

5

ONTARIO COURT OF JUSTICE

10

HER MAJESTY THE QUEEN

v.

15

LIAM GREAVES and BLAKE TRAUTMANN

R E A S O N S F O R J U D G M E N T

20

BEFORE THE HONOURABLE MR. JUSTICE B. ZABEL
on May 19, 2021 at HAMILTON, Ontario

25

APPEARANCES:

30

C. Hopkins

Counsel for the Crown

J. Abrams

Counsel for L. Greaves

A. Confente

Counsel for Blake Trautmann

1.
Reasons for Judgment
Zabel J.

WEDNESDAY, MAY 19, 2021

R E A S O N S F O R J U D G M E N T

5 ZABEL J. (Orally):

10 Liam Greaves and Blake Trautmann were arraigned on the information before the court, the Crown having elected to proceed by summary conviction, and the arraignment is as follows:

15 That on or about the 4th day of October in the year 2019, that they both did commit mischief, the value of which did not exceed \$5000, in relation to a building, structure or part thereof that is primarily used for religious worship, to wit: Beth Jacob Synagogue, for reasons of bias, prejudice or hate, based on religion, race or national ethnic origin, contrary to Section 430(4.1) of the
20 *Criminal Code of Canada.*

25 And the second and last count in the information, and further Liam Greaves, on or about the 4th day of October in the year 2019, at the City of Hamilton, did commit mischief in relation to property situated at Kent Street, Hamilton, Ontario, by willfully damaging the sidewalk of a value not exceeding \$5000, contrary to the provisions of Section 430(4) of the *Criminal Code of Canada.*
30

Each accused entered a plea in regard to count one

2.
Reasons for Judgment
Zabel J.

5 to mischief simpliciter. That was not accepted by the Crown. The court entered pleas of not guilty on behalf of each accused to the first count as arraigned. Mr. Greaves then entered a plea of guilty to count two and the matter proceeded to trial.

10 The onus is on the Crown to prove the guilt of each accused on count one, beyond a reasonable doubt. In my deliberations, I am mindful of the essential elements of count one. I have reviewed all of the exhibits filed and carefully reviewed all the evidence presented as recorded in my personal notes and the trial transcript. I have as well considered the submissions of counsel and the caselaw referred to. I found Justice Kenkel's 15 decision in *R. v. Ghaffair* to be of particular assistance. Finally, I am mindful of the directions to triers of fact by the Supreme Court of Canada in *W. (D.)*. 20

25 At the outset of this trial, an agreed statement of fact was filed as Exhibit 1 which also included attached photographic evidence. Reading from the agreed statement of fact:

30 On the evening of Friday, October 4, 2019, Liam Greaves, Blake Trautmann and two youths were drinking at Trautmann's house, the residence at **Address**. [It then says], see map attached as appendix A. And around 10:00 p.m., the group left to walk to

3.

Reasons for Judgment

Zabel J.

Boulevard Billiards at Queen Street North and York Boulevard. As he left the residence, Trautmann grabbed two pieces of sidewalk chalk.

5

The group went onto the property of Beth Jacob Synagogue located at 375 Aberdeen Avenue and Greaves used the red piece of sidewalk chalk to draw the word 'Jews' in a circle with a line through it on the asphalt on the west side of the parking lot. Nearby, Trautmann drew a swastika on the asphalt in yellow chalk on the east side of the parking lot, and one of the group drew another 'No Jew' symbol in yellow chalk. The drawings referred to are attached to Exhibit 1 as photographic evidence.

10

15

The group continued through the parking lot to Mountain Avenue and then along Aberdeen to Kent Street. On Aberdeen or Kent, the youth drew a penis with the words 'Sign Heil'. On Kent, between Aberdeen Avenue and Homewood Avenue, Greaves wrote on the sidewalk, '15 percent population, 50 percent crime equal blacks'.

20

25

On Saturday, October 5th, 2019 at 9:15 a.m., police were dispatched to Beth Jacob Synagogue after synagogue employees and community members discovered the antisemitic graffiti in the parking lot. To mitigate the impact on

30

Reasons for Judgment

Zabel J.

the community, police parked their cruisers on top of the graffiti until photographs could be taken and the graffiti cleaned up.

Photographs of the "No Jews" symbols are at appendix B. The swastika drawn by Trautmann was not photographed.

