

ONTARIO COURT OF JUSTICE

HIS MAJESTY THE KING

V.

BRITTANY BEST

P R O C E E D I N G S   D U R I N G

P L E A   O F   G U I L T

BEFORE THE HONOURABLE MADAM JUSTICE BRODERICK

On November 23, 2022, at PETERBOROUGH, Ontario

APPEARANCES:

E. Kingsmill

T. Burgis

Counsel for the Crown

Counsel for Brittany Best

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1.  
R. v. Brittany Best  
Arraignment

WEDNESDAY, NOVEMBER 23, 2022

...

CLERK OF THE COURT: Ms. Brittany Best, you stand charged on or about the 11<sup>th</sup> day of June in the year 2022, in the City of Peterborough in the said Region, did commit an assault on [REDACTED] [REDACTED] - I'm sorry, ...

MS. KINGSMILL: [REDACTED].

CLERK OF THE COURT: ..[REDACTED] [REDACTED], okay, contrary to s. 266 of the *Criminal Code*. The Crown proceeded summarily. How do you plead to this charge as read, guilty or not guilty?

BRITTANY BEST: Guilty.

CLERK OF THE COURT: Thank you.

THE COURT: All right, you may be seated, Ms. Best, while I hear the facts from the Crown.

MS. KINGSMILL: On June 11<sup>th</sup>, 2022 Brittany Best and [REDACTED] were living together as roommates at 845 Broadway Boulevard in the City of Peterborough. At the time Ms. S[REDACTED] was a student at Trent University. She had travelled to Peterborough from her home country of India for the purpose of her education. Ms. S[REDACTED] was in the kitchen shredding carrots when Ms. Best approached her and accused her of unsubstantiated allegations. Ms. Best subsequently grabbed Ms. S[REDACTED] and started pulling her to the front door, yelling at her that she was going to be deported, and telling her to go back to where she came from and "get the fuck out of this country". Ms. Sreevasu's phone was broken during the scuffle. Once

5 outside of the house Ms. Best continued to drag Ms. S [REDACTED] to the front yard and pulled her down the cement stairs. On the front yard Ms. Best punched Ms. S [REDACTED] in the head and spat at her, calling her a cunt. When officers arrived on the scene they observed visible cuts and scrapes to Ms. S [REDACTED]'s legs, in addition to a large bump on the top right side of her head under her hair. Ms. Best told officers on the scene that she had the right to punch Ms.

10 S [REDACTED] because she was from a different country and should go back home. She further advised that she had smashed Ms. S [REDACTED]'s cellphone and left it on the kitchen floor. Ms. Best also expressed concern that her son, [REDACTED] [REDACTED] would be taken away. Landon had been present with Ms. Best during this incident and he was a toddler at the time. Those are the facts, Your Honour.

15 MR. BURGIS: Yes, Your Honour, those facts are not being substantially correct, she definitely acknowledges the damage to the phone, the punching, everything about the incident. She is saying though that there had been ongoing issues between the two of them. I know that my client indicates there's an incident that happened the day before with her child, and often issues so when it came to finances, and the complainant asking my client for money. My client indicates that what she was saying was that if you can't afford to live here, go back to your own country. So, I don't know that there is any direct sort of

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5 racial slur in what the facts are, so I think,  
Your Honour, that we are on a solid ground for  
Your Honour to accept the plea, especially noting  
where we are going to be acknowledging that the  
appropriate disposition here is for a 60 day  
conditional sentence. And so I think it's really  
up to my friend to decide if what I have noted as  
the sort of caveat to the facts, whether that's  
10 acceptable in a way to move forward in this  
matter.

THE COURT: And this is going to be a joint  
submission?

MR. BURGIS: It is.

15 THE COURT: Ms. Kingsmill, do you wish to call  
evidence to prove the entirety of the version of  
facts that you have read in, or is it sufficient  
that Mr. Burgis has acknowledged in terms of what  
Ms. Best said, that she made the comment that he  
described?

20 MS. KINGSMILL: I wonder if Your Honour could  
provide some input. Clearly there is an  
agreement that some comments were made...

MR. BURGIS: For sure.

25 MS. KINGSMILL: ...pertaining to her immigration  
status...

MR. BURGIS: Yes.

30 MS. KINGSMILL: ...and I wonder if Your Honour  
would take judicial notice of the fact that India  
is comprised of largely a population of  
racialized people, and so there are racial  
elements to the comments that were made and  
admitted by Ms. Best.

THE COURT: All right, I....

MR. BURGIS: I think there is that sort of - maybe I could help Your Honour with that. I think there is that sort of implied issue, is really what I would call it, that maybe it's not an outright, you know, there's certain words that just have that context and it's so blatant that they are racist. This is one where I think there is that implied issue about going back to her own - she acknowledges that go back to your own country sort of comments, so I that is really the racial element to it. It's inappropriate, I think she wishes she could have that day back in many ways, so I think that would cover....

