

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *R. v. Hammerstrom*,
2017 BCSC 875

Date: 20170303
Docket: 42133-2
Registry: Prince George

Regina

v.

**Angeline Louise Hammerstrom, Marie Laura Percilla Lincoln,
Morgan Allen Daniel Littlechild, Svetlana Melissa Markovick,
Cheven John Schlitt and Jesse Allan Schultz**

Restriction on Publication: Pursuant to s. 486.5 CCC

Before: The Honourable Mr. Justice Tindale

Oral Reasons for Judgment

Re: Accused Hammerstrom and Lincoln

Counsel for the Crown: J.S. Temple

Counsel for Accused Lincoln: T. Zipp

Counsel for Accused Hammerstrom: B.D. Levine

Place and Date of Trial: Prince George, B.C.
January 16 - 20, 2017;
January 23 - 25, 30 - 31, 2017;
February 1 - 2, 6 - 10, 2017;
February 14 & 15, 20 & 21, 2017

Place and Date of Judgment: Prince George, B.C.
March 3, 2017

[1] **THE COURT:** Angeline Louise Hammerstrom and Marie Laura Percilla Lincoln are charged on Indictment Number 42133-2, with the offences of kidnapping, unlawful confinement, extortion, human trafficking, sexual assault, robbery, uttering threats and assault, in relationship to the complainant, A.P. Ms. Hammerstrom is also charged with break and enter of a dwelling house located at XXX, in the City of Prince George.

[2] The allegations arise out of incidents that occurred primarily in two residences in the city of Prince George, during two separate time periods. Ms. Hammerstrom and Ms. Lincoln are both charged with offences alleged to have occurred between June 22, 2015, and July 4, 2015, primarily at the residence of Ms. Lincoln, located at YYY, which I will refer to as the “Lincoln residence”. Ms. Hammerstrom is also charged with offences alleged to have occurred between July 15, 2015, and July 21, 2015, primarily at the residence of Svetlana Melissa Markovick, located at ZZZ, which I will refer to as the “Markovick residence”.

[3] Cheven John Schlitt, Jesse Allan Schultz, Morgan Allen Daniel Littlechild and Svetlana Melissa Markovick were also charged on Indictment 42133-2. However, their matters were disposed of prior to this trial of Ms. Hammerstrom and Ms. Lincoln. At the beginning of this trial Crown directed Madam Clerk to enter a stay of proceedings on counts 19 and 20 of the indictment.

Issues

[4] The issue on this trial is primarily the credibility of the complainant, A.P.

Evidence

[5] The relevant evidence in this case can be summarized as follows:

The Crown

A.P.

[6] A.P. testified that she started using heroin in approximately 2010 and she used heroin for most days in the summer of 2015, and spent approximately \$100 a day for heroin. She also testified she was using crystal methamphetamine on a daily basis during this time period.

[7] A.P. testified that in June of 2015, the day after the B.C. Income Assistance payments were made, which is colloquially referred to as 'Welfare Wednesday', she was living in the area of XXX in Prince George. At approximately 8:00 a.m. she went to the 7-11 store located on 20th Avenue. She said she had approximately \$400 left from her assistance cheque on her person. Her original cheque was for approximately \$590 but she had spent some of that money on heroin.

[8] Upon leaving the 7-11 store, Ms. Hammerstrom called A.P.'s name. A.P. had known Ms. Hammerstrom for approximately 14 years. She was at that time introduced to Ms. Lincoln. Ms. Hammerstrom referred to Ms. Lincoln as "ReRe".

[9] Ms. Hammerstrom told A.P. that she owed her money for not following through on a theft that they had planned approximately three weeks earlier. A.P. testified that she had told Ms. Hammerstrom and Morgan Littlechild about the location of guns that were owned by a friend. Those two were interested in stealing them. However, A.P. did not want to go through with the theft, as they belonged to a friend of hers. On the day of the planning of that heist, A.P. ended up leaving the company of Ms. Hammerstrom and Morgan Littlechild, when they fell asleep.

[10] A.P. testified that when Ms. Hammerstrom said that she owed her money, Ms. Lincoln said, "Let's take her back and tie her up". At that time Ms. Lincoln started going through the pockets of A.P., looking for money. A.P. gave Ms. Hammerstrom the remaining \$400 that she had secreted away in her bra. A.P. testified that this occurred in front of the McDonald's Restaurant on 20th Avenue.

[11] A.P. told the accused that the \$400 was rent money and that it belonged to her roommate, H., and asked them to talk to H. The three of them walked back to A.P.'s residence where Ms. Lincoln knocked on the balcony door.

[12] A.P. thought that her roommate, J., might have been there. A.P. and the accused then walked back to the Lincoln residence, which was approximately four blocks away. Ms. Lincoln slapped A.P. in the face and on occasion the accused guided A.P. around by grabbing her by the arm or arms. At this point A.P. did not think that it was a problem to come and go. She just wanted to get her money back.

[13] At the Lincoln residence Ms. Lincoln was pushing A.P. around and told a male, who was present, a man by the name of Pretty Boy, and I quote, "This little bitch owes money".

[14] A.P. was told to clean up the Lincoln residence. A.P. testified that Ms. Lincoln and Pretty Boy were pushing her around and kicking at her legs. Eventually A.P. asked if she could leave and was told no. Both the accused tied A.P.'s wrists together in front with zap straps and put her in the laundry room closet. A.P. also thought that they may have put zap straps on her ankles at that time.

[15] Eventually Ms. Hammerstrom told A.P. to go put on makeup in the bathroom and A.P. was told she was going to work off her debt. Ms. Hammerstrom said she owed between \$800 and \$1,000. A.P. did not put on any makeup and went to Ms. Hammerstrom's bedroom.

[16] A.P. testified that Ms. Hammerstrom brought Ms. Lincoln, Pretty Boy and two other guys into Ms. Lincoln's bedroom while an unidentified man came into the room and had sexual intercourse with A.P. and he ejaculated on A.P.'s back. After that Ms. Hammerstrom said that was \$40 off her bill.

[17] A.P. described having sex with three other men on that occasion, including a Native male, whom she described as looking like he was homeless. This man, according to A.P., only paid approximately \$5 to \$10 to the accused to have sex with A.P.

[18] A.P. testified that during this time Ms. Hammerstrom gave her a Dilaudid pill, which is an opiate, and at some point A.P. was given a little bit of heroin, as well.

[19] A.P. also testified that Ms. Hammerstrom had the idea to take a picture of her from Facebook and place an ad on Craigslist as an escort.

[20] She was put back in the closet and eventually fell asleep. The next day Ms. Hammerstrom told her to go to the Superstore at Walmart to pick up some cellphones for her and her brother. A.P. went there with a person named Greg Saugstad, as well as Pretty Boy in a black GMC pickup truck. Along the way the truck was stopped by the police for a traffic violation. A.P. testified that there were approximately ten police officers involved in this traffic stop. She was told to leave by the police and she walked back towards her residence with Pretty Boy. Along the way she saw another police vehicle parked on the street and she used that opportunity to get away from Pretty Boy and return to her residence.

[21] There she found her roommate, J., and his girlfriend A., and she told them what happened to her. She then left to go a friend's house in the area, named Dean Anderson. Dean Anderson lived in the basement of his parents' home and she stayed overnight there. The next morning Pretty Boy and Cheven Schlitt showed up at that residence. A.P. was begging Dean Anderson and his parents not to let them take her. Also present was Dean Anderson's sister, Megan a woman A.P. has known since elementary school.

[22] A.P. testified that Pretty Boy and Cheven Schlitt grabbed her by her arms and walked her to an awaiting truck. She tried to escape and she remembers getting hit in the head with something. She was taken back to the Lincoln residence and people were yelling at her "where's the "down". Apparently, "down" is a reference to heroin. She testified that she was strip-searched at that time.

[23] A.P. testified early in the morning she went with Ms. Hammerstrom and Ms. Lincoln to the bus depot to pick up Ms. Hammerstrom's brother, who had just been released from jail. They walked to the bus depot. Along the way, A.P., who was

good friends with Ms. Hammerstrom's brother, asked her not to tell him about the debt as she was embarrassed. They all met at the bus depot and exchanged hugs.

