

**File No: 173857-1-K
Registry: Vancouver**

In the Provincial Court of British Columbia

REGINA

v.

WILLIAM GEORGE ANDERSON

**REASONS FOR JUDGMENT
OF
THE HONOURABLE JUDGE LOW**

COPY

Crown Counsel:	J. Cryder
Defence Counsel:	M. Mines
Place of Hearing:	Vancouver, B.C.
Date of Judgment:	July 25, 2006

[1] THE COURT: Mr. Anderson is charged with assaulting his former friend Sandra Groome on January the 29th, 2006. Mr. Anderson and Ms. Groome had known each other off and on for some period of time prior to that date. As was their custom from time to time, they got together for a weekend of I'll call it partying. They spent Friday night together, and apparently, everything went well, no incidents. The next day, that would have been the 28th of January, sometime during the evening of the 28th of January they bought 12 beers and what Mr. Anderson described as a magnum of wine and went back to Mr. Anderson's apartment and drank some of this alcohol. Mr. Anderson testified that they split the beer equally and each had about one third of the wine. Ms. Groome testified she only drank three of the beer and virtually none of the wine.

[2] At some point after that -- and again, apparently, they were having a nice social time, one of Mr. Anderson's neighbours came and spent a brief period of time there. At some point when they were alone again, Mr. Anderson, according to Ms. Groome, suggested they smoke some crack cocaine, and when Ms. Groome demurred, Mr. Anderson suddenly became extremely angry and attacked her in a very vicious way, punching and biting and sitting on her. The attack was so forceful she was either rendered unconscious or fainted. When

she regained her consciousness, she left the apartment, banging on doors, looking for help, and ultimately found one of her neighbours, a Ms. Gibson, in the lobby of the hotel and the police arrived shortly after that, because they had been called by Ms. Gibson's partner, a Mr. Richardson.

[3] Ultimately, Mr. Anderson was taken into custody. Mr. Anderson was belligerent with the police. According to the police, he appeared to be more under the influence of alcohol than Ms. Groome did, although the police were equivocal about whether Mr. Anderson was drunk or sober. They thought he was intoxicated, but it's not very clear to me what condition Mr. Anderson was in.

[4] Ms. Gibson attended to some of Ms. Groome's injuries. I have photographs of both Mr. Anderson and Ms. Groome. There is no medical evidence.

[5] Mr. Anderson testified and said that after one of his old girlfriends or a female friend of his came to visit, curiously enough because she wanted to get a look at Ms. Groome, and that was followed by a phone call from an old girlfriend, and they had a 15-minute conversation on the phone about the hockey game that night. Mr. Anderson testified that maybe they were flirting on the phone. But in any event, when he got off the phone, by that time Ms. Groome was very angry at

him and holding a wine bottle by the neck, punched him in the forehead and then leapt on him, biting him, scratching him horribly. He ordered her to leave, she wouldn't. He produced money to get her to leave. She ultimately left. The police came. He agreed he was very uncooperative with the police but said that was primarily because he thought he was being treated unfairly, because he was actually the victim of all of this.

[6] That's really the evidence that I have before me. As Mr. Mines has pointed out, this is a criminal case. The onus is always on the Crown to prove beyond a reasonable doubt that Mr. Anderson assaulted Ms. Groome. There is never any onus on Mr. Anderson to prove that he is not guilty of assault. And, of course, when an accused person testifies, trial judges like myself have been told over and over again by appellate courts, including the Supreme Court of Canada, that one must treat that evidence very carefully and not be quick to dismiss it.

[7] I note the following things about Ms. Groome's evidence. She testified that Ms. Gibson's evidence -- that when Ms. Gibson was looking in the door of Mr. Anderson's apartment, Ms. Gibson had testified that she saw Ms. Groome standing over Mr. Anderson and ultimately shoved Mr. Anderson on the shoulder. Ms. Groome testified that that was a fabrication,

it just never happened. I am not prepared to reject Ms. Gibson's evidence on the point. Ms. Gibson was an objective witness, simply a neighbour enquiring about the noise that was going on from this room. She was sober. I accept what she says.

[8] Ms. Groome also testified that she had been drinking to some extent that day. Mr. Groome also testified that she admitted to being jealous of the attention that Mr. Anderson was receiving from at least the woman who telephoned. Ms. Groome testified that she was unable to resist Mr. Anderson's attack, but later conceded that she probably scratched his face but had no recollection of doing any of that and said that she felt badly about having scratched Mr. Anderson's face, which all seemed rather strange to me in the context of her evidence that Mr. Anderson without warning, without provocation had suddenly and brutally attacked her.

[9] I note that Ms. Groome and Mr. Anderson are somewhat similar in size and weight. Ms. Groome testified that, as far as she could tell, Ms. Gibson came to complain about the loud music in their apartment, but the fact is, according to Ms. Gibson, is that she came to investigate a commotion that was going on in the apartment. She could hear loud thumping noises and was concerned about what was going on in the room.

