On appeal from a decision of a Provincial Court Judge delivered on January 15, 2025.

Date: 20251202
Docket: CR 25-01-40462
(Winnipeg Centre)
Indexed as: R. v. Krulicki
Cited as: 2025 MBKB 144

COURT OF KING'S BENCH OF MANITOBA

B E T W E E N:

HIS MAJESTY THE KING,	)	
	)	
respondent,	)	Josh A. Weinstein
	)	for the appellant
- and -	)	
	)	
	)	Adam D. Gingera
LAURIE ANN KRULICKI,	)	for the respondent
	)	
(accused) appellant.	)	
	)	JUDGMENT DELIVERED:
	)	December 2, 2025

LANCHBERY J.

INTRODUCTION

[1] Laurie Ann Krulicki (the appellant) was convicted of failing to have due regard for safety while operating an emergency vehicle under section 106(4) of ***The Highway Traffic Act***, C.C.S.M. c. H60 (the ***HTA***).

[2] The appellant was sentenced to a reprimand with costs waived on January 15, 2025.

[3] The appellant appeals her conviction submitting her conviction was a miscarriage of justice, and the learned trial judge committed a mistake of law. The appellant seeks a quashing of her conviction by entering an acquittal, or in the alternative, an Order remitting the charge back to Provincial Court for a new trial.

BACKGROUND

[4] The appellant is a Constable with the RCMP. The appellant was on patrol on August 1, 2023, when at 1:20 a.m. a vehicle passed her going at 123 kilometres per hour which increased to 132 kilometres per hour when she activated her emergency equipment. The speeding vehicle did not slow down or pull over. A high-speed chase ensued. The evidence before the learned trial judge was, at the start of the pursuit the posted speed limit was 90 kilometres per hour on a divided highway. The pursuit, totalling 4.6 kilometres, continued when the posted speed limit became 70 kilometres per hour. The 4.6 kilometre pursuit reached speeds of 187 kilometres per hour before ending, when the vehicle being pursued was involved in a collision at the intersection of Inkster Boulevard and McPhillips Street, which is within the City of Winnipeg, Manitoba.

[5] At the trial, an Agreed Statement of Facts was entered into the record. The appellant testified on her own behalf. Her supervisor testified on behalf of the Crown.

Appellant's Position

[6] The appellant submitted the judge's factual findings are entitled to deference and the trial judge's ultimate ruling is subject to a review for correctness. (***R. v. Shepherd***, 2009 SCC 35)

[7] The appellant noted that the learned trial judge could not agree that "Constable Krulicki's pursuit of this driver was necessary at this rate of speed for such a prolonged distance", therefore breached police policies and therefore, was not operating her police vehicle with due regard for the safety of herself and the public. Further, the learned trial judge noted the issue of safety is not one solely to be determined by speed or the RCMP policies.

[8] Ms. Krulicki argues the learned trial judge's analysis of the RCMP policy is deficient as what is left is only the appellant's speed. By focussing on speed, the learned trial judge failed to consider all the surrounding circumstances that showed the appellant's due regard for safety.

[9] The appellant cites ***Mann v. The Queen***, 1966 SCC 5 (at para. 31) which states:

> Every person is guilty of the offence of driving carelessly who drives a vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway and is liable to a fine…

[10] This offence is similar to careless driving. Under the ***HTA***, the phrase "due regard for safety" is also associated with careless driving. In ***R. v. Trudeau***, 2019 MBPC 37 (at para. 49), the Manitoba Provincial Court found the principles to be applied:

(a) the evidence must be such as to prove beyond a reasonable doubt that the accused drove without due care and attention or without reasonable consideration of others;

(b) the standard of care and skill is not one of perfection. Rather, it is a reasonable degree of skill, and what an ordinary person would do;

(c) the use of the term "due" means care owing in the circumstances, recognizing that the factual matrix may change;

(d) the driver is not required to show perfect nerve; and

(e) the standard is objective, impersonal and universal, but in no way related to the degree of proficiency or experience of a particular driver.

[11] The evidence is that the appellant was driving with due care and attention, as well as reasonable consideration for others. The appellant submits the only element of her driving missing was her speed.

[12] Regarding the road consideration, the roads were clear, there were no pedestrians about, limited traffic and this was a dynamic situation the appellant was evaluating as circumstances changed. The learned trial judge connected the appellant's speed to the resulting crash, which improperly judges the actions of the vehicle being pursued as opposed to the appellant's driving. The evidence shows the appellant was slowing her vehicle when the traffic lights were red which confirms her due care and attention.

[13] Applying ***Trudeau*** to these fact circumstances, the learned trial judge erred focussing on the accident and not the appellant's driving.

[14] The appellant submits that in dangerous driving charges (***R. v. Lawless (G.)*** (1997), 1997 CanLII 23766 (NB PC)), that mere inadvertent negligence, whether of the slightest type or not, will not necessarily sustain a conviction for careless driving (***Regina v. Wilson***, 1970 CanLII 365 (ON CA).

[15] In ***R. v. Cooke***, 2001 CanLII 17868 (MB PC), at para. 85, Joyal, P.J. (as he then was) found:

> It is an ordinary standard of care that attaches to the factual circumstances encountered by a particular accused. Accordingly, it is well to remember that such a standard by necessity, is a factual standard that is constantly shifting by virtue of the variety of conditions that will exist in particular cases. What is common to

> and universally recognized in all situations, whatever the conditions, if the expectation of "ordinary care" and not a standard of perfection.