[24] On the way back to the Lincoln residence Mr. Hammerstrom gave A.P. some money and asked her to pick up some breakfast sandwiches at the A & W Restaurant. A.P. did that by herself and then returned to the Lincoln residence.

[25] Later that day A.P. was cleaning the Lincoln residence when Ms. Lincoln became angry with her and the two of them got into a fight. Ms. Lincoln grabbed a broomstick and started hitting A.P. with the broom, in the head and arms. Eventually the broomstick broke and they began fighting on the ground. Ms. Hammerstrom broke up the fight because A.P. was getting the better of Ms. Lincoln.

[26] A.P. then told Ms. Hammerstrom that she had a friend who lived by the airport who would pay \$250 for a girl. A.P. called the friend and he picked her up and they drove around for a while. Eventually he dropped her off, A.P., at her residence. A.P. said that J. was at her house when she arrived.

[27] A.P. hid at her house for approximately one week until she learned that Ms. Hammerstrom was in Kamloops. She later went back to her friend, Dean Anderson's home to have a shower one day, as her hot water was not working. As she finished having a shower Ms. Hammerstrom appeared in the bathroom. A.P. grabbed some bear spray and Ms. Hammerstrom apparently had a blowtorch and said, "I'll burn the whole fucking place down". She then began burning A.P.'s purse.

[28] A.P. then told Ms. Hammerstrom that she had a cheque she had received from the insurance company as a result of her mother passing away. It was for \$1,800 U.S. funds. Ms. Hammerstrom and Mr. Littlechild grabbed A.P. and took her outside and put her into a red car and they began driving around. A.P. testified that there was another man in the vehicle. They drove around, apparently looking for a house to rob. A.P. volunteered to do this because she thought she would get caught and then the police would come.

[29] A.P. then testified that before the incident where she was stopped in the vehicle with Greg Saugstad and Pretty Boy, she had went to the 7-11 store to pick up food for the accused and the plan was to steal something and get caught so the police would come. She initially said she went with Pretty Boy. Then she thought it might have been a person by the name of M. A.P. testified that she did steal something. However, the person at the 7-11 store, who caught her, just told her to leave.

[30] A.P. then went back to describing the break and enter at the house near the airport and she said that she was walking around, trying to find a way into the house, when Ms. Hammerstrom and Mr. Littlechild, who were in the car, began honking the horn and picked her up, saying that there were neighbours watching.

[31] A.P. then said they drove around trying to figure out how to cash her cheque. A.P. went to the TD Bank with Mr. Littlechild. At the bank she told the teller to call the police. However, Mr. Littlechild then appeared, so A.P. pretended to cash the cheque. The TD Bank did not agree to cash the cheque. While she was at the bank A.P. did phone her friend, Jeff, because she knew he drove and perhaps he could meet her so she could get away. She did not tell Jeff what was going on. A.P. said that she phoned Jeff Smith from the TD Bank because she also believed he was not afraid of Ms. Hammerstrom.

[32] A.P. testified that on the day of the attempted break and enter they went to the Markovick residence. While on the way A.P. remembers picking up two other persons named Terrance and Harley.

[33] At the Markovick residence Ms. Hammerstrom told Ms. Markovick that A.P. owed her money and she was working off her debt. A.P. also testified that Ms. Markovick's boyfriend was a friend of her cousin. At some point A.P., Morgan Littlechild, Harley and Ms. Hammerstrom left the Markovick residence to try and cash the cheque. A.P. thought she went to a cheque cashing store on Third Avenue, which was one that she had been at before.

[34] At the cheque cashing store A.P. was told she needed the stub from the cheque to be able to cash it, so she went back to her residence and she said Terrance went inside with her to find the cheque stub. At her home her friend, Jeff was again present.

[35] A.P. found the cheque stub and they went to kill some time at a friend's place, named Warren Beatty. While there, Ms. Markovick showed up and grabbed A.P. by the hair and placed a knife at her throat and said, "You think this is a fucking joke?" A.P. testified that Ms. Hammerstrom, Morgan Littlechild, Terrance, Warren and perhaps Harley were present when this occurred. Ms. Hammerstrom then told A.P. that she would sell her to the "niggers in Vancouver".

[36] A.P. then testified that she went with Morgan Littlechild to the cheque cashing place on Third Avenue and she was told that they would have to hold the cheque until it cleared before she could get her money. When they returned to Warren Beatty's house, Ms. Hammerstrom became mad and went back to get the cheque. A.P. testified that Ms. Hammerstrom went into the pawn shop which was attached to the cheque cashing place and raised a ruckus until they gave her the cheque.

[37] Eventually they went back to the Markovick residence and she thought that Terrance was in the living room at that time. At the Markovick residence, A.P. testified that she was told to have sex with two or three other men. She said that she flushed the used condoms down the toilet. She said that she had sex in the basement of the Markovick residence. A.P. testified that Ms. Markovick put zap straps on her when she was in the basement and then would cut them off when a man came to the house. She said she had zap straps on her wrists and ankles on four or five different occasions.

[38] A.P. testified that she eventually was on the couch in the living room and had zap straps on her wrists and ankles. There was another young girl there and Ms. Markovick and her boyfriend went upstairs. A.P. was not entirely clear where Ms. Hammerstrom and Mr. Littlechild were at that point. They did eventually come back, though, to the residence.

[39] The next morning A.P., Ms. Hammerstrom, Morgan Littlechild and perhaps Terrance went to cash the cheque on Third Avenue. A.P. needed some further information so she phoned her grandmother and received information regarding the cheque. Exhibit 13 is a photocopy of a Facebook page in which A.P. is receiving a social insurance number for her mother and the insurance policy number.

[40] Eventually A.P. went to the Ministry of Social Development office on Tenth Avenue in Prince George, to obtain a copy of her identification in order to cash the cheque. She went into the office with Morgan Littlechild and Terrance. Upon arriving there she handed a note to the security guard saying that she was being held captive.

[41] She was taken into a secure room with Ministry staff and the police were called. Exhibit 5 is the note that A.P. gave to the people at the Ministry office. Exhibit 6 is also the note that A.P. made with her mother's information on it.

[42] A.P. testified that she left the company of the police at the Ministry office as she was dope sick and she needed to take some drugs.

[43] On cross-examination by Mr. Levine A.P. agreed that she had given seven statements to the police. A.P. also agreed that she would sometimes deliver drugs for people in order to maintain her own habit. A.P. also said that she was working in the summer of 2015 for an individual named Craig at a landscaping business. She said he would sometimes give her heroin, as he was also an addict. She could not remember his last name.

[44] On cross-examination she said that her roommate, H. was her drug supplier.

[45] A.P., also on cross-examination, agreed that Cst. Cloutier had asked her to go to the hospital when the police arrived at the Ministry office and that she refused to do that.

[46] A.P. agreed, on cross-examination that she was concerned and afraid when the accused started searching her at the McDonald's for money. A.P. agreed that

she did not tell the police, in any of her statements, about the transaction at the McDonald's Restaurant, or that she had initially went back to her own residence with the accused.

[47] When confronted as to why A.P. told Cpl. Boucher in her statement of July 23, 2015, that she initially called her friends, Doug and Ron, for money but did not tell the court about those phone calls, A.P. said she probably just forgot.

[48] When confronted as to why A.P. told Cpl. Boucher, in her statement of July 23, 2015, that she was zap strapped and put in the closet in Ms. Hammerstrom's bedroom, as opposed to the laundry room, A.P. stated that she did not tell the police every detail.

[49] A.P., on cross-examination, agreed that before the first man came to the Lincoln residence to have sex with her, she went to the bathroom and put on makeup. In particular she said she washed her face and put on a bit of mascara. When asked why she told the Crown, in direct examination, that she did not put on makeup, A.P. stated that she did not remember telling the Crown that.

[50] A.P., in cross-examination, agreed that she had problems with her memory as she had been injured previously and she had not seen a doctor about her memory problems.

[51] A.P. testified in cross-examination, that the person who picked her up at the Lincoln residence, that she described as living by the airport, does not, in fact, live by the airport. She said that that was just a story that she told the police.

[52] A.P. also testified that after these events occurred, she was arrested by the police and kept in custody for eight to ten hours. She was not charged with anything. She specifically denied that any drugs were found on her person on that occasion.