Also, on October 5th, at approximately 12:30 p.m., Megan(ph) Meredith was walking on Kent Street when she observed the writing about black people on the sidewalk. The writing was scuffed as if others had tried to rub it away. She took a picture of the writing and then removed it using a bottle of water. After seeing the news of the incident at the synagogue, Meredith forwarded the photo to the city council's office, which in turn contacted the police. The photograph Meredith took is at appendix C.

Police recovered surveillance video from the synagogue. It captures a group of four male suspects walking through the parking lot and doing the chalk drawings. The group took approximately 90 seconds to traverse the synagogue parking lot.

On Wednesday, October the 9th, Hamilton Police Service detectives were contacted by a lawyer of one of the involved parties indicating that his client would attend at Central Police Station to speak to police. Shortly

Reasons for Judgment

Zabel J.

5 thereafter, a youth attended and provided a statement. He identified the four men in the surveillance video. He advised that Greaves had written the "No Jews" sign and either Trautmann or Greaves had drawn the swastika. A short time later, another youth arrived at Central Police Station to speak with police, and he confirmed the information provided by the previous youth.

10 On Thursday, October 10th, both accused before the court attended Central Police Station. After speaking with counsel, they provided video statements in which Greaves admitted to drawing the red "No Jews" symbol, and 15 Trautmann admitted to drawing the swastika. Greaves further admitted that he was responsible for the graffiti located on Kent Street.

20 The two accused were the only persons to testify at this trial. I will now highlight the relevant portions of their testimony:

25 Mr. Greaves, who at time of testimony was 21, but 19 at the time of the offence, indicated that he does not hold any Semitic or racist beliefs, "None of us did", and he also said, "but would make racist and Semitic jokes at the time". He thought 30 it was funny to shock people with this type of racial humour as it always got a reaction.

Reasons for Judgment

Zabel J.

5 He then indicated that on the evening in question, they got together around 8:00 p.m. at Mr. Trautmann's house, "With an intention to be drunk by the time we arrived at the poolhall". They did not want to pay for alcohol at the poolhall so they got drunk. They were drinking Jell-O vodka at Mr. Trautmann's house and drank more than normal. He admitted that he knew the house was across the street from the synagogue.

10 He indicated further in his testimony that they were at Blake's for an hour or two, got to the synagogue around nine-thirty and then he said, "Blake took chalk as we were going to pool, and it was done at the last minute". No discussions were had at the house in regard to any drawing of symbols and so on.

15 He admitted he wrote the symbol in the parking lot. He wanted the reaction by doing that from his friends who laughed at it. He said he drew a Jews message first and then crossed it out. As well, he admitted to the drawing on Kent Street, which he thought was funny, and he did it to get his friends' reaction. Under cross-examination, he confirmed again there was no discussion ahead of time before the drawing of the markings in question.

20
25
30 His video statement to the police was played to point out a contradiction as to when he got up on the day after the incident. So, there is a

Reasons for Judgment

Zabel J.

5 contradiction between his testimony in that regard and his video statement to the police. And also, the video was played to him and he admitted that he was walking relatively normal at the parking lot of the synagogue.

10 Under cross-examination, of relevance to the issues at hand, cross-examination by Crown counsel of Liam Greaves' transcript of the trial, page 40, starting at the top:

QUESTION: Growing up in school, you learned about the Holocaust, right?

ANSWER: Yes.

15 QUESTION: And so, you knew what that is?

ANSWER: Yes.

20 QUESTION: You knew that it was a systematic killing of Jewish people in Europe in World War II?

ANSWER: Yes.

25 QUESTION: You probably learned or heard, at some point, that approximately six million Jewish people were killed in a few years?

ANSWER: I was fairly familiar with the history.

30 QUESTION: And you were familiar with the history back in October 2019?

ANSWER: I - I was.

QUESTION: So, you understood that when someone saw that, "No Jews" symbol, there's a whole context in history associated with that, right?

Reasons for Judgment

Zabel J.

ANSWER: Yes, although I don't believe I was thinking about who would see it at the time.

QUESTION: Okay. You specifically drew it at the synagogue, right?

ANSWER: Yes.

QUESTION: You didn't draw it out on Kent Street, for example, right?

ANSWER: Yes. That's because, you know, I knew it was a synagogue and I knew that putting, you know, antisemitic symbols would, you know, yield the most, you know, shocking results.

QUESTION: Right. It's particularly shocking or offensive to put it in that place, right?

ANSWER: Yes.

QUESTION: Okay. You would agree that anyone, and I'm not talking about what you meant, but anyone that saw that would consider it to be a hateful symbol?

ANSWER: Oh, definitely.