[10] Ms. Groome described a terrific beating that she received from Mr. Anderson, as I've described already. She said that this beating loosened her teeth, broke one of her teeth, and as I said before, she was rendered either unconscious or she fainted from all of this. The photos that are put before me, and I note that Constable Cracknell, a police officer of some eight years' experience, testified it was one of the worst domestic injuries or the injuries that he saw were some of the worse he had ever seen from a domestic beating.

[11] But the photographs of Ms. Groome do not bear out either Constable Cracknell's evidence, or for that matter, Ms. Groome's evidence. There are certainly some injuries to her face, and I am not discounting that they are serious injuries, some rather nasty-looking scratches, but one would have thought that a person that had been punched so hard in the face that her teeth were broken would surely have had some severe bruising or some extreme swelling. There is nothing of that in the photographs, and there is no subsequent medical evidence regarding these injuries to assist me in that at all. So I am left with that as the evidence before me about her injuries.

[12] And, finally, Ms. Groome testified that when she fled the apartment, she went up and down the hallway banging on doors

looking for help and then somehow found her way down into the lobby where she found Ms. Gibson, who gave some preliminary first aid to her. That evidence, I can't say that it's contradicted, but its weight is diminished by Mr. Richardson's evidence who said that, after Ms. Gibson left Mr. Anderson's apartment, the noise continued, and he went up to the apartment, and he testified to hearing through the door, the closed door, Ms. Groome remonstrating with Mr. Anderson that he was hurting her and Mr. Anderson imitating her in a sing-song voice. But ultimately he left the hallway and went and phoned the police, and when he came back, he found Ms. Groome coming out of the communal bathroom. At least, I gathered that's what it was. In any event, out of a bathroom which exited out into the hallway, and as I understood Mr. Richardson's evidence, he basically accompanied her downstairs, and Ms. Gibson was down in the lobby, and Ms. Groome was intent on leaving. But it was only then that Mr. Richardson was able to persuade her to stay.

[13] Mr. Richardson's evidence. Again, I accept his evidence. There is no reason to reject it. He was an objective bystander, I thought, who was simply reporting what he had observed. And he also seemed to be very sympathetic to Ms. Groome, describing her as being in a very frightened condition

and suffering various injuries. But his evidence of her movements at that point in time are quite different from Ms. Groome's evidence of her movements.

[14] Mr. Anderson, as I said before, testified that Ms. Groome suddenly seemed to be consumed with anger about all the attention he was receiving from other women and attacked him. There is no question, from looking at the photographs, that he was scratched and raked all over. His face is in an awful mess, as is his neck. There is a small bump on the centre of his forehead. Whether that's consistent with being punched in the head, as described by him, or not, I don't know, but it is there. I note that Mr. Anderson sought to diminish his general use of alcohol, and that's contradicted to some extent by his record. In the last 20 years, he has been convicted twice of impaired driving. I concluded that he sought to diminish his degree of intoxication on January the 29th. Certainly, his view of his degree of intoxication was contradicted to some extent by the police.

[15] Mr. Anderson was very aggressive with the police. He called them a pig and put up an awful ruckus about being arrested. Both police officers actually, ultimately had to put him on the ground to control him. This in the context of Mr. Anderson claiming that he actually was a victim of an

assault and had been savagely attacked. While he uses that as the explanation for him being aggressive with the police, his degree of aggression with the police was very high.

[16] He testified that he had some martial art training, and the Crown points to that as a factor in Mr. Anderson's ability to either defend himself or to have at least been able to take some more objective means to control the situation other than what he did, but on the other hand, his martial arts training is very dated, and I am not really clear as to what conclusions I could draw from the martial arts training.

[17] At the end of the day, I am left ultimately with very contradictory stories. Ms. Groome testified that Mr. Anderson was growling while he assaulted her. Mr. Anderson testified that Ms. Groome was growling while she assaulted him. But as I say, I am left with two very contradictory versions of how this assault transpired or this fight transpired in the apartment. Both the credibility of Ms. Groome and the credibility of Mr. Anderson, in my mind, is suspect to some extent simply because of the fact they had been consuming alcohol and from some of the inconsistencies that I have pointed out with regards to Ms. Groome's evidence.

[18] At the end of the day, I don't know whether Mr. Anderson was defending himself, whether he and Ms. Groome got into some

consensual fight in which they scratched and tore at each other in a horrible way in the room, or ultimately, whether Mr. Anderson in some drug-deprived fog simply beat up Ms. Groome, and in her attempts to defend herself, she scratched Mr. Anderson up. I really don't know, and as a result, I have a doubt as to what really happened in that hotel room that night. I don't find that either Mr. Anderson or Ms. Groome are particularly reliable, and none of their evidence is really corroborated very much by any of the other witnesses, because, of course, they didn't really see what was going on inside the room.

[19] As a result, I am unable to conclude what really happened in the room. I have a doubt on all of the evidence as to whether the Crown has proved that Mr. Anderson actually assaulted Ms. Groome or whether it was the other way around, and of course, by law I have to resolve that doubt in Mr. Anderson's favour, and so I acquit him.

(REASONS FOR JUDGMENT CONCLUDED)