the victim is violated.” The trial judge held that sexual assault does not require a sexual motivation and can be an act of power, aggression and control (*V(KB)* at 70-71), and that “nonconsensual removal of the

complainant's clothing to expose genitals or other sexual parts of the body may also be characterized as a sexual assault when viewed objectively": *R v GI* at para 102. In this case, the trial judge held that a sexual assault was committed in furtherance of the robbery, but also as a separate act of humiliation.

[20] The trial judge convicted the appellant of all three charges. The appellant appeals his convictions on the charges of sexual assault and robbery. At the hearing of the appeal, the focus of his argument was on the sexual assault conviction.

Issues on appeal

[21] The appellant raises three issues on appeal:

1. The trial judge erred in finding the appellant committed sexual assault.
2. The trial judge erred by finding the appellant guilty as a principal offender or party offender to the charges of robbery and sexual assault.
3. The trial judge provided inadequate reasons and erred in providing oral reasons that were inconsistent with his later written reasons.

Standard of Review

[22] Findings of fact made by a trial judge and the inferences drawn from such findings are subject to a highly deferential standard and will only be interfered with where there is palpable and overriding error. Determinations relating to credibility are also subject to deference on appeal unless they are based on a wrong legal principle. A finding relating to credibility will be subject to appellate intervention only where the assessment cannot be supported on any reasonable view of the evidence: *R v Bowers*, 2022 ABCA 149 at para 27; *R v Clarkson*, 2023 ABCA 212 at para 11; *R v SMC*, 2020 ABCA 19 at para 19; *R v Paulos*, 2018 ABCA 433 at para 16; *R v Wanihadie*, 2019 ABCA 402 at para 23.

[23] In criminal law, a determination of whether a factual matrix satisfies a legal standard, such as whether the circumstances here amount to a sexual assault, is a question of law that is reviewed for correctness: *R v Dussault*, 2022 SCC 16 at para 26; *R v Le*, 2019 SCC 34 at para 23; *R v Shepherd*, 2009 SCC 35 at para 20.

Analysis

The trial judge did not err in finding the appellant committed sexual assault

[24] The appellant says the trial judge erred in finding he committed sexual assault because the assault was not committed in sexual circumstances. Alternatively, he argues that, if there were sexual circumstances surrounding the assault, those circumstances did not arise until after the appellant had left the scene.

[25] The appellant's main argument on this ground of appeal is that the trial judge erred in law in concluding that the assault against the complainant constituted a sexual assault. The appellant accepts the trial judge's conclusion that sexual motivation or gratification is not necessarily required for sexual assault, but says the trial judge erroneously concluded that the removal of the complainant's clothing and his embarrassment were sufficient to ground a sexual assault conviction.

[26] As the trial judge held, a sexual motive or gratification is not required for sexual assault: *Chase* at para 11; *R v Lutoslawski*, 2010 SCC 49. In *R v V(KB)* at 70, a majority of the Ontario Court of Appeal held:

What elevates an assault to a sexual assault will depend on the circumstances of each case. A sexual assault does not require sexuality and, indeed, may not even involve sexuality. It is an act of power, aggression and control. In general, sexual gratification, if present, is at best a footnote.

[27] In *Chase*, the Supreme Court of Canada stated that “[s]exual assault is an assault...which is committed in circumstances of a sexual nature, such that the sexual integrity of the victim is violated”: *Chase* at para 11; *R v Ewanchuk*, 1999 CanLII 711 at para 24, [1999] 1 SCR 330 (SCC). The test is an objective one: “viewed in the light of all the circumstances, is the sexual or carnal context of the assault visible to a reasonable observer”. Relevant circumstances can include the part of the body touched, the nature of the contact, the situation in which it occurred, and the words and gestures used, including any threats and force: *Chase* at para 11.

[28] Courts have recognized acts of sexual assault in varied circumstances. In *R v Hume*, the offender was convicted of sexual assault for stripping and shaving the body of an incapacitated person: *R v Hume*, 2016 BCCA 230 at paras 3-8. In *R v V(KB)*, the Ontario Court of Appeal concluded that grabbing a child's genitals as a form of discipline was “an aggressive form of domination that violated the sexual integrity of [the child]” and properly viewed as a sexual assault: *V(KB)* at 70. The majority described the offence of sexual assault as representing “an unacceptable intrusion upon, or violation of, the victim's sexual privacy or integrity”: *V(KB)* at 70. In *R v BT*, the 16-year-old victim was tied to a post with her nightgown pulled up so that she stood naked for

5 to 10 minutes as a form of discipline: *R v BT*, 1985 ABCA 51. In that case, which arose shortly after the offence of sexual assault was created to replace previous offences such as “rape” and “indecent assault”, the trial judge sought to “distinguish indecency from sexual assault”. This Court disagreed with that approach and, in concluding the trial judge had applied the wrong test and a new trial was required, commented that, while an assault might theoretically be indecent and yet not have a sexual aspect, it was difficult to imagine such a case: *BT* at para 22.