[53] A.P. testified that she thought about telling Greg Saugstad about her problem when he was driving her to get the cellphones. However, she said he was an addict, as well, and that you could not trust anybody in the drug scene.

[54] A.P. agreed, on cross-examination, that she told the police that Pretty Boy and Cheven Schlitt came and took her from her residence and not the residence of Dean Anderson. She said she did not want to get Dean Anderson involved in this situation.

[55] A.P., on cross-examination, disagreed that she did heroin or was looking for heroin with Lazara Willier at the Lincoln residence, and that she went to the 7-11 store with Lazara Willier and Ms. Hammerstrom.

[56] A.P. said, on cross-examination, that when she went to the 7-11 store it was not with M., but rather a person named Tyler Liske. A.P. agreed, on cross-examination, that she never told the police about her plan to get caught shoplifting at the 7-11 store.

[57] On cross-examination A.P. testified that when she went to pick up Mr. Hammerstrom from the bus depot with the accused, Pretty Boy and Tyler Liske she went with the accused, Pretty Boy and Tyler Liske. A.P. testified that she did not try to get away when she went to the A & W Restaurant because she did not want to take Mr. Hammerstrom's money because she was not a thief. She did, however, agree that she has a criminal record with convictions for theft.

[58] A.P. agreed that she did not tell the police about picking up Mr. Hammerstrom from the bus depot.

[59] A.P. agreed that she did not tell the police about the fight she had with Ms. Lincoln, with the broom.

[60] A.P. agreed, on cross-examination, that when she gave her statement to Cpl. Boucher on August 13, 2015, she said that Ms. Hammerstrom and Morgan Littlechild came and took her from her residence on the second occasion. She agreed that

she did not tell the police that it was actually from Dean Anderson's home. She agreed that she did not tell the police on that occasion that Ms. Hammerstrom used a blowtorch. She agreed that the statement to the police on August 13, 2015, was inaccurate.

[61] A.P. agreed, on cross-examination, that she told Cst. Ari that she could not identify any of the men that she had sex with at the Markovick residence. She said that she just did not feel like talking about it at that time. She also agreed that she told Cst. Ari that she was held down by people when she was having sex with these men.

[62] A.P. testified, in cross-examination, that when they went to the Ministry office, Morgan Littlechild and Terrance came into the office and Ms. Hammerstrom stayed outside.

[63] A.P. agreed, on cross-examination, that Whitney Prouse and his girlfriend came to the Markovick residence on the morning in July 21, 2015. She said she had forgotten about that in her direct examination. She did agree that he tried to kick everybody out of that residence. She said that she told Whitney Prouse that she was not allowed to leave. She disagreed that he offered to give her a ride. She did not believe that Morgan Littlechild and Ms. Hammerstrom were present when Whitney Prouse was there.

[64] On cross-examination by Mr. Zipp, A.P. agreed that she had a brain injury and that she was first injured approximately ten years ago, as a result of violence from her then boyfriend. She also agreed that she had not sought medical help for her brain injury. She described that she cannot always remember things. However, she does not have false memories.

[65] A.P. agreed, on cross-examination, that she never mentioned the name ReRe in any of her seven statements to the police. She also agreed that she did not tell the police that she took \$400 out of her bra, or that this occurred in the McDonald's

parking lot. She agreed that she did not tell the police about going home initially with the accused.

[66] A.P. agreed, on cross-examination, that she did not tell the police that she mopped the floors, washed dishes and cleaned the bathtub at the Lincoln residence. A.P. also agreed that she did not tell the police that she had taken Dilaudid at the Lincoln residence.

[67] A.P. agreed, on cross-examination, that she did not tell the police about the man who looked Native and who only paid to have sex with her with change, about Warren Beatty, or about Dean Anderson's residence.

[68] A.P. agreed, on cross-examination from Mr. Zipp, that she did not tell the police about the fight with Ms. Lincoln and the broomstick.

[69] She also agreed that she did not tell the police about the shoplifting at 7-Eleven or about the names of Mike or Tyler, in relationship to that incident.

[70] A.P. thought that she may have had some marks on her from the broomstick. However, she agreed that she did not show that to anybody.

[71] A.P. agreed, on cross-examination, that she told the police that she went upstairs to have sex at the Markovick residence.

[72] A.P. agreed, on cross-examination, that when she gave all of her statements to the police she was either high or on drugs, or dope sick.

[73] A.P. agreed, on cross-examination, that when these incidents occurred she was on probation and she did not try to contact her probation officer for help.

Cst. Mireille Haunts

[74] Cst. Mireille Haunts, who was the primary investigator in this matter, testified that she was involved in the search of the Markovick residence on July 22, 2015.

Cst. Haunts testified that she spoke to A.P. on a number of occasions, and that she was not particularly cooperative with the police.

[75] Cst. Haunts dealt with a number of the exhibits on this matter. There was a pair of handcuffs, two condoms and zap straps seized from the Markovick residence and sent for forensic examination, to be compared to known DNA samples from A.P. There were also cigarette butts seized from the Lincoln residence and sent for forensic examination. Exhibit 1 is the Forensic Science and Identification Services laboratory report. None of the samples taken from the exhibits were identified to A.P.

Cst. Scott Gardener

[76] Cst. Gardener was involved in the search of the Markovick residence in July of 2015. He located black zap straps in the basement area. Those zap straps can be seen in Exhibit 7, Tab 6, pictures 5 and 6.

Cpl. Stephanie Murray

[77] Cpl. Murray is a member of the RCMP. On July 22, 2015, she examined the basement of the Markovick residence using forensic light sources to search for vaginal fluid, semen or blood. She did not find any of these things.

Cpl. C. Slaunwhaite

[78] Cpl. Slaunwhaite testified that she attended at the Markovick residence when search warrants were executed on July 22 and July 25, 2015. She seized the black zap straps that have been marked as Exhibit 28 on this trial. Cpl. Slaunwhaite also attended at the Lincoln residence, and seized, among other things, a hospital bracelet in the name of Marie Lincoln. This has been marked as Exhibit 29 in this trial.

Cpl. Rod Keen

[79] Cpl. Keen is a member of the RCMP Identification Section. On July 23, 2015, he examined the Lincoln residence, looking for evidence of violence and biological fluids. He testified he took a number of hair samples collected around the edges of all the floorboards of each bedroom and from in the hallway.

[80] Cpl. Keen testified that he was unable to locate any biological samples other than the hair samples.

[81] On cross-examination Cpl. Keen agreed that he did not find any broken broomsticks or splinters of wood.

Cst. Alex MacDonald

[82] Cst. Alex MacDonald was involved in a traffic stop on June 25, 2015, on Ford Avenue and Norwood Street. He noted that the driver of the pickup truck was Mr. Saugstad. Also present in the vehicle were A.P. and Mr. Schultz.

[83] Cst. MacDonald ran checks on A.P. to see if there were any outstanding warrants and none were found. He testified that A.P. was quiet, in his observation.

[84] Cst. MacDonald, on cross-examination, could not say how many officers attended, though he thought there were at least four. He did not note any injuries on A.P. and he did not note any signs that Mr. Schultz and Mr. Saugstad were exercising control over her.

Superintendent Bradley Anderson

[85] Superintendent Anderson made the traffic stop on June 25, 2015, in the early afternoon. The stop was made on Norwood Street in the city of Prince George. The vehicle was driven by a male, later identified as Greg Saugstad. Also in the vehicle were A.P. and Jesse Schultz.

[86] Superintendent Anderson testified that there were three marked police cars at the scene and possibly up to five marked police cars. There may have been five or six police officers present. A.P. and Jesse Schultz were allowed to leave.

[87] In cross-examination Superintendent Anderson agreed that he had no suspicions that a kidnapping or unlawful confinement were occurring. He also agreed that he saw nothing untoward going on towards A.P.

Cst. Marc Cloutier

[88] Cst. Marc Cloutier is a member of the RCMP and became involved in this investigation on July 21, 2015, when he attended at the Ministry of Social Development office on Tenth Avenue in Prince George. He dealt with A.P. on that day and he described A.P. as having a hard day. She was sad, crying and looking down. He described A.P. as needing to go for drugs.

