Citation: R v Bone, 2026 MBCA 92
Date: 20261117
Docket: AR25-30-10214

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Diana M. Cameron
Madam Justice Karen I. Simonsen
Madam Justice Lori T. Spivak

B E T W E E N:

	)	***K. L. Jones***
HIS MAJESTY THE KING	)	*for the Appellant*
	)	
Respondent	)	***M. Moorthy***
	)	*for the Respondent*
- and -	)	
	)	*Appeal heard and*
CHRISTOPHER CURTIS BONE	)	*Decision pronounced:*
	)	***November 4, 2026***
(Accused) Appellant	)	
	)	*Written reasons:*
	)	***November 17, 2026***

On appeal from *R v Bone*, 2024 MBKB 134 [*Bone*]

SPIVAK JA (for the Court):

[1] The accused appealed his conviction for second degree murder. He argued that the trial judge misapprehended the evidence, erred in her assessment of the direct and circumstantial evidence, and rendered an unreasonable verdict.

[2] After hearing the appeal, we dismissed it with reasons to follow. These are those reasons.

[3] The murder took place at a bar in Winnipeg where both the victim and the accused were present and had interacted that night. The victim was shot four times following an altercation with a patron. The issues at trial were the identity of the shooter and whether there was sufficient evidence of provocation to reduce the offence to manslaughter.

[4] The Court heard testimony from a number of witnesses who were present at the bar that evening. The evidence established, and the accused conceded, that, while at the bar, he sat in the last chair at the northeast end of a bar top to the left of a wooden divider. A taxicab driver who drove him to the bar and attended inside testified that the accused had a backpack with him. The bartender (Ms. Ateah) and her friend (Ms. Campbell), who sat next to the accused, both testified that the man beside Ms. Campbell became involved in a verbal confrontation with the victim who was removed by the head of security (Mr. Samura). As he was removed, Ms. Ateah saw the man make a shooting gesture with his hands. Neither Ms. Ateah nor Ms. Campbell witnessed the shooting but heard shots and saw the victim fall, and did not see the man thereafter.

[5] The only witnesses who observed the shooting were Mr. Samura and Mr. Celones, the karaoke host at the bar that evening. Mr. Samura testified that, while the victim had altercations with other patrons that night, he was called to the bar on three occasions in the hour or so before the shooting to deal with arguments between the victim and the shooter who he indicated was seated very close to the end of the bar. On the second occasion, the victim was escorted out of the bar but returned. (According to Mr. Obiyor, another security person who assisted Mr. Samura in removing the victim, the victim threw a water bottle toward the person he had been arguing with at that time.)

Shortly thereafter, the third time Mr. Samura re-attended to the same area, he saw the shooter, who was walking toward him, pull a rifle from his backpack and shoot the victim. Mr. Samura then observed the shooter put the gun in a backpack, which was picked up by another individual, and flee out the Ellice Avenue doors, being the first person to exit after the shooting. Mr. Celones also testified that he saw the victim having an argument with another patron who shot him. He indicated he saw the shooter hand the gun to someone else and exit through the Ellice Avenue doors. While Mr. Celones identified the accused as the shooter from a photo pack shown to him by the police, Mr. Samura did not.

[6] Video surveillance showed the accused leaving through the Ellice Avenue doors right after the shooting, followed by a man carrying a backpack right behind him.

[7] The trial judge had serious concerns about Mr. Celones' reliability, given the considerable inconsistencies in his testimony, and did not rely upon his evidence. She considered the remaining witnesses to be "largely credible and reliable" (*Bone* at para 12) and noted that their testimony was corroborated by the DNA and physical evidence and the video surveillance. She found that the shooter, whom Mr. Samura had been dealing with "at the far northeast end of the bar", was the accused (*ibid* at para 53). In the course of her reasons, she stated that this was not entirely, or even largely, a circumstantial case and there was ample direct and reliable evidence that the accused was the shooter. She ultimately concluded that she was satisfied on the totality of the evidence that the only reasonable conclusion was that the accused was the shooter. She held that there was insufficient evidence of provocation.

[8] The accused appealed on the basis that the trial judge misapprehended the evidence of Mr. Samura and failed to appreciate and apply the principles regarding circumstantial evidence and reasonable doubt, which led to an unreasonable verdict.