Crown's Position

[16] The Crown's position is the appellant's complaint is that the learned trial judge's findings did not coincide with her submissions at trial. The Crown argues the factual matrix where a pursuit, captured on video, began on a divided highway with a posted maximum speed of 90 kilometres per hour, progressed into a mixed industrial/residential area where the posted speed changed to a posted maximum speed of 70 kilometres per hour. Where other motorists were passed by the target vehicle, it sped through intersections with the appellant in pursuit.

[17] The court's jurisdiction is found in subsection 79(1)(a) of ***The Provincial Offences Act***, C.C.S.M. c. P160. In ***R. v. McDonald***, 2020 MBCA 92 (at paras. 6 and 7), the court addressed the standard of review for determining whether a verdict is unreasonable:

> To decide whether a verdict is unreasonable, an appellate court must determine whether the verdict is one that a properly instructed jury or a judge could reasonably have rendered (see *R v Yebes*, 1987 CanLII 17 (SCC), [1987] 2 SCR 168; and *R v Biniaris*, 2000 SCC 15). A verdict may be unreasonable if the trial judge draws an inference or makes a finding of fact essential to the verdict that is contradicted by the evidence from which it was drawn or makes a finding of fact that is demonstrably incompatible with evidence that is neither contradicted by other evidence nor rejected by the trial judge.
>
> An unreasonable verdict appeal requires an appellate court to "re-examine and to some extent reweigh and consider the effect of the evidence. This process will be the same whether the case is based on circumstantial or direct evidence" (*R v Sinclair*, 2011 SCC 40 at para 79 quoting *Yebes* at p 186). In reviewing the reasonableness of a verdict, an appellate court must defer to the trial judge's evaluation of the evidence and findings of credibility (see *R v W (R)*, 1992 CanLII 56 (SCC), [1992] 2 SCR 122 at 131). Absent a palpable and overriding error by the trial judge, his or her factual findings should be respected (see *R v Gagnon*, 2006 SCC 17 at paras 19-20).

[18] In ***R. v. Whiteway (B.D.T.) et al.***, 2015 MBCA 24, a misapprehension of the evidence must be considered where the misapprehension was "central to the trial judge's reasoning".

ANALYSIS

[19] The learned trial judge's decision recites the evidence of the appellant's supervisor, Staff Sergeant Jason Vrooman, concerning RCMP policies on pursuits. The learned trial judge correctly noted "those policies do not preclude officers from engaging in pursuits".

[20] The learned trial judge also described "this as a difficult case because as a society we ask police officers to put themselves in inherently dangerous situations to protect us". He also noted, "It is further complicated as this officer was working alone and had to make split second decisions while driving a motor vehicle".

[21] The learned trial judge also correctly applied the law when he noted "police officers are permitted to exceed the speed limit under the ***HTA***. However, he found "travelling at two and a half times the legal speed limit is extremely dangerous."

[22] In answer to much of the appellant's factum, the learned trial judge turned her attention to police policies. The trial judge found those policies "are not determinative in the matters before the Court". He, once again, finds "I cannot agree with the defence position that Constable Krulicki's pursuit of this driver was necessary at this rate of speed for such a prolonged distance. (emphasis added)

[23] The reasons of the learned trial judge clearly indicate he inferred the excessive rate of speed, the changing conditions of the road itself, the passing of other vehicles, the travelling through intersections at this rate of speed, and the change from a rural

area with a divided highway to a mixed industrial/residential neighbourhood were such that a dangerous condition existed and "Laurie Krulicki was not operating her police vehicle with due regard for the safety of herself and the public under these circumstances".

[24] Ms. Krulicki argued that a review of the video captured by the officers onboard video camera shows no pedestrians were present on the roadway during the highspeed pursuit, and slowed where appropriate during the entire pursuit; suggesting the officer's driving was therefore with due regard for the safety of herself and the public under these circumstances.

[25] I am not convinced the fact that there were no pedestrians, cyclists, animals, or any hazard on the roadway is sufficient to show due regard for the safety of herself and the public. As noted by the learned trial judge, excessive rate of speed was at the core of his decision. The suggestion is I should evaluate the learned trial judge's findings on outcome rather than "the due regard for the safety of herself and the public". The excessive rate of speed in this case is 97 kilometres per hour as the pursuit began, and as much as 117 kilometres per hour when the speed zone changed to 70 kilometres per hour. It is this excessive speed which matters. The question before the learned trial judge was not whether the outcome of the pursuit did not result in an accident involving the RMCP cruiser, but whether the circumstances alone are sufficient to support a conviction.

[26] Applying the standard in ***Cooke*** to the shifting factors faced by Krulicki as identified by the learned trial judge as noted above, these factors, especially Krulicki's

excessive speed, identify the increased risks to safety for herself and the public. Based on the learned trial judge's finding, I find there was no misapprehension of the evidence by the learned trial judge.

[27] Deference is owed to the factual finding of the learned trial judge and I find no reason to disturb those findings based on the record before me. Applying the correctness standard of review, the learned trial judge committed no palpable and overriding errors in reaching the decision. Therefore, I dismiss this appeal.

_____ J.