THE COURT: Sorry, considered to be?

MS. HOPKINS: A hateful symbol, Your Honour.

THE COURT: Your answer, sir?

ANSWER: Yes, yes.

QUESTION: And you knew that on that night?

ANSWER: Yes.

QUESTION: In fact, that's why you put it there because it was offensive?

ANSWER: Yes.

QUESTION: And you told us as well, you're trying to make your friends laugh, right?

9.
Reasons for Judgment
Zabel J.

ANSWER: Mm-hmm.

QUESTION: It was offensive and that was funny at the time, right?

ANSWER: Yes.

QUESTION: And you also knew that symbols like this, you knew that people reacted badly to symbols like this because you experienced that in the past, right?

ANSWER: Yes, but to a lesser degree.

And then turning to page 42 of the Crown's cross-examination, starting question at line 26:

QUESTION: On that night, you knew that if people saw this, they were going to be offended and hurt by it, right?

ANSWER: Yes, but that wasn't my intention.

QUESTION: Understood, but you knew it was a foreseeable consequence?

ANSWER: Yes.

QUESTION: And you knew that this was a synagogue, right?

ANSWER: Yes.

And then:

QUESTION: You knew that a synagogue is a gathering place for the Jewish community?

ANSWER: Yes.

QUESTION: You knew that people from the Jewish community would likely see the symbol?

ANSWER: Yes.

Reasons for Judgment

Zabel J.

QUESTION: You knew that they would be offended by the symbol, right?

ANSWER: Yes.

QUESTION: Hurt by it?

ANSWER: Yes.

QUESTION: You thought that was funny?

ANSWER: Again, I wasn't really at the time — the reason I thought it was funny was more so that's the type of humour that our friend group kind of often times enjoyed. I wasn't thinking about the people seeing it. Like, I put it on the ground not for anyone really else to see besides my friends' group, that was the intention.

QUESTION: If that was the intention, why leave it there for everyone else to see?

ANSWER: That's a really good question and it's something I think about a lot.

QUESTION: Is it fair to say that on that night you were indifferent to the pain that this would cause to the Jewish community?

ANSWER: In a way, yes.

QUESTION: And you're also indifferent to, we can say, the trauma that had historically — they had historically experienced?

ANSWER: Yes.

QUESTION: And you were entertained by it?

ANSWER: Not by — not by their trauma.

QUESTION: Well, wasn't it funny because it was offensive?

ANSWER: Yes, yes, I knew — you could say, yes, I was — you know, I was entertained by, you know, that — the horrible actions of the

Reasons for Judgment

Zabel J.

Nazi party just simply for the fact that they were horrible.

QUESTION: You know what the word bias means?

ANSWER: No.

QUESTION: The definition I looked up was, "Prejudice in favour or against one thing, group or group compared with another". You would agree with that?

ANSWER: Yes.

QUESTION: So, don't you think the fact that you thought this was funny indicates, maybe not intentional prejudice by you, but an underlying prejudice?

ANSWER: I was amused by all varieties of offensive behaviour, not specifically racist against any particular group, although probably, you know, Jewish people got the majority of the jokes, but you know, we would joke about any sort of ethnic group. We would joke about being murderers, they are having their children in our houses. Just anything that was, you know, just counter-culture, I guess we thought of it as.

QUESTION: This night you didn't graffiti any of the churches on Locke Street, for example?

ANSWER: I - oh yes, but I wasn't sure if we took Locke Street.

QUESTION: Isn't Kent like a side street that goes - lets you avoid Locke Street?

Dealing next with the testimony of the co-accused, Mr. Trautmann. His testimony confirms the initial part of the previous accused testimony. He said he was at his home. His mother and father were home. Friends started arriving at 6:00 p.m. and the rest came around eight. They're all close

Reasons for Judgment

Zabel J.

5 friends. Started to drink a lot of vodka, vodka
Jell-O shots, half a 40-ounce of vodka, also drank
coolers. Cannot remember the exact amount, but
they were drunk as they left.

10 He indicated, "There's no discussion of what way
we'd go to the poolhall", and the synagogue is
left - little to the left of his house. They
decided to cut across Mountain Avenue and he said,
"He took chalk with me to draw silly things on the
sidewalk". It was his idea. "Took two chinks in
his hand, then handed one out to someone else".
15 Again, he confirmed there was no discussions ahead
of time about drawing this and it was his idea to
draw. No discussion with the others.