[89] Cst. Cloutier testified that he saw A.P. run away from the Ministry office. He testified that he was only with her for a short period of time before she left. On cross-examination Cst. Cloutier agreed that A.P. said that she was a heroin user and that she was dope sick.

[90] Cst. Cloutier agreed, during his interaction with A.P. she did not mention the name 'Marie Lincoln'.

[91] Cst. Cloutier also testified that he seized some surveillance tapes from businesses that were in the vicinity of the Ministry office, namely All-West Glass, Finish Line and the Subway Restaurant.

[92] He also conducted a website search on Craigslist, as well as Backpages.com, running advertisements for escorts that may have involved A.P. He was not able to find any such advertisements.

[93] On August 15th 2015, Cst. Cloutier was involved in a police drug investigation of a residence on Spruce Street and he arrested A.P., as well as another male at

that time. He testified that he found heroin in her purse in the form of a loaded syringe. However, on re-examination Cst. Cloutier agreed that the substance found in the syringe was never tested to determine if, in fact, it was heroin.

Cst. Briana Ary

[94] Cst. Ary attended at the Ministry of Social Development office on July 21, 2015, at approximately 3:10 p.m. She testified that Ms. Rosomon pointed out two males to her and she said, "Stop, police" and both males turned and looked at her and started running. She was not able to catch the males.

[95] Cst. Ary described both of the males as being Caucasian, in their early twenties. One was wearing a grey t-shirt and shorts. The other was wearing black clothing with black shorts.

[96] Cst. Ary spoke to A.P. and seized the note from Ms. Rosomon.

[97] Cst. Ary was also involved in the search of the Markovick residence on July 22, 2015. On cross-examination Cst. Ary agreed that A.P. told her that she had sex with six different men against her will and she said she had been held down during these attacks. A.P. also told her that she could not give a description of the men.

[98] Cst. Ary did not notice any signs of injuries on A.P. and noted that when speaking to her, A.P. was lethargic and was reluctant to speak on the record.

[99] Cst. Ary agreed, on cross-examination, that A.P. did not mention to her the name of Marie Lincoln or ReRe. A.P. also did not mention the Lincoln residence. She did, however, say that A.P. was tired and appeared emotionally distraught.

Staff Sgt. Adam MacNeil

[100] Staff Sgt. Adam MacNeil testified that as a result of a broadcast from Cst. Ary he attended in his police vehicle to locate the males that she was looking for.

[101] Staff Sgt. McNeil noted a male who he later identified as Morgan Littlechild, on Eleventh Avenue. Staff Sgt. McNeil had chased him for some distance and described Mr. Littlechild as wearing red shoes and carrying a man purse.

[102] Staff Sgt. McNeil arrested Morgan Littlechild. He seized a cellphone from Mr. Littlechild, which has been marked as Exhibit 32, as well as a wallet from him, which has been marked as Exhibit 33.

Cpl. Robert Forgeron

[103] Cpl. Forgeron attended at the Lincoln residence on July 2, 2015, and spoke to Jesse Schultz about complaints from the neighbours and told him that the police would be frequenting that residence. He also spoke to Ms. Lincoln, who told him that she was renting the residence.

[104] Cpl. Forgeron was also involved in the search of the Markovick residence on July 21, 2015. He attended there at approximately 5:30 p.m. and then assisted clearing the residence. At approximately 6:00 p.m. he noticed Morgan Littlechild approaching the residence. He spoke to him and told him to leave

[105] Cpl. Forgeron also attended at Speedy Cash, located on Third Avenue, and viewed some surveillance tapes. He requested copies of those tapes. However, ultimately they were erased before that happened.

[106] After a *voir dire* I ruled Cpl. Forgeron's evidence as to what he had viewed on the tapes admissible. He testified he saw a tall man walking into the store and attend at a teller window. After that he saw Mr. Littlechild and A.P. come into the store. A.P. came up to the teller. A.P. then walked out of the store and turned right and Mr. Littlechild also stepped outside behind her.

[107] He agreed that A.P. did not appear to be distressed at the time that he viewed her on the video.

Cpl. Christopher Boucher

[108] Cpl. Boucher is a member of the RCMP and on July 29, 2015, he was tasked to find A.P. It was approximately 10:00 p.m. that day when he found A.P. and took a witness statement from her. After changing location in the detachment, he also took another statement from A.P. which ended at approximately 2:00 a.m. He also took statements from A.P. on July 23, July 24, 2015, as well as August 13, 2015.

[109] On cross-examination Cpl. Boucher testified that he told A.P. to give him as much detail as possible in the various statements that he took from her. He also agreed that from his observations, A.P. appeared to be under the influence of drugs or suffering from withdrawal symptoms during her various statements.

Pearce Richards

[110] Mr. Richards is a probation officer who had supervised Ms. Markovick in the past. He confirmed that Ms. Markovick lived at 109 - 4045 First Avenue, in the City of Prince George on July 3, 2015.

Brenda MacKenzie

[111] Ms. MacKenzie was qualified as an expert in forensic video analysis. She converted the video footage from the TD Bank and enhanced some still photos from the All-West Glass video surveillance materials. She also enhanced the licence plate number on the photograph of the red vehicle that is seen in those photographs.

Special Cst. David Greenlees

[112] Special Cst. Greenlees is employed by the RCMP and performs forensic downloads from cellphones. He performed a download from a black cellphone which was seized from Morgan Littlechild. While he was not specifically able to identify the particular cellphone in court, he was able to give a unique number associated with the cellphone, known as its IMEI number.

[113] Special Cst. Greenlees used a computer program known as Cellebrite to download the information from the black cellphone. This included a variety of telephone numbers that contacted the cellphone, as well as some text messages.

[114] I would note that at this point none of the numbers downloaded from the cellphone have been connected to the accused.

[115] The extraction report has been marked as Exhibit 36 on this proceeding.

Karen Schick

[116] Karen Schick is an employee at PG Cheques Cashed, which is a cheque cashing store located at 1163 Third Avenue, in the City of Prince George.

[117] Karen Schick testified that she has known A.P. as a customer since 2007. She remembers an incident where A.P. came in to cash a cheque in U.S. funds. Karen Schick told A.P. that she would need to get the social insurance number of her mother and the policy number in order for the cheque to be cashed. A.P. left and came back one to five days later, with a piece of paper which had the required information on it.

[118] Karen Schick testified that on both occasions A.P. was alone when she came into the store. She did note that A.P. had lost weight and was not the joyful person that she knew in 2007.

[119] Karen Schick testified that A.P.'s cheque was ultimately deposited and she was able to pick it up after August 12, 2015.

Shauna Young

[120] Shauna Young is employed at the TD Trust Bank in Prince George and was employed there in July of 2015.

[121] In July, Shauna Young noticed a young woman with dark hair come into the bank and approach the sit-down wicket. The young woman whispered to Shauna

Young that she wanted her to call the police. Shauna Young was about to call the police when she noticed a young man walk in and approach the young woman. Once this occurred, Shauna Young said the young woman began to act as if she was doing a transaction.

[122] Shauna Young testified that the young woman wanted to negotiate a cheque but did not have any identification on her. There was an account in the name of A.P. that was closed and the young woman was able to give her full name and date of birth, to verify that she was A.P.

[123] Shauna Young sought assistance from her co-worker, Grant Bachand. They made inquiries as to whether or not they could re-open the dormant account of A.P. However, there was money owing on it, so they could not do that.

[124] Shauna Young testified that A.P. seemed distressed and scared while the young man was present.

[125] Shauna Young viewed Exhibit 8, which is video footage from the bank, and it identified A.P., as well as pointed out the young man who came into the bank with A.P.

[126] Grant Bachand, according to her, called the police, but A.P. had left by the time they attended.

[127] Shauna Young agreed that she did not notice any injuries on A.P. She also agreed that A.P. could have possibly been on something.

Amy Demerchant

[128] Amy Demerchant was employed with the Ministry of Social Development and Innovation in 2015. On July 21, 2015, at approximately 2:30 p.m. she was working at her desk when a security guard alerted her about the issue with A.P.

[129] Amy Demerchant called A.P. to her desk. A.P. wanted her to call the police. She then went and summoned another employee and took A.P. into a secure interview room.