[29] The trial judge here referred to relevant authorities in ruling that the circumstances constituted sexual assault. He adopted the reasoning in *R v GI* at para 102 that “the touching involved in the non-consensual removal of a complainant’s clothing to expose genitals or other sexual parts of the body may also be characterized as a sexual assault when viewed objectively”¹. The trial judge did not give lengthy reasons analyzing the factors identified in *Chase* or explain in detail how the circumstances amounted to sexual assault. However, as set out further below, the reasons must be read in the context of the proceedings as a whole. Defence trial counsel did not initially make any argument relating to whether the assault was sexual in nature. In response to a question from the trial judge on this point, defence counsel argued only that there was no sexual intent or proof that the stripping was for a sexual purpose. In these circumstances, it is understandable that the trial judge’s decision focused on confirming that no sexual purpose or motivation is required for a sexual assault conviction. The complainant was, during a lengthy and violent assault and robbery, forcibly stripped naked, his clothing removed and his underwear ripped and cut off with a knife, exposing his genitals and buttocks in a public place. The trial judge made no error in concluding these actions violated the complainant’s sexual integrity and involved sexual circumstances, constituting a sexual assault.

[30] During oral argument, the appellant referred to cases involving the conduct of strip searches by the police or border officials to search for drugs or other contraband, and suggested the stripping of the complainant in this case was similarly done to facilitate the search of the complainant for drugs and possessions. We do not find this analogy apt given the violent circumstances in which the “stripping” and public exposure of the complainant was carried out here. The appellant referred to *R v Shallow*, [2009] OJ No 3204 at paras 25-27 (SCJ), in which the court concluded that a strip search conducted by police officers did not occur in “circumstances of a sexual nature”, given that the search took place in a private room of a police station, with “no direct touching of the applicant’s body” by the officers. The circumstances here bear little resemblance to those considered in *Shallow*.

¹ We agree that touching involved in the non-consensual removal of a complainant’s clothing to expose genitals or other sexual parts of the body may amount to sexual assault. However, we observe that the passage from *R v GI* relied upon by the trial judge refers to there being an “abundance of jurisprudence” in support of the proposition, without actually citing any such authority: *R v GI* at para 102. In *GI*, the court ultimately found that the sexual assault occurred when a broomstick was forced into the complainant’s anus as part of a violent physical assault.

[31] The appellant argues in the alternative that, even if there was a sexual assault, the appellant left the scene before the complainant's clothes were completely removed, rendering him naked. He says this broke the chain of legal causation but provides no authority in support of that proposition.

[32] First, it is noteworthy that, while the complainant was not entirely naked at the time the appellant walked away, Nepoose was actively engaged in cutting the complainant's underwear while the appellant was present. Further, an intervening act can break the chain of legal causation, where that act is so independent of the original act that it can be regarded as the sole cause of the criminal act. However, such independence is distinct from the analysis of party liability, where parties are responsible for the acts of the other parties: *R v Maybin*, 2012 SCC 24 at paras 53-55. In this case there is no intervening act committed by someone other than the appellant or for which the appellant is not liable. The appellant gave directions to the other perpetrators to strip the complainant and they followed those directions. No intervening act broke the appellant's responsibility for the actions of the other parties.

[33] This ground of appeal is dismissed.

The trial judge did not err in finding the appellant was an active participant and party to the robbery and sexual assault

[34] Section 21(1) of the *Criminal Code* provides that principal offenders, aiders and abettors are all parties to an offence:

21 (1) Every one is a party to an offence who

- (a) actually commits it;
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

Section 22(1) addresses counselling an offence and provides that a person who counsels another to be a party to an offence is himself a party to the offence.

[35] The trial judge found the appellant liable as a principal offender and party to the robbery, concluding he had aided and abetted the robbery and formed a common intention with the others to carry it out, and as a party to the sexual assault. He found the appellant was an active participant in the robbery, walking in and out of the situation while the complainant was being accosted and watching the attack unfold, carrying an imitation knife with him, removing the complainant's

shoes, searching through his clothing and taking his belongings, asking for the complainant's banking PIN, and keeping the complainant's cards after he left the scene. He found the appellant aided the other perpetrators by providing a piece of lumber that was used as a weapon against the complainant, and abetted and counselled the offences by directing the other perpetrators to "strip him". All these findings are supported by the record.

