



R v Moose

2014-2015

OBA/OJEN LAW DAY SECONDARY SCHOOL MOCK
TRIAL SCENARIO

Celebrating Charter Values Throughout the Year



ONTARIO BAR ASSOCIATION
L'ASSOCIATION DU BARREAU DE L'ONTARIO
A Branch of the Canadian Bar Association
Une division de l'Association du Barreau canadien

Canada,
Province of Ontario,
Region of Yourtown.

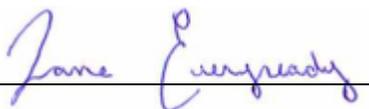
Information of P.C. Jane Everyready
Peace Officer in the Region of Yourtown

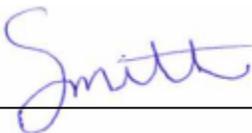
In the Ontario Court of Justice

The informant says s/he believes on reasonable grounds that:

1. Bernie MOOSE on or about the 22nd day of June in the year 2014, in the City of Yourtown in the Region of Yourtown, did in committing an assault on Toni Baluzzo cause bodily harm to her/him, contrary to section 267(b) of the Criminal Code.

Sworn before me at the City of Yourtown,
In the Province of Ontario,
This 3rd day of November, 2014.


P.C. Jane Everyready

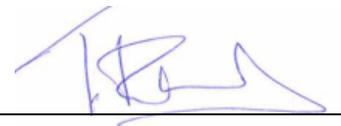

Justice of the Peace

SWORN WITNESS STATEMENT OF TONI BALUZZO

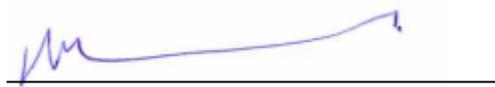
1 My name is Toni Baluzzo. I am 25 years old and work as an administrative assistant in a
2 law firm. I am on the social committee at work because I love to socialize and have a
3 good time. My friends all know I am always looking for different ways to have fun and
4 meet new people. In early June, one of my work friends, Pauline, injured her elbow
5 pretty badly in a freak mail cart accident. Knowing that I am up for anything, Pauline
6 asked me to fill in for her at a co-ed ice hockey tournament her team was playing in near
7 the end of the month. The tournament was scheduled to run over two days, Saturday June
8 21st and Sunday June 22nd. Best of all there was a \$500 prize for the winning team. After
9 Pauline assured me the competition level was not too high, I hesitated only for a moment
10 before agreeing to play. I felt that playing hockey would be like riding a bike. Despite
11 the fact I have not played hockey in over a decade, I was sure that I would pick up right
12 where I left off. Pauline's team was the "Jets". They had these awesome neon blue
13 jerseys. I remember I made a mental note of the brand because I wanted to use a similar
14 colour for a t-shirt give away at the next social committee event. Anyway that is not
15 important here. The team won its two games on Saturday and a semi-final game Sunday
16 morning. Since the finals were at 4:00 pm, the team and I headed up to the restaurant in
17 the arena to relax before the big game and grab some lunch. The food was great and the
18 beers were very cold. As soon as the finals started I could tell the teams were very evenly
19 matched and the game was going to be quite intense. The other team, the "Sharks",
20 scored early in the first period but we tied it up before the end of the period. It was a 1-1
21 tie heading into the third period. Being the championship game and all, I did not play

22 much until the last half of the third period when my teammates were getting tired. I think
23 there was about 5 minutes left when the ref blew his whistle as I skated onto the ice. I
24 saw that a scuffle had developed in front of our net between my teammate Riff and a
25 player on the Sharks. I was later told this player's name was Bernie Moose. Since the
26 play had stopped, the other players on the ice headed to the bench to grab some water. I
27 thought this was probably my best chance to try to wave at my friends who had come to
28 watch me play so I stood out at centre ice. To hide the fact from my friends that I was
29 not too coordinated on my skates I think I was leaning on my stick a little while I was
30 looking for them. I vaguely remember seeing out of the corner of my eye a linesman
31 grabbing Moose by his/her jersey as they were skating by me on the way to the penalty
32 box. All of a sudden I felt a hard blow on the left side of my face. The hit caused me to
33 fall and smack my head hard against the ice. It all happened so fast! I do not remember
34 anything else until I woke up in the hospital 12 hours later and saw I had a large bruise
35 under my left eye and 4 stitches above it. I called the police that day to report the
36 incident. I was kept in the hospital for an additional 20 hours before I was allowed to go
37 home. It took a couple of weeks for the bruise to heal completely. I am still rattled by
38 what happened. I did absolutely nothing to deserve a punch to the head.

Sworn before me at the City of Yourtown,
In the Province of Ontario,
This 5th day of July, 2014.