20 And then he indicated that it popped into his head
to draw a swastika, and "Popped up in my head, not
sure why. I just scribbled it not knowing the
consequences". Again, no talk about this drawing
ahead of time and he is not sure what the co-
accused drew. "Thought it was funny at the time.
Someone laughed at my drawing". He then indicated
25 that, he didn't draw this out of hate for the
Jewish people. He's not antisemitic. In regard
to the swastika, he admitted he knew it was a bit
offensive to the Jewish community.

30 Again, of relevance is the cross-examination of
the accused by Crown counsel, and referring then
again to the trial transcript, page 96, starting
at line 19:

Reasons for Judgment

Zabel J.

5
QUESTION: And you knew if someone from the synagogue saw it, it would be considered offensive or hurtful for them?

ANSWER: Yeah.

QUESTION: And you didn't — you didn't think about that?

ANSWER: I didn't, not a single thought of that popped into my head.

10
QUESTION: You didn't really care about that?

ANSWER: I'm not too sure. I don't remember much.

15
QUESTION: I'm going to suggest to you that you thought it was funny that people might see the symbol and be offended by it, right?

ANSWER: "Right."

20
QUESTION: I'm going to suggest, as well, that in — that in and of itself shows an underlying bias towards that group?

ANSWER: Can you explain to me what that means again, sorry?

QUESTION: Sure.

ANSWER: So, I forgot a little bit.

25
QUESTION: Let me go back to the definition I gave Liam.

ANSWER: Yeah.

30
QUESTION: I suggested to him that bias means prejudice in favour of or against one thing, person or group compared with another.

ANSWER: Right, okay.

QUESTION: You weren't concerned with what the swastika — how the swastika would affect the

14.
Reasons for Judgment
Zabel J.

community?

ANSWER: At the current time in complete intoxication, no.

QUESTION: But you did know it would be offensive to them, right?

ANSWER: Yeah.

QUESTION: That's why you put it there, right?

ANSWER: Yeah.

In assessing the credibility of both accused, I reject their testimony that the drawings in question were not preplanned but spontaneous acts, simple, funny jokes to get laughter out of their friends. Their testimony in that regard is contrived, strange [indiscernible] and I reject it. I find that they were armed with the chalk and the purpose was not to draw silly things on the sidewalk, as evidenced by their answers in cross-examination, which I have highlighted from the transcript. I reject their testimony. I adopt and accept the Crown's fair, balanced and persuasive oral submissions in that regard found on pages 129 to 130 of the trial transcript.

I also reject that they were too intoxicated at the time. A review of the video as played, we note that they do not appear to be stumbling or flopping all over the place. As well, we see the markings that were filed as exhibits to be quite well drawn, which leads me to make a reasonable assumption that they were not as drunk as they said they were when they committed these acts.

15.
Reasons for Judgment
Zabel J.

5 Having found their testimony not to be credible,
and I further find that on the totality of their
testimony, a reasonable doubt was not raised and
as well, on consideration of everything presented
to me, I make the following findings:

10 The parking lot in question is clearly part of the
Beth Jacob Synagogue. Considering the types of
markings, which the accused knew were offensive to
the Jewish members of the synagogue and where they
were placed, leads me to the inescapable
15 conclusion that they were intentionally placed
there because of each accused' animus, based on
religion and race towards the Jewish members of
that house of worship.

20 There is no evidence that raises a reasonable
doubt. Accordingly, I find the Crown has proven
the guilt of each accused on each count as
arraigned beyond a reasonable doubt.

25 Dealing with count two upon which a plea of guilty
was entered by Mr. Greaves, a finding of guilt is
registered.

30 Finally, the Crown has asked me to make a finding
under Section 718.2(1) of the *Criminal Code* that
both offences, count one and two were hate crimes.

Considering everything presented to me, I find
that finding is appropriate in regard to both

16.
Reasons for Judgment
Zabel J.

counts as arraigned, and that finding of each count being a hate crime is registered as requested by the Crown.

5

10

15

20

25

30

19.
Certificate

Form 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

5

10

15

20

25

30

I, Janet Smith, certify that this document is a true and accurate transcript to the best of my skill and ability (and the quality of the copy of the recording and annotations therein) of the recording of Regina v. Liam Greaves and Blake Trautmann in the Ontario Court of Justice at Hamilton, ON, taken from Recording No:

4711 306 20210519 094517 6 ZABELB.dcr which has been certified in Form 1.

November 19, 2021

Date



Signature of Authorized Person
Janet Smith

ACT # 2474492821

asapcourttranscripts@gmail.com