[130] Amy Demerchant confirmed that the Ministry office did have copies of A.P.'s identification.

[131] Amy Demerchant testified that after approximately ten minutes she called the police. She also indicated that she looked out the window in the room, to the waiting room, and saw Ms. Hammerstrom present. She has known Ms. Hammerstrom since high school, and Ms. Hammerstrom is related to her son's father.

[132] The RCMP then arrived and she left the room. Amy Demerchant did note two males outside when she looked out the window. However, she could not provide any details about them.

[133] On cross-examination she agreed that A.P. did not seem to be distraught. She also agreed that A.P. could not confirm whether one of the people involved was Ms. Hammerstrom.

Darcy Tiani

[134] Darcy Tiani confirmed that in June, 2015, he was the owner of the Lincoln residence and that he had rented it to Ms. Lincoln. He agreed that Ms. Lincoln had moved out a couple of weeks before he gave his statement to the police, which was on July 25, 2015. He testified that the rental unit was clean and everything was thrown out prior to this statement being given.

Lynnette Pilgrim

[135] Lynnette Pilgrim testified that the Markovick residence was where her boyfriend, Whitney Prousse resided in 2015. She testified that in July 2015 she had been in a dispute with her landlord and she went with her boyfriend, Whitney Prousse, back to his place at approximately 11:30 p.m. Whitney Prousse went into the house and she stayed in the car and did not observe or hear anything. They

then went to pick up a friend of Whitney Prouse's and drove around, returning to the residence at approximately 1:30 p.m. and at that time Lynnette Pilgrim used the bathroom.

[136] Lynnette Pilgrim testified that she and Whitney Prouse then went to pick up another friend of his and returned to the Markovick residence around 4:00 a.m. She went straight upstairs to Whitney Prouse's bedroom. She thought she saw three people in the living room watching TV when she went up to the bedroom. She believed that these three people were females.

[137] Lynnette Pilgrim testified that she woke up around noon and then went back to bed until about 3:30 p.m. When she got up she was arrested, along with Whitney Prouse and some other people. She testified that she knows A.P. However, she did not remember seeing her there on that occasion. She also testified that there was a burgundy coloured car parked outside the residence.

Whitney Prouse

[138] Whitney Prouse testified that he rented the Markovick residence and moved out at the end of July 2015. He testified that Ms. Markovick lived there from approximately January 2015 until the end of July 2015. She did not get along, apparently -- that is Ms. Markovick, with Lynnette Pilgrim. Whitney Prouse testified that he knew A.P. and he had met her approximately two years earlier. In July he was arrested by the police at his residence on charges of forcible confinement. He testified that he had arrived back at the Markovick residence at approximately 5:30 a.m. that morning with Lynnette Pilgrim.

[139] When he arrived at the Markovick residence, it was locked and he had to pound on the door until a girl who he recognized as Montana, opened the door. He asked Montana why she was there and noted she had her dog with her. Whitney Prouse testified that he was mad when he entered the residence.

[140] Whitney Prouse testified that when he entered the living room he saw A.P. on the couch, which was against the wall. Ms. Hammerstrom and a man were

passed out on another chair. A.P. and Montana were watching TV. A.P. was fully clothed and lying on her side with her head propped up on her elbow.

[141] Whitney Prousse testified that A.P. said she was going to Kamloops, leaving at approximately 8:30 a.m. He was under the impression that she was going to leave with Ms. Hammerstrom and the other fellow. He then went upstairs.

[142] Whitney Prousse awoke at approximately 10:30 a.m. and saw that everyone was still there. He unplugged the TV and started cleaning. He was mad that the people were still there and started swearing because he wanted them to leave. He thought that the man with Ms. Hammerstrom may have been named M. He testified that Ms. Hammerstrom apologized to him.

[143] Whitney Prousse thought that Montana said they could not leave until Ms. Markovick let them. He was not sure whether or not A.P. said that. Upon refreshing his memory from his statement that he gave to the police he agreed that A.P. said to him that she could not leave until Lana, that is, Ms. Markovick, said she could.

[144] He noted that A.P. was carrying out plastic containers with clothes in them to the red car.

[145] Whitney Prousse testified on cross-examination that he did not, at any time, see A.P. being held against her will and that A.P. knew him well enough to know that he would have helped her. He also testified that A.P. was not zap strapped when he saw her.

[146] Whitney Prousse testified that A.P. did not look scared and that she appeared to be mad when he told her to leave. He agreed that A.P. appeared reluctant to leave.

[147] He also testified that she did not have any visible signs of injury.

[148] Whitney Prousse also testified that Ms. Markovick had used black straps in the past to secure speakers or audio equipment to her bicycle.

Jackie Rosomon

[149] Jackie Rosomon testified that in July 2015 she was employed as a security guard for a company that contracted with the Ministry of Social Development and Innovation, located on Tenth Avenue, in Prince George.

[150] She said that at approximately 14:20 p.m. a client approached her and handed her a note saying that she was being held against her will.

[151] Jackie Rosomon testified that the client appeared distraught and she noted two gentlemen behind her were acting nervous. She took the client to Supervisor A.D., who called the police, and took this woman into the interview room.

[152] Jackie Rosomon kept an eye on the two gentlemen, who she described as follows:

The first male was 22 years of age, 170 pounds, with black short hair and sunglasses on his head, and was wearing grey shorts.

The second male was 23 years of age, 170 pounds, short black hair. He was wearing shorts and red shoes, which were very distinctive.

[153] Jackie Rosomon said that the entire incident took approximately one hour and when a female police officer arrived she told that officer that the two gentlemen were in front of her and the police officer started running after them.

[154] She identified Exhibit 5 as the note that she was handed by the client.

[155] Jackie Rosomon remembers seeing a red car on two occasions. She testified on one occasion the gentleman with the red shoes left in the red car as a passenger. She could not say who was driving the vehicle.

[156] On cross-examination Jackie Rosomon testified that she did not notice anyone else other than the two gentlemen associated with this incident. She did not notice any woman associated with the situation.

Grant Bachand

[157] Grant Bachand testified that in July 2015 he worked at the TD Bank. He said that he sometimes acts in a supervisory role on Sundays. He was uncomfortable cashing A.P.'s cheque as he described it as being tattered. He described A.P. as being withdrawn and disconnected. He testified that he spoke to the man that was with A.P. more than A.P. He thought that A.P. was on drugs and high.

[158] Grant Bachand testified that he did call the police.

Doug Morrison

[159] Doug Morrison is the owner of PG Cheque Cashing store. He also owns the pawn shop beside the store and the two businesses are connected.

[160] Doug Morrison testified that Karen Schick is his employee. He remembers an incident where a U.S. funds cheque was being cashed. He remembers seeing one girl trying to cash the cheque and two other girls seemed interested in it. His impressions were that these girls were, as he described, Native.

[161] Doug Morrison testified that A.P. eventually cashed the cheque sometime later.

[162] That was the case for the Crown.

Case for Marie Lincoln

Lazara Willier

[163] On behalf of Marie Lincoln, evidence was called from Lazara Willier. Lazara Willier is 21 years of age. She testified that approximately one week after the birthday of her son, who was born on June 20, she attended at the Lincoln residence. She met Ms. Hammerstrom outside the residence.

[164] She knows A.P.; had met her a couple of times prior to that occasion. When A.P. attended at the Lincoln residence, Lazara Willier and Ms. Hammerstrom and

A.P. went to the 7-11 store to get something to eat; that was the 7-11 store on 20th Avenue, and they ordered pizza.

[165] Lazara Willier testified that A.P. was not being forced to do anything at that point and, in fact, A.P. stayed outside while the other two went into the 7-11 to order food.

[166] Lazara Willier testified that the three of them went back to the Lincoln residence. She estimated they had been gone for 20 to 25 minutes. When they arrived back at the Lincoln residence, Ms. Lincoln was going through her clothes and giving clothes away. Lazara Willier and A.P. were going through the clothes to see which ones they wanted.

[167] Lazara Willier testified that she was doing crystal meth and that she shared it with A.P. A.P. also asked her about getting some heroin.