Toni Baluzzo



Commissioner of Oaths

SWORN WITNESS STATEMENT OF LARRY CRUPKE

1 My name is Larry Crupke. I am 35 years old and a sales associate at Fit4Lyfe, a 24-hour
2 gym in Yourtown. I love my job; it has flexible hours and I get a complimentary
3 membership to the gym. The job's only downside is that sales tend to slow down near
4 the end of the summer so I sometimes have to officiate hockey games at West Side Arena
5 to keep the money flowing. I love hockey and used to play competitively until a crazy
6 player took a vicious whack at my knee for no reason. The injury ended my hockey
7 career. Thankfully I can still skate enough to officiate. I always keep what happened to
8 me in the back of my mind because I do not want that to happen to anyone else. One of
9 the events I have officiated in the past is West Side Arena's co-ed adult hockey
10 tournament. This year the tournament was held on the June 21st weekend. The rules for
11 the tournament are different from those in regular hockey. For example, (i) no protective
12 equipment can be worn except helmets and gloves, (ii) at least 2 females have to be on
13 the ice at all times and (iii) no body contact is permitted. I find some players have trouble
14 adjusting to the different rules. It is also very difficult to enforce the "no body contact"
15 rule because a lot of the players are poor skaters and simply cannot stop without bumping
16 into someone. Over the two-day tournament I was scheduled to officiate four games. I
17 was a linesman for the final game at 4:00 pm on Sunday. This was my fourth game over
18 the two-day period so I was very tired and my knee was quite sore. From what I could
19 tell the teams competing for the championship, the "Sharks" and the "Jets", were pretty

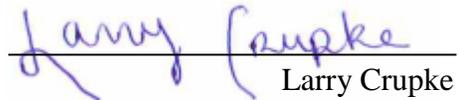
20 evenly matched. They were tied for the majority of the game. There was no overtime
21 allowed in the tournament so I remember thinking the teams would end up sharing the
22 prize if nobody scored soon. With about 4 or 5 minutes left in the game, a player on the
23 Sharks was on a breakaway. I remember his/her name was Bernie Moose. I had seen
24 Moose play before and had asked about him/her before the game had started. S/he was
25 such a good player. I was actually somewhat jealous of him/her. Anyway, to stop a goal
26 from happening the Jets' defender blatantly tripped Moose. Moose slid into the net and
27 pushed it off the pegs causing the ref to blow the whistle to stop the play. As soon as
28 Moose got up from the ice I knew there was going to be trouble. S/he was yelling and
29 immediately went for the Jets' defender. Both players dropped their gloves but I was
30 able to get in between them. I grabbed both of Moose's arms and escorted him/her away
31 from the others to prevent the fight from spreading. When the referee yelled out that
32 Moose got a penalty for roughing, I started to escort Moose to the penalty box on the
33 opposite side of the rink. Moose went berserk and started thrashing around trying to get
34 free from me. I remember seeing a Jets player, who I later learned was Toni Baluzzo,
35 standing nearby but I was so focused on controlling Moose I could not really be sure
36 about the exact distance. All of a sudden I felt this twinge in my knee that caused me to
37 lose my balance a bit. In that split second, Moose broke loose from my grip. Out of the
38 corner of my eye I could see what looked like Moose taking a swing. As I regained my
39 balance I saw Baluzzo was on the ice and out cold. Moose was beside him/her. I am
40 positive Moose punched Baluzzo. S/he was just that enraged. I grabbed Moose so s/he
41 could not do anything more to the kid and put him/her in the penalty box where s/he
42 belonged. An ambulance was called and Baluzzo was taken to the hospital. On my lunch

- 43 break the next day I visited Baluzzo in the hospital. I saw s/he had a large bruise under
44 his/her left eye and needed a couple of stiches. It seemed to me that Baluzzo was still
45 very shaken up by what happened the day before.

Sworn before me, in the City of Yourtown,
In the Province of Ontario,
This 5th day of July, 2014.



Commissioner of Oaths



Larry Crupke

SWORN WITNESS STATEMENT OF BERNIE MOOSE

1 My name is Bernie Moose. I am 23 years old and a student at Yourtown University. I am
2 in my final year of the school's kinesiology program and hope to go to chiropractic
3 school when I graduate. My program is quite demanding so to balance out my study
4 schedule I play hockey at West Side Arena once a week with a co-ed team called the
5 "Sharks". My teammates and I play to have fun but also like to compete. We jumped at
6 the chance to play against teams from outside our league in West Side Arena's annual co-
7 ed hockey tournament. At the tournament, our team was just unbeatable. Heading into
8 the finals against the "Jets", we had a ton of confidence. We scored early in the first
9 period but the Jets tied it up. After that the game got really intense. We were exchanging
10 scoring chances and I had an amazing opportunity late in the third. I had intercepted the
11 puck at centre ice and was on a breakaway toward the Jets' net. I was just about to shoot
12 when someone tripped me from behind with their stick. I still took a shot but it went way
13 wide. My scoring chance was completely ruined. I was so angry. In the heat of the
14 moment, I jumped up off the ice and dropped my gloves to fight the player. Before we
15 could start a fight, a linesman grabbed me by my jersey and pulled me away. S/he told
16 me to "cool down" and pushed me toward the benches. I felt uncomfortable because s/he
17 was holding down my arms so tightly. As we moved toward the benches, I heard the ref
18 yell that I got a two-minute penalty for roughing. That really pushed me over the edge
19 and I got absolutely furious. I wanted to ask the ref what the penalty was for and why the
20 blatant trip by the Jets' defender was not called. As I tried to break loose from the