[36] The appellant argues that the trial judge ignored or dismissed, without analysis, his innocent explanations for his actions. This is a challenge to the trial judge's credibility findings, which are owed deference on appeal. An appellate court should interfere with credibility assessments made at trial only where they cannot be supported on any reasonable view of the evidence: *Clarkson* at para 11; *Bowers* at para 27.

[37] There is no basis for the appellant's assertions. The trial judge considered the appellant's evidence and provided reasons for rejecting parts of it. He made no error in his assessment of that evidence. His rejection of the exculpatory portions of the appellant's evidence as "incredible, particularly in contrast to the video evidence before the court and ... the evidence of [the complainant]" is borne out by his review of the evidence as a whole.

[38] The plausibility of a witness's evidence is an important consideration in assessing credibility. In *R v Kruk*, 2024 SCC 7, Rowe J, in concurring reasons, put it this way at para 155:

Similarly, in assessing the *credibility* of a witness, trial judges are also expected to apply common sense and human experience as a benchmark against which to weigh the plausibility of the evidence (Paciocco, Paciocco and Stuesser, at p. 608; see also *R. v. Marquard*, [1993] 4 S.C.R. 223, at p. 248); thus, the trial judge applies their experiences and common sense when judging the witness's demeanour, character, or the internal or external plausibility of their evidence to decide whether an individual's evidence is believable (Paciocco, Paciocco and Stuesser, at p. 593).

[39] Although the trial judge did not use the word "implausible" in describing the appellant's evidence, his finding that parts of the appellant's exculpatory evidence were "incredible" is to the same effect. His assessment is supported by the record, and particularly by the video evidence that clearly shows the appellant's presence and involvement in the offences, as detailed above. The trial judge made no error in rejecting as implausible the appellant's explanation that he kept the bank card for safekeeping and because he was afraid of the other perpetrators. Similarly, the trial judge rejected the appellant's explanation that he told the other perpetrators to strip the complainant because he was giving them "pointers" as to what he would do, and not as a direction. The trial judge preferred the complainant's evidence that the appellant directed the others to strip him and found that their immediate movement to do so supported that conclusion. He was entitled to make those findings. The trial judge also rejected the appellant's evidence that he did not intend to give Abraham the 2 x 4 that was used as a weapon against the complainant. Based on the video

evidence, he noted that there was “no break in [the appellant’s] stride, no hint of a surprise, no reaction of any kind”, and reached the commonsense conclusion that Abraham did not unexpectedly grab the lumber as the appellant claimed. Again, there is no reviewable error in this assessment, which is supported by the record.

[40] The trial judge made no reviewable error in his assessment of the appellant’s credibility, nor in his assessment of the complainant’s testimony and interpretation of the video evidence. He committed no reviewable error in finding the appellant was an active participant and party to the offences.

[41] During oral submissions on the appeal, the appellant focused his argument under this ground of appeal on the *mens rea* requirement for sexual assault. He says that, if there was a sexual assault, it occurred when the complainant’s underwear was forcibly removed and that the appellant had left the scene by that point. He acknowledges the trial judge’s finding that the appellant had told the others to “strip him” but says there was no evidence the appellant had the requisite knowledge that they would strip the complainant completely, leaving him naked in a public place. He says that he therefore did not have the necessary *mens rea* to be a party to the sexual assault.

[42] The trial judge found that the appellant directed the others to “strip” the complainant and that this direction abetted or encouraged the sexual assault pursuant to section 21(1)(c) of the *Criminal Code* and counselled the sexual assault (which includes procuring, soliciting and inciting the offence) pursuant to section 22(1). The *mens rea* for abetting requires the Crown to prove two components: that the appellant intended to encourage the perpetrator in the commission of the offence and had knowledge that the principal intended to commit the offence. However, the Crown need not prove that the appellant desired that the offence would take place: *R v Cowan*, 2021 SCC 45 at para 32; *R v Briscoe*, 2010 SCC 13 at paras 16-17.

[43] The *mens rea* for counselling requires that the Crown prove the appellant intended for the sexual assault to take place or “knowingly counselled the commission of the offence while aware of the unjustified risk that the offence counselled was in fact likely to be committed as a result of the [appellant’s] conduct”: *Cowan* at para 35; *R v Hamilton*, 2005 SCC 47 at para 29.

[44] There was evidence at trial regarding the appellant’s direction to the others that the complainant be stripped. During examination in chief the appellant was asked if he meant for his comments about stripping the complainant to be taken seriously and he answered: “No. I didn’t think he would do it.” However, in cross examination the appellant acknowledged that this was a very serious situation and that Nepoose, the individual who stripped the complainant by cutting his underwear with a knife, was a “dangerous guy”. The appellant then gave the following evidence:

Q And you knew he was likely going to do it? You're nodding your head. Is that a yes?

A Yes sure.

Q Okay. And you knew—

A But he probably would have done it without me saying it anyways because he's -- I'd seen him do it before.