[168] Lazara Willier testified that when she is high on drugs she likes to clean and A.P. was helping her clean the residence. Lazara Willier testified that she did not see anything bad happen to A.P. or notice any sexual activity going on.

[169] Lazara Willier testified that when she was at the Lincoln residence only A.P., Marie Lincoln, Pretty Boy and Mr. Hammerstrom were there.

[170] On cross-examination Lazara Willier was able to give a detailed description almost by the hour, of the following seven days in her life in 2015, despite the fact that she was high from drugs during most of this period of time.

[171] That was the case for Ms. Lincoln.

Case for Angeline Hammerstrom

[172] Ms. Hammerstrom, as is her right, did not call any evidence.

Position of the Parties

Ms. Hammerstrom

[173] Mr. Levine, on behalf of Ms. Hammerstrom, argues that the complainant's evidence was thoroughly undermined in cross-examination. Mr. Levine argues that A.P.'s evidence is unreliable because of the various contradictions in her testimony, as well as the evasive manner in which she gave evidence. He also argues that A.P.'s admitted memory problems further undermine the reliability of her evidence.

[174] Mr. Levine argues that A.P.'s evidence was fraught with both internal and external inconsistencies. Much of her evidence was incredible in its nature.

[175] Mr. Levine argues that A.P. agreed that she was trying to be 100% truthful with the police when she gave her seven different statements to them. However, she later admitted that the statements were not totally accurate.

[176] Mr. Levine argues that some of the internal inconsistencies between A.P.'s statements to the police, her direct examination and her cross-examination, are as follows:

- 1) A.P. told the police that when she was initially approached by the accused, they forced her to go to the Lincoln residence. However, in her direct testimony, she said that they actually walked to her residence and that she was not forced to walk to the Lincoln residence.
- 2) A.P. told the police that when she arrived at the Lincoln residence she phoned two friends named Ron and Doug. On cross-examination she testified that she had to immediately clean the residence when she arrived there.
- 3) A.P. told the police that while at the Lincoln residence, she was locked in Ms. Hammerstrom's bedroom. However, in direct examination she testified that she was locked in the laundry room for hours.

4) A.P. testified in direct examination that when she first got out of the closet she did not put on makeup. However, in cross-examination she said that she went to the bathroom and she did put on makeup.

5) A.P. testified in direct examination that when she had the first sexual encounter in the Lincoln residence the accused, as well as Pretty Boy and one or two other guys were in Ms. Lincoln's bedroom. However, on cross-examination she said only the accused and Pretty Boy were in the bedroom.

6) A.P. told the police that a male friend that came to give her a ride lived at the airport. However, during her testimony she testified that he did not live at the airport or near the airport.

7) A.P. told the police that she had sexual encounters in the upstairs portion of the Markovick residence. However, in the testimony she said it was in the downstairs portion or the basement.

8) A.P.'s testimony regarding going to the 7-11 store to shoplift items so that she would be caught and the police would come changed from potentially going with Pretty Boy. Then she said she went with Mike. And finally she said she went there with Tyler Liske.

[177] Mr. Levine suggested some of the external inconsistencies between A.P.'s statements and other witnesses are as follows:

1) A.P. testified that when she was arrested on August 15, 2015, by Cst. Cloutier, she did not have any drugs on her. Cst. Cloutier, however, testified that she had a loaded syringe with heroin in it. As I have already noted, however, the contents of that syringe were never tested specifically to determine if there was drugs in it.

2) A.P. told Cst. Ary at the Ministry of Social Development office that she had been taken from her house by four people and held down and had

sex with six different men. A.P. testified that Ms. Hammerstrom and Mr. Littlechild took her from her friend Dean Anderson's home. She did not testify anyone held her down during sex.

[178] Mr. Levine argues that it is incomprehensible that no DNA evidence linking A.P. to either residence was found and that the cellphone records do not, in any way, link Ms. Hammerstrom to these incidents.

[179] Mr. Levine argues that Whitney Prouse's evidence contradicts A.P.'s evidence as he testified that she was not bound by zap straps on her wrists or ankles when he saw her at the Markovick residence.

[180] Mr. Levine argues that Lazara Willier testified that A.P. was not being held against her will at the Lincoln residence and that Ms. Hammerstrom accompanied her and A.P. to the 7-11 convenience store, and A.P. stayed outside by herself, while the other two went in the store.

[181] Mr. Levine argues that A.P.'s evidence is incredible because there were a number of occasions that she could have escaped or sought help from the police and she did not.

[182] Mr. Levine argues that A.P. testified that when she was initially approached by the accused, they said that she owed them money. They robbed her and they told her they would tie her up if she freely went with them to the Lincoln residence, and that was after going to her own home.

[183] Mr. Levine argues that A.P. testified that she has memory problems because of a brain injury. Mr. Levine notes that at times she appeared to have a good memory, and at other times she appeared not to have a good memory, which he described as selectively forgetting events.

[184] Mr. Levine argues that there was as many as 32 people who saw A.P. while she was being held captive, many of whom she knew, and she did not ask any of them for help, and she could not remember most of their names.

[185] Mr. Levine argues that Greg Saugstad was her friend and she did not ask him for help. There were at least five, if not more, police officers that stopped Greg Saugstad's vehicle and she did not ask the police for any help. None of the police officers who testified to this incident noted any indicia that A.P. was being held against her will, or any injuries on her.

[186] Mr. Levine argues that A.P.'s evidence that she was taken from Dean Anderson's home is fantastic. She knew Dean Anderson and his sister, as well as his parents, for many years. He noted that she testified that she was pleading with the parents not to let them take her from that home.

[187] Mr. Levine argues that it makes no sense that when she went to pick up Mr. Hammerstrom, with the accused, from the bus depot that she would not have asked him for help, as he was one of her close friends. He also argues that it does not make any sense that when she had the opportunity to leave when she went to the A & W Restaurant she did not take that opportunity.

[188] Mr. Levine argues that A.P.'s evidence regarding cashing the cheque does not make any sense, as on one occasion she testified that she went home to find the cheque stub and her roommate, J. who was apparently aware of what was going on, was at home and did nothing to assist her.

[189] Mr. Levine points to the fact that the name of Warren Beatty never came up during any of her statements to the police and only came up when she testified in court. Warren Beatty was never called as a witness. Mr. Levine notes that A.P. testified that Warren Beatty would have seen Mr. Markovick hold a knife to her throat.

[190] Mr. Levine argues that despite the fact that A.P. said she was zap strapped on numerous occasions and had a fight with Ms. Lincoln where she was hit with a broomstick, A.P. did not have any noticeable injuries.

[191] Mr. Levine argues that it is incomprehensible that A.P. would not go to the hospital with the police, even though she understood that it would assist them in their investigation.

[192] Mr. Levine argues that over all A.P.'s evidence was evasive, particularly in regard to her drug use. She could not name people who she had apparently known for years. She told Cst. Ary that she could not describe the people she had sex with. However, she was able to do that at trial.

Ms. Lincoln

[193] Mr. Zipp, on behalf of Ms. Lincoln, also argues that A.P.'s evidence is unreliable and not credible. He further argues that there is absolutely no evidence to corroborate what A.P. says. He argues that there is no objective evidence, no scientific evidence, no DNA evidence, no fingerprints and no bodily fluid evidence. There is absolutely no evidence that A.P. was at the Lincoln residence, other than her own testimony.

[194] Mr. Zipp argues that A.P.'s demeanour in giving evidence did not inspire a sense of reliability. Her evidence was often given with the head down and a low voice, with long pauses. In fact, there were often one to four-minute gaps between her giving answers.

[195] He notes that A.P. often complained to the police when she was giving her statements to them that she was either dope sick or high, and often left abruptly during interviews with the police.

[196] Mr. Zipp argues that Lazara Willier contradicts A.P.'s version that she was being held captive at the Lincoln residence.

[197] Mr. Zipp argues that A.P., by her own admission, suffers from a brain injury and that she has not sought medical attention for that condition and she has admitted to having memory problems.

[198] Mr. Zipp argues that A.P.'s evidence is outrageous because of the numerous opportunities that she had. She could have escaped or notified the authorities of her situation. In particular, Superintendent Anderson testified that there were five to seven police officers present, including a female officer, when A.P. and others were pulled over for the traffic stop.