THE COURT: So she is denying - so she admits that she said go back to your own country?

MR. BURGIS: No, I think she is saying go back to your country, she does say that she said that, ...

THE COURT: Okay, there is no, ...

MR. BURGIS: ...but it's because....

THE COURT: ...no dispute there?

MR. BURGIS: No, there is no dispute about that. She is saying that she pre-empted those words by saying if you can't afford to live here, go back to your own country, which, again, Your Honour, I don't think that that necessarily makes it that much better, it doesn't, but I think it recognizes her, her not that overt racial issue. I mean it's there, there's that undertone to it. I think these two individuals got placed in essentially a rooming house where they weren't

expecting to be together, so....

THE COURT: I just want to ask you a question about the facts. It is also alleged that she said she is going to be deported and that she should go back to where she came from, that is denied?

MR. BURGIS: I think she is saying that she should go back to her own country but it's in that....

THE COURT: No, Mr. Burgis, I need - so what I want to be very clear on, is I want to break down what the Crown says Ms. Best said, because there's several things that it's alleged she said, just so I am really clear in a matter of fairness to everyone...

MR. BURGIS: Yes.

THE COURT: ...what it is as far as aggravating statements or racialized statements that were made. So, it is alleged that she said she was going to be deported and to go back where she came from and get the fuck out of this country, so that's denied?

MR. BURGIS: Well, if I could have a word with her.

(...PAUSE WHILE DEFENCE COUNSEL CONSULTS WITH CLIENT...)

MR. BURGIS: Yes, Your Honour, I think she is really saying, that the main thing that she is saying is, if you can't afford to be here, go back, go back to your country.

THE COURT: Okay, that is fine. And does she admit that she called her a cunt?

MR. BURGIS: I believe so, yes.

THE COURT: Okay, that's admitted. And what about this statement that she has alleged to have said to the police?

MR. BURGIS: Again, I think she would maintain that it's that same line, that if she can't afford to be here, she should be....

THE COURT: No, the statement was, Ms. Best told the police that she had a right to punch her because she's from a different country and should go back home.

MR. BURGIS: She doesn't acknowledge that.

THE COURT: All right. Is that something that the Crown wants to prove by calling evidence?

MS. KINGSMILL: I wonder....

THE COURT: Is my understanding right, Ms. Kingsmill, that that's what the police say that Ms. Best told them?

MS. KINGSMILL: That direct quote is in their notes, that Ms. Best advised them that she had the right to punch [REDACTED] because she was from a different country and should go back home.

THE COURT: All right.

MS. KINGSMILL: So I wonder if it does come down to calling that officer. I don't anticipate it would take very long to get that evidence out with his notes in front of him to refresh his memory on the incident.

THE COURT: Well, I leave it to you to decide whether or not you wish to do that. That would take us effectively into a Gardiner hearing. Is that officer available today?

MS. KINGSMILL: I have not checked but I could potentially canvass his availability. I do have his contact information.

5 THE COURT: Just so everyone appreciates what is happening here. As the judge I am required to sentence Ms. Best on a version of facts and some of the things that she is alleged to have said would constitute aggravating factors because of the racist, frankly the racist, and so it is so important for me to make sure that I sentence Ms. Best on a version of facts that is either made out on agreement or by calling evidence. So I just want everyone to understand that. Ms. Kingsmill?

15 MS. KINGSMILL: Your Honour, I think it's apparent that this is not your typical roommate dispute and I would submit that there is a racial and xenophobic aspect to this incident.

THE COURT: Right.

20 MS. KINGSMILL: And so this court should take that very seriously.

THE COURT: So, do you wish to call evidence then from the officer to prove what Ms. Best said to the police, or is alleged to have said to the police, because if you do not then that fact is disputed and it is not something, that particular piece of what she told the police, is not something that I would be sentencing her on, or fact that I would be sentencing her on. If the Crown feels that what has been said is enough, I can tell you that it really does not matter in my view of whether "go back to your own country" was

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prefaced with "if you can't afford to live here",  
I think it's racist regardless of what precedes  
it.

MS. KINGSMILL: Okay, if Your Honour is prepared  
to accept that as racist, then I am not sure if a  
Gardiner hearing would be necessary in that case.

THE COURT: All right, thank you. I wonder if  
before I proceed to my submissions if we could  
have Ms. S██████ read her....

THE COURT: I am just going to make a finding.

MS. KINGSMILL: Oh, sorry.

THE COURT: Yes, that's fine. Ms. Best, on the  
basis of the facts as we have clarified them, I  
find you guilty, and based on your plea, I find  
you guilty of assault on Ms. Sreevasu. All  
right, you may be seated.

...

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09.  
Certification

Certificate of Transcript  
Evidence Act, Subsection 5(2)

I, Elaine Paquette, certify that this document is a true and  
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Puusa.



February 16, 2023

Date

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Elaine Paquette

Authorized Court Transcriptionist