Q Okay. And after that was said, he happened to be stripped, [the complainant], correct?

A I'm not sure. Like, you have to look at the video, but, yeah, after -- afterwards, he's stripped for sure.

Later in cross-examination, the appellant said:

Q: ... I'm also going to suggest to you that you knew they would strip him after you said it?

A: You could suggest that, yeah.

Q: In fact, you already said you knew that they would likely do that.

A: Yeah. I seen them in action before. I know how they work.

[45] The trial judge rejected the appellant's attempt to distance himself from the "stripping" of the complainant by testifying that he said, "if it was me, I would strip him" as a sort of "pointer" to the others. He found the appellant's use of those words in his evidence to "have been constructed to attempt to avoid liability" and found instead that the appellant's words were a direction to Nepoose to "strip" the complainant. There was no suggestion in the appellant's testimony or in defence counsel's closing submission that the appellant's direction to strip the complainant meant something less than stripping him completely naked. When questioned, the appellant agreed that he knew the perpetrator was going to do "it", that he had done "it" before, and acknowledged that the complainant was "stripped for sure". There was no suggestion that the use of the word "stripping" during the trial meant something different than what actually occurred in this case.

[46] The evidence supported the conclusion that the appellant had knowledge that the perpetrators would "strip" the complainant after the appellant told them to do so or that there was an unjustified risk that the "stripping" would take place. The record supports the inference that the use of the word "strip" during the trial meant what actually happened to the complainant – the

forcible removal of all his clothing – and not something less. There was no suggestion at trial that the inference was not available or that a different inference should be drawn. A trial judge is not required to consider a list of hypothetical scenarios, for which there was no evidence and which were not proposed by counsel at trial: *R v Shedrick*, 2026 ABCA 107 at para 72. The trial judge made no error in finding that the Crown had proven the *mens rea* for abetting and counselling the offence of sexual assault.

[47] This ground of appeal is dismissed.

The trial judge's reasons are sufficient for appellate review

[48] Prior to delivering his oral decision, the trial judge said he was mindful of the need to move the matter along to sentencing given that the appellant was in custody. He advised the parties that he would release more detailed written reasons for his conclusions later. The oral decision was very brief and described as a summary. The written reasons were delivered just over a month after the oral decision, several months prior to sentencing, and well before the filing of an appeal.

[49] The appellant argues that the oral reasons were, on their own, insufficient and that the later written reasons were inconsistent with them.

[50] We do not see any material inconsistency between the brief oral decision and the subsequent written reasons. The reasoning for the findings of guilt and authorities relied upon are consistent. The appellant says that there is inconsistency in the trial judge's approach to the complainant's evidence that the appellant was armed with a knife. He says that the trial judge "initially accepted [the complainant's] evidence that [the appellant] was holding a knife in his hand while also holding lumber in each hand and speaking with [the complainant] before the robbery". As the Crown points out, the trial judge said in his oral decision that "I accept the evidence of [the complainant] that the accused was armed with a knife at the time of the robbery". The written reasons clarify that the video evidence shows the appellant was carrying a knife sharpener; the trial judge describes that knife sharpener as being 8-12 inches long and sharp and concludes that it was an "offensive weapon" in that it was an imitation of a knife. The distinction relied on by the appellant was peripheral; it had no effect on the decision.

[51] We are satisfied that this is not a case where the written reasons for decision should be excluded from consideration on appeal based on a concern that they may constitute an after-the-fact justification of the verdict rather than an articulation of the reasoning that led to it: see *R v JES*, 2020 ABCA 318 at paras 14, 18.

[52] Considering the trial judge's oral and written reasons together, they are clearly adequate. Reasons are to be considered as a whole in the context of the record, and are not to be parsed in search of error: *R v GF*, 2021 SCC 20 at paras 69-70; *R v REM*, 2008 SCC 51 at paras 15, 38-40;

R v Chung, 2020 SCC 8 at paras 13, 33; *R v Sheppard*, 2025 SCC 29 at paras 44-48. The written reasons are both factually and legally sufficient to permit the appellate court to understand the pathway by which the trial judge came to his decision: *GF* at para 71, *R v Sheppard*, 2002 SCC 26 at paras 50-55. His factual findings are clear and supported by the record, including the high-quality video of the incident, as well as his assessment of credibility, which, as noted above, is owed deference on appeal and contained no error.

[53] This ground of appeal is dismissed.

Conclusion

[54] The appeal is dismissed.

Appeal heard on June 16, 2026

Memorandum filed at Calgary, Alberta
this 5th day of August, 2026

de Wit J.A.

Fagnan J.A.

Grosse J.A.

Appearances:

S. Clive
for the Respondent

C. Sprague
for the Appellant