[199] He also notes that there are no objective injuries noted by any of these police officers, nor was it noted that she was in distress.

[200] Mr. Zipp also observed that A.P. went into the TD Bank. She made a phone call to a friend who could have come and picked her up, and who she believed was not afraid of Ms. Hammerstrom.

[201] Mr. Zipp also argues that there are significant inconsistencies in the evidence of A.P. He notes that at the welfare office A.P. made no mention of Ms. Lincoln or the name ReRe, or the address, 2226 Upland Street, to either Cst. Ary or Cst. Cloutier.

[202] Mr. Zipp argues that A.P. never mentioned the name ReRe as related to Ms. Lincoln in any of her seven statements to the police.

[203] Mr. Zipp argues that A.P. is a heroin addict, by her own admission, and is not reliable.

[204] Mr. Zipp argues that it is highly significant that Whitney Prouse testified that A.P. was not zap strapped when he saw her at the Markovick residence.

[205] Mr. Zipp finally argues that it defies any reasonable explanation that if A.P. had suffered the abuse that she testified to, that she would have immediately left the safety of the police at the welfare office, even if she did need to obtain heroin.

Crown Counsel

[206] The Crown argues that the evidence of Lazara Willier is totally unreliable. The Crown notes that she purported to give a detailed daily narrative of her activities from June 20, 2015, to July 4, 2015, despite the fact that for most of that time she was under the influence of narcotics.

[207] The Crown argues that Lazara Willier also looked to Ms. Hammerstrom, apparently, for guidance when she became anxious about her cross-examination.

[208] The Crown argues that Whitney Prouse said that A.P. may have had a blanket over her feet and as such, would not have known if she had zap straps on her ankles. The Crown also argues that Whitney Prouse had a tendency to digress from topics without giving an answer to the specific question.

[209] I will note at this point, however, Whitney Prouse was a witness called by the Crown and he did see A.P. carrying boxes out to a red car on the morning that he has described.

[210] The Crown also points to the fact that Lynnette Pilgrim, who was a girlfriend of Whitney Prouse, testified that over the course of the evening, prior to them going to the Markovick residence, they had attended at a number of places that Whitney Prouse did not mention in his testimony.

[211] The Crown argues that A.P.'s evidence must be taken in context to her particular situation. For instance, the fact that she was a heroin addict explains why she would leave the safety of the police to obtain drugs.

[212] The Crown argues that this court should form the opinion from A.P., that A.P. was telling the truth during her direct examination. The fact that she could not articulate some answers when she was being pressed hard on cross-examination should not affect her credibility.

[213] The Crown argues that it is not improbable that a person like A.P., who did not want to speak to the police, would not have provided specific details to them.

[214] The Crown also argues that it appears A.P. was pleading her case to Ms. Hammerstrom that she was not a rat, more so than giving evidence to the court.

[215] The Crown notes that A.P. did go to the TD Bank and seek assistance from the police, as well as at the Ministry office.

[216] Crown also argues that A.P. was telling the truth on material details and provided a substantial narrative as to what happened to her.

[217] A.P. testified that with regard to her memory problems, she does have difficulty remembering things. However, she does not have false memories.

[218] The Crown argues that they have proven beyond a reasonable doubt that the accused are guilty of all counts on the indictment.

Decision

[219] The central issue on this trial is the credibility of the witnesses, in particular A.P. In determining the truth of a particular witness our Court of Appeal said the following in *R. v. Hart*, 2000 BCCA 245, at para. 16:

I must conclude that more is required of reasons for judgment in a case such as this where the evidence included some quite troublesome elements. In this regard, it is desirable to recall the words of Mr. Justice O'Halloran in *Rex v. Pressle* (1940), 44 C.C.C. 29 (B.C.C.A.) at page 34:

The Judge is not given a divine insight into the hearts and minds of the witnesses appearing before him. Justice does not descend automatically upon the best actor in the witness-box. The most satisfactory judicial test of truth lies in its harmony or lack of harmony with the preponderance of probabilities disclosed by the facts and circumstances in the conditions of the particular case.

[220] Further guidance can be found for the assessment of the credibility of a particular witness in *R. v. R.W.B.* (1993), 24 B.C.A.C. 1 at paras. 28 - 29:

[28] It does not logically follow that because there is no apparent reason for a witness to lie, the witness must be telling the truth. Whether a witness has a motive to lie is one factor which may be considered in assessing the credibility of a witness, but it is not the only factor to be considered. Where, as here, the case for the Crown is wholly dependant upon the testimony of

the complainant, it is essential that the credibility and reliability of the complainant's evidence be tested in the light of all of the other evidence presented.

[29] In this case there were a number of inconsistencies in the complainant's own evidence and a number of inconsistencies between the complainant's evidence and the testimony of other witnesses. While it is true that minor inconsistencies may not diminish the credibility of a witness unduly, a series of inconsistencies may become quite significant and cause the trier of fact to have a reasonable doubt about the reliability of the witness' evidence. There is no rule as to when, in the face of inconsistency, such doubt may arise but at the least the trier of fact should look to the totality of the inconsistencies in order to assess whether the witness' evidence is reliable. This is particularly so when there is no supporting evidence on the central issue, which was the case here.

[221] I agree with the Crown that in assessing A.P.'s credibility I must be cognizant of A.P.'s particular situation at the time of these incidents. A.P., because of her lifestyle, was clearly a vulnerable person, particularly so because of her significant heroin addiction that she had at that time. A.P. had been the victim of violence before the summer of 2015 and the victim of extreme violence after the summer of 2015.

[222] A.P. was a member of what can be described as the drug culture, and a culture where talking to the police was frowned upon and, quite frankly, A.P. did not trust the police.

[223] However, the case for the Crown relies primarily on the evidence of A.P. and the burden to establish the essential elements of the offence beyond a reasonable doubt rests with the Crown.

[224] There are no objective signs of injuries that were noted by any witnesses who testified about their dealings with A.P. despite the fact that she gave evidence that she had a significant physical altercation with Ms. Lincoln. Also, A.P. testified that she was restrained with zap straps on her wrists and ankles on numerous occasions over the two time periods in question. None of the witnesses, including police

officers, a security guard and staff at the Ministry of Social Development and Innovation noted any injuries to these areas of A.P.

[225] A.P. testified that a number of people would have seen direct violence against her. However, none of these witnesses were called at trial.

[226] I have not been asked to draw an adverse inference against the Crown for not calling these witnesses and I have not done so. The court is also cognizant that there is no need to corroborate the evidence of A.P. However, the absence of those witnesses leaves A.P.'s evidence starkly on its own.

[227] There is no scientific or physical evidence that specifically links A.P. to the Lincoln residence or the Markovick residence.

[228] There are numerous inconsistencies in the evidence of A.P. Some inconsistencies are to be expected considering the frailties of the human memory. In the case of A.P., she testified about going through a traumatic experience over a number of days, so it would be natural for some of the details to be unclear in her mind.

[229] However, there are significant inconsistencies in A.P.'s evidence. When A.P. was initially approached by the accused, she told the police that the accused took her to the Lincoln residence. In her direct examination she said that they went to the McDonald's parking lot, where she ultimately handed over some money to the accused, and then they all walked to A.P.'s residence.

[230] This is a material and significant discrepancy. In determining whether or not Ms. A.P. was taken against her will to the Lincoln residence it is important to know whether she was free to walk to her home and then go to the Lincoln residence, as opposed to being forcibly taken there.

[231] While at the Lincoln residence, A.P. told the police that she was locked in a closet in Ms. Hammerstrom's bedroom. However, in her direct examination she said she was locked for hours in a laundry room. This is not a minor detail in her

narrative. There is a significant difference upon viewing the pictures, in the Lincoln residence, that can be found at Exhibit 7, Tab 7, and Exhibit 4, between the size of the laundry room and the bedroom closets. If a person were held captive and bound in a room for hours, it is reasonable to expect that they would have a clear memory of where they were held.