[9] In *R v Whiteway (BDT) et al*, 2015 MBCA 24 at paras 31-32, Mainella JA summarized the standard of review where a misapprehension of evidence is alleged. He noted that a misapprehension of evidence may refer to a mistake as to the substance of evidence, a failure to consider evidence relevant to a material issue or a failure to give proper effect to evidence. A misapprehension must be readily obvious and be relevant to a material issue (see *ibid* at para 32).

[10] The standard of review for an allegation of an unreasonable verdict is whether the verdict, based on the whole of the evidence, is one that a properly instructed jury, acting judicially, could reasonably have rendered (see *R v Bannatyne*, 2024 MBCA 40 at para 17). Where the Crown's case depends on circumstantial evidence, an appellate court must determine whether the trier of fact, acting judicially, could reasonably be satisfied that the accused's guilt was the only reasonable conclusion available on the totality of the evidence (see *R v Villaroman*, 2016 SCC 33 at para 55 [*Villaroman*]).

[11] The accused argued that the trial judge materially misapprehended Mr. Samura's evidence about where the shooter was sitting at the bar in finding that this was the accused, as he asserted that Mr. Samura placed the accused to the right of where the accused was sitting. We do not agree. A misapprehension of the evidence is not to be confused with a different interpretation of the evidence than the one adopted by the trial judge.

Mr. Samura's evidence as to where the shooter was located was, at times, imprecise and referred generally to the area in which he was seated, not to his exact location, often referring to the left area near the end of the bar. It was open to the trial judge to interpret the whole of his evidence to be that the man whom he had been dealing with and who shot the victim was sitting at the far northeast end of the bar, to the left of the wooden divider, where the accused was sitting. There is no readily obvious error warranting appellate intervention.

[12] The accused also argued that, since the identification of the accused as the shooter was based on circumstantial evidence, *Villaroman* applied and required the trial judge to exclude all other reasonable possibilities inconsistent with his guilt, which he said she failed to do. We are not convinced that the trial judge erred as the accused contends.

[13] Having rejected the evidence of Mr. Celones (the only witness who saw the shooting and identified the accused), the trial judge had to consider all of the remaining evidence, including that of Mr. Samura, to determine whether this proved beyond a reasonable doubt that the identity of the shooter was the accused. In doing so, she did apply the principles from *Villaroman*. It is unfortunate that the trial judge's language and reference to direct evidence was imprecise and could have been clearer. However, a fair reading of her reasons in their entirety indicates that she considered the direct evidence of the witnesses who saw various aspects of what happened, which was corroborated by the DNA and video surveillance evidence, as supporting an inference that the accused was the shooter. She stated that "[w]hile no one person whose evidence [she] accepted saw the entire series of events, and was able to later identify the shooter, each of the witnesses gave direct evidence

of what they had witnessed, which when all considered together paint[ed] a clear picture of who shot [the victim]" (*Bone* at para 53). Upon reviewing all the evidence, she concluded that she was "satisfied on the totality of the evidence that the only reasonable conclusion [was] that [the accused] was the shooter. All of the evidence, when considered together, [made] this conclusion inescapable" (*ibid* at para 55).

[14] We are not of the view that the trial judge's conclusion that the evidence excluded any reasonable alternatives to guilt was unreasonable. To the contrary, the circumstantial evidence against the accused is overwhelming and amply supports the trial judge's conclusion. It was essentially unchallenged that the accused sat at the end of the bar; had altercations with and made a shooting gesture at the victim who was removed from the bar; interacted with Mr. Samura; had a backpack; and was the first to exit the Ellice Avenue doors immediately after the shooting with a man behind him carrying a backpack. Further, the record supports the trial judge's finding that the same person whom Mr. Samura had been dealing with and who shot the victim was the accused. In light of all the evidence, it is entirely understandable why she rejected the accused's contention that it was reasonably possible that the shooter was another patron with a backpack in the same general area of the bar who had a conflict with the victim, who interacted with Mr. Samura and who left immediately after the shooting.

[15] For these reasons, we dismissed the appeal.

Spivak JA

Cameron JA

Simonsen JA