

## Between Her Majesty the Queen, and



[2016] O.J. No. 5819

SC File No. 16-3219

Ontario Superior Court of Justice Toronto, Ontario

K.B. Corrick J.

Heard: October 27, 2016. Oral judgment: October 27, 2016.

(14 paras.)

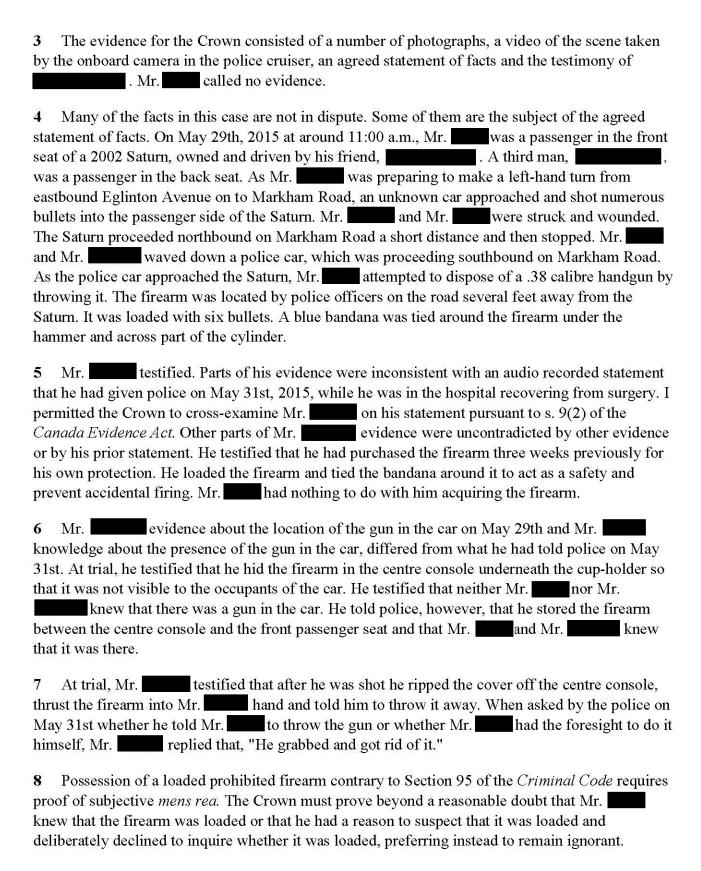
## Counsel:

K. Stratos, Counsel for the Crown.

A. Stastny, Counsel for

## REASONS FOR JUDGMENT

- 1 K.B. CORRICK J. (orally):-- Mr. was arraigned before me on three charges. Possession of a firearm while knowingly not being a holder of a licence. Two, possession of a firearm while being prohibited to do so by a Section 110 order. And three, possession of a loaded prohibited firearm. He pleaded guilty to the first two charges and had a trial before me on the third.
- 2 The sole issue for my determination is whether the Crown has proven beyond a reasonable doubt that Mr. knew that the gun that he has admitted possessing was loaded.



9 In my view, there is no evidence to support either propo	sition.
10 Counsel agree that the court cannot rely on Mr. statement to the police. I agree that it was not credible. With was a passenger in a car owned and driven by Mr. which he and Mr. were wounded, he waved down a approached he attempted to dispose of a gun that was owned had a blue bandana tied around it. It was loaded. It landed on	Following a drive-by shooting in passing police cruiser. As the police card by Mr. by throwing it. The gun
11 There is no evidence about where the gun was located when Mr. learned that there was a gun in the car. There knew the gun was loaded.	
truth that Mr. knew the gun was in the car and atten approached. Mr. submitted that Mr. denials the presence of the gun were an attempt to protect Mr. that what Mr. told the police were the truth. He furth infer that Mr. had told Mr. about the gun beca or seven years. Finally, he submitted it would have been obviousled because of the way the bandana was wrapped around loaded or was willfully blind to that fact.	about whether Mr. knew about and served to enhance the likelihood her submitted that it was reasonable to use they had been good friends for six vious to Mr. that the gun was
Whether Mr. statement to the police is true of whether Mr. knew the gun was loaded. Mr. served to discredit Mr.	9
14 The inferences that Mr. Stratos asks me to draw requir Findings of guilt in criminal matters cannot be founded on s evidence, and in my view that evidence is not present in this count #five.	peculation. They must be based on