[232] A.P. described an incident when she was at the Lincoln residence where she accompanied the accused to a bus station to pick up Ms. Hammerstrom's brother. During this incident A.P. testified that she asked Ms. Hammerstrom not to tell her brother about what was going on. She then testified she went to pick up breakfast at the A & W Restaurant by herself. A.P. did not mention this to the police in any of her seven statements. Not only is this evidence material to whether or not A.P. was free to come and go as she pleased, but is also inconsistent with what she told the police.

[233] A.P. also described a fight with Ms. Lincoln at the Lincoln residence, where a broom was used against her. A.P. testified that she ultimately overpowered Ms. Lincoln. This evidence is again material to the question as to whether or not A.P. was being held against her will and whether she could have left. She did not provide this evidence to the police.

[234] A.P. testified that she was away from the Lincoln residence on other occasions. She was driven by her friend, Greg Saugstad, to go and pick up some cellphones and that vehicle was ultimately stopped by the police. There were numerous police officers there. Superintendent Anderson and Cst. MacDonald both testified that they did not note any injuries on A.P., nor did she appear to be distraught or being held against her will by the two males that were in the vehicle. A.P. was allowed to leave and ultimately walked home, though she did say she was being followed until she saw a police car on the street.

[235] A.P. also told the police at one point that she obtained a ride from a friend who she described as living by the airport. In cross-examination she testified that

this person did not actually live anywhere near the airport. This was not a detail that she forgot to tell the police. This was a deliberate falsehood.

[236] A.P. described on two occasions that she got away from her captors and went to her friend, Dean Anderson's house, where on both occasions she was found by her captors and taken against her will. A.P. told the police that this occurred at her residence. A.P. deliberately misled the police. Her explanation for this falsehood was that she did not want to get Dean Anderson involved. This is despite the fact that A.P. testified that she was aware of the importance of being truthful and accurate to the police. This is a significant and material discrepancy in her evidence.

[237] Count 10 on the indictment alleges that Ms. Hammerstrom, along with Mr. Littlechild, committed a break and enter of a dwelling house, situated at XXX. This is the residence of A.P. Based on her testimony at trial, there is no evidence that any break-in ever occurred at her residence.

[238] A.P. told the police that she had sexual encounters in the upstairs portion of the Markovick residence. At trial she told the court that she had sexual encounters in the basement of that residence. This is a material and significant inconsistency, in my view.

[239] A.P. told Cst. Ary that she was held down while having sex with six different men. This was not her evidence at trial. She did not testify that she was held down by anyone when she was having sex with these men.

[240] A.P. changed her evidence about who she went to the 7-Eleven with to shoplift, from Pretty Boy to Mike to Tyler Liske.

[241] A.P. testified that she was bound by zap straps when she was on the couch at the Markovick residence. Whitney Prousse testified that A.P. was not bound when he saw her on the couch. In addition, he saw A.P. carrying out boxes to a vehicle that morning and, as such, she could not have been bound by her ankles. Whitney Prousse was a witness called by the Crown and while he did have some

difficulty staying focused on any one particular question, I do accept his evidence that A.P. was not bound when he saw her.

[242] Whitney Prousse also gave evidence that Ms. Markovick had, on occasion, used black straps to secure her audio equipment to her bicycle. I accept this evidence from Whitney Prousse.

[243] Whitney Prousse clearly had animosity towards Ms. Markovick and has no reason to embellish his evidence.

[244] A.P. did not tell the police about being at Warren Beatty's residence. A.P. testified that Ms. Markovick put a knife to her throat at that residence. This is not a minor detail or event which would likely be forgotten by A.P.

[245] Lazara Willier testified that A.P. was doing drugs with her and accompanied her and Ms. Hammerstrom to the 7-11 store. I will just briefly say, that I do not accept Lazara Willier's evidence in its entirety. Lazara Willier demonstrated during cross-examination by the Crown that she was prepared to make up her evidence as she went. It is implausible that she could remember everything she did for a period of over a week, when during most of that time she was under the influence of drugs. It would be unsafe to rely on Lazara Willier's evidence.

[246] A.P. also testified that she went to a number of financial institutions to try and cash her cheque in the approximate amount of \$1,800 U.S. funds. Her evidence was somewhat confusing with regard to the cheque cashing stores that she attended on Third Avenue. It appears that there were two such stores on Third Avenue, being Speedy Cash and PG Cheque Cashing. A.P. gave evidence that she left the cheque with the cheque cashing store, which was connected to the pawn shop, and then Ms. Hammerstrom became upset at her for doing that and went back to the store and retrieved the cheque.

[247] It is implausible that a cheque cashing store would give a cheque in the name of A.P. to a third party. Given the description of the cheque cashing store by A.P., I find that the store she was talking about is the PG Cheque Cashing store.

[248] I have heard the evidence of Doug Morrison, the owner of the business and Karen Schick, who worked at that store. They gave no such evidence that that occurred and I find that they would not have given a cheque in the name of A.P. to Ms. Hammerstrom.

[249] I find that A.P.'s evidence that Ms. Hammerstrom retrieved the cheque from the cheque cashing store is unreliable.

[250] A.P., on her own evidence, stated that she was using heroin on the day that the accused first approached her. She also ingested dilaudid and used heroin over the course of these events, though she testified that she was only using maintenance amounts.

[251] A.P.'s evidence must be approached with caution because of the narcotics that she was ingesting and their potential effect on her memory. A.P. was either dope sick or using narcotics when these events occurred. A.P. was either dope sick or using narcotics when she spoke to the police.

[252] A.P.'s demeanour in giving evidence is also troublesome. She took unusually long pauses on many occasions when she was giving evidence. She would often have her head down and it appeared on many occasions that she was either sleeping and had to be prompted by both the court and by counsel to give answers to the questions. Her evidence was also riddled with answers such as, "I don't remember", or, "I don't know".

[253] A.P. testified that she did not contact the police when she had occasion to because she did not trust the police and she did not want to be labelled a rat. This explanation is, however, contradicted by the fact that A.P. did try to contact the police at the TD Bank and the Ministry of Social Development and Innovation office when she says the accused were trying to take her money that she had received as a result of the cheque from her mother's death.

[254] In my view, because of the numerous material inconsistencies in A.P.'s evidence, the fact that she deliberately lied on at least two occasions to the police

and the inconsistencies in her evidence compared to the evidence of Constable Ary, Whitney Prouse, Doug Morrison and Karen Schick, which I accept, I find A.P.'s evidence to be unreliable. I cannot determine what actually occurred to A.P., based on her evidence.

[255] There is no other evidence to support A.P.'s account of the events that occurred at the Lincoln residence.

[256] There is some support of A.P.'s account about the events that surround the cheque cashing and at the Markovick residence.

[257] Whitney Prouse did testify that A.P. said, in effect, she could not leave without the permission of Ms. Markovick. A.P. did go to the TD Bank and attempt to cash the cheque in the company of Mr. Littlechild. A.P. also went to the Ministry office in the company of Mr. Littlechild, on her evidence. There is no other evidence that Ms. Hammerstrom was present at the bank.

[258] Amy Demerchant testified that she knew Ms. Hammerstrom from high school and she saw Ms. Hammerstrom at the Ministry office when A.P. came there. However, A.P. testified that Ms. Hammerstrom did not come into the Ministry office and Jackie Rosomon testified that she was aware of the two gentlemen, and that she was highly vigilant of what was occurring, because of the note that had been handed to her, and she did not notice any female that appeared to be involved in this incident.

[259] Based on that evidence, I have a reasonable doubt as to whether Ms. Hammerstrom actually came into the Ministry office on that date.

[260] In any event, even if she did, there is no evidence of her partaking in any of the activities of Mr. Littlechild or the other individual.

[261] There is some independent evidence that Mr. Littlechild was exerting influence over A.P. to cash her cheque. There is some independent evidence that Ms. Markovick may have told A.P. that she was not able to leave her residence.

There is no independent evidence that Ms. Hammerstrom was involved in these particular activities.

[262] If the two of you could stand, please?

[263] While I have grave suspicions that Ms. Lincoln and Ms. Hammerstrom were involved in illegal activity against A.P., the Crown has not proven beyond a reasonable doubt what specifically occurred. For all the above-noted reasons I have a reasonable doubt as to the guilt of both Ms. Lincoln and Ms. Hammerstrom and I find you not guilty of all counts on the indictment.

“The Honourable Mr. Justice Tindale”