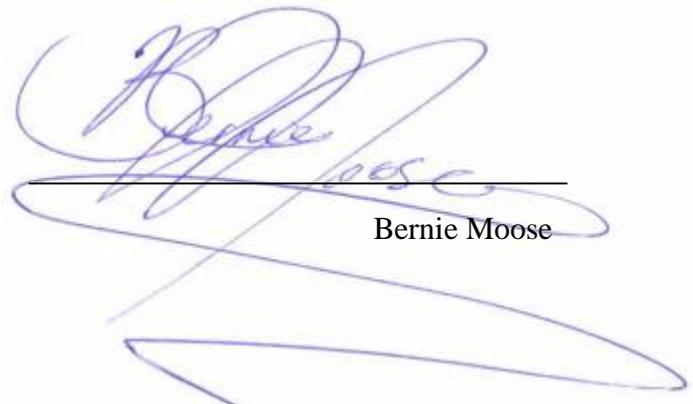
21 linesman's grip to do so, my left arm flung backward and accidentally hit a Jets player in
22 the face. I had no idea this player was there. I did not see him/her. I was just focused on
23 finding the referee so I could talk to him. After the player fell to the ice, I was
24 immediately forced into the penalty box. I noticed a bit of blood but not much. After the
25 ambulance left, the game continued and ended in a tie. A few days after the tournament,
26 I was studying for my midterm exam in my summer course when a police officer came to
27 my house. The officer gave me a notice saying I had been charged with "assault causing
28 bodily harm" because of what happened in the finals. I cannot believe this is happening
29 to me. I did nothing wrong; it was a complete accident.

Sworn before me, in the City of Yourtown,

In the Province of Ontario,
This 5th day of July, 2014.



Commissioner of Oaths



Bernie Moose

SWORN WITNESS STATEMENT OF GLENN HAND

1 My name is Glenn Hand. I am 55 years old and work as an insurance underwriter. In my
2 spare time, I coach my daughter's adult co-ed ice hockey team, the "Sharks". They play
3 in the summer league at West Side Arena. Although I do not have much hockey
4 experience, I am good at identifying risks and keeping my players safe. I would never let
5 my kid play co-ed hockey if I thought she could get hurt. Co-ed hockey in my opinion is
6 pretty safe because no body contact is allowed. This year the team decided to play in
7 West Side Arena's annual co-ed hockey tournament in June. Registration was open to
8 teams in the West Side league and teams from neighbouring communities. We were
9 scheduled to play two games on Saturday June 21st and had the potential to play a semi-
10 final game and final game on Sunday June 22nd. That weekend the team blew through the
11 competition in our first two games and won the semi-final game on Sunday morning.
12 After the semis, we heard we would be playing the "Jets" in the finals at 4:00 pm. Since
13 the Jets are not in the West Side league, my team was really motivated to "protect our
14 house" so to speak and keep the championship with a West Side team. The team started
15 off well by scoring early in the first period but when the Jets tied it up at the end of the
16 period I knew we had a good game on our hands. You could see the tension mounting
17 between the teams as the game progressed. The rules did not permit overtime so if the
18 teams tied, they had to split the \$500 prize. With only a few minutes left in the third
19 period, one of my best players and the top goal scorer in the tournament, Bernie Moose,
20 had a chance to score. S/he intercepted a sloppy pass at centre ice leading to a
21 breakaway. About 10 feet in front of the net, a Jets defender stuck their stick between

22 Moose's legs and tripped him/her. The whistle blew because Moose knocked the net off
23 the pegs. When play had stopped, it looked like a fight was brewing in front of the goal
24 between Moose and the player who tripped him/her. Both of them had dropped their
25 gloves when a linesman stepped between them. S/he seemed to have succeeded in
26 calming Moose down until the referee called a ridiculous penalty for roughing. Moose
27 began resisting the linesman and then somehow a Jets player, who I later learned was
28 Toni Baluzzo, fell to the ice. I am really not sure how it actually happened. When the
29 whistle blew, my players had come back to the bench to get water so I was busy giving
30 them one of my famous "win it for the team" pep talks. Everything happened so fast,
31 within the space of a minute maybe. When I saw Baluzzo on the ice, I rushed out and
32 sent for an ambulance when I saw s/he was unconscious. I also noticed s/he would likely
33 need stitches for a cut above their eye. Although I did not see it happen I know this must
34 be a big misunderstanding. Moose is an experienced hockey player and has never done
35 anything like this before. I do not believe for one second that s/he meant to hurt anyone.

Sworn before me, in the City of Yourtown,
In the Province of Ontario,
This 5th day of July, 2014.



Commissioner of Oaths



Glenn Hand

APPLICABLE LAW

CRIMINAL CODE (RSC, 1985, c C-46)

Assault

Assault

265 (1) A person commits an assault when

- (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
- (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or
- (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

Assault with a Weapon or Causing Bodily Harm

267 Every one who, in committing an assault,

- (a) carries, uses or threatens to use a weapon or an imitation thereof, or
- (b) causes bodily harm to the complainant,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.

Definitions

2 ... “bodily harm” means any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature;