

OBA
OJEN
COMPETITIVE
MOCK TRIALS

Tournament Case 2024

R v Lavel



OBA FOUNDATION
LA FONDATION DE L'ABO



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,
County of Missinaba,
In the Superior Court of Justice,

His Majesty the King

against

Charlie Lavel

Charlie Lavel stands charged:

1. That he/she/they on the 21st day of July, 2023, in the City of Mariposa, did commit second degree murder on the person of Bailey Tanner, contrary to s. 235(1) of the Criminal Code of Canada.

Dated this 3rd day of September A.D. 2023 at Mariposa, Ontario.



Amy Brand,
Agent for the Attorney-General of Ontario

Witness List

Crown:

- Max Luo, friend of deceased
- Harsha Ghosh, neighbour

Defence:

- Charlie Lavel, defendant
- Dr. Yasu Dilag, Psychiatrist

Notes:

- Dr. Yasu Dilag should be “qualified” as an expert witness. Qualifying a witness as an expert allows the witness to give opinions in their area of expertise (in this case, psychiatry). To do this, defence counsel will enter Dr. Dilag’s CV as an exhibit and ask a few leading questions at the beginning of direct examination (which is permitted) to establish Dr. Dilag’s credentials and expertise. Defence counsel will then ask the judge to accept Dr. Dilag as an expert witness and the judge will make a ruling. For this mock trial, Dr. Dilag’s credentials are not in question, so the ruling will be positive. Dr. Dilag can then provide expert opinion testimony.

SWORN WITNESS STATEMENT OF MAX LUO

My name is Max Luo and I am 31 years old. Bailey and I knew each other almost our whole lives. We were such good friends that people often joked we were basically siblings. I can't believe that Bailey is dead.

Bailey and Charlie have been living beside each other for years. Charlie and Bailey were always yelling at each other – sometimes it was about the fence being broken, sometimes it was about Charlie's tree dropping leaves on Bailey's lawn. I stopped even trying to keep track. I always told Bailey that Charlie wasn't worth fighting with, but Bailey never listened. Charlie is a master manipulator, always lying, never showed any signs of regret when they made Bailey's life miserable. Every time Bailey called Charlie out on something, Charlie would play the victim. It got to the point where Charlie would pretend to be hurt after they yelled at each other. I saw it with my own eyes. One time last summer, Bailey was screaming at Charlie for knocking over their garbage bins with their car (again) and lightly pushed Charlie - Charlie way over-reacted and flung themselves at the ground. Charlie was always playing things up for pity points.

The day Charlie murdered Bailey, I was there. I went with Bailey to go try and get some money because Charlie wasn't contributing to the fence repair like they said they would. The shared fence had fallen over in part of the backyard, and Charlie was refusing to pay for repairs – even though Bailey offered to split the cost and the rotted wood was on Charlie's side of the fence. I brought a knife to make sure Charlie realized that it was serious. Bailey didn't know I had the knife. Bailey would never hurt a fly, but I wanted to scare Charlie into paying. I never planned to use the knife, just show Charlie that I had one.

When we got to the door, Charlie didn't want to let us in. Not going to lie, Charlie looked a little out of it – they were wearing dirty clothes that looked like they hadn't been

changed in days and they had huge bags under their eyes. Charlie was yelling something about “having rights” and Bailey tried to push past to get into the house and have a normal discussion like adults. Charlie then whipped out a gun and shot Bailey right in the head. I didn’t even show Charlie the knife yet! After Bailey was already down, Charlie shot again into the street. I don’t know why. Charlie looked as surprised as me that they had actually shot a gun, and immediately dropped to the ground in shock. I took the gun away and I called 911 while Charlie just stared straight at the body without talking.

LUO m.
Max Luo

Sworn (or Affirmed) before me at
Mariposa

in the PROVINCE OF ONTARIO, on
this 27th day of July 2023

Rose Smith
A Commissioner for Taking Oaths for Ontario

SWORN WITNESS STATEMENT OF HARSHA GHOSH

My name is Harsha Ghosh and I live across the street from both Bailey and Charlie. I have lived here for a decade and the two of them moved in a few years back only about a month apart.

I heard Bailey and Charlie fighting all the time. It never bothered me too much at first because I could just turn up my television programs, but I started to get worried when it went beyond yelling matches. In the past year or so the fights have definitely gotten more dramatic. I have heard breaking glass, and thudding sounds – I even went over there once to try and calm down the situation, but ended up leaving as neither of them listened to me. Last week Bailey was in Charlie's yard screaming. I didn't hear the whole conversation but I definitely heard Bailey yell that Charlie was "dead meat" and I saw them storm off from Charlie's house with a bloody nose. I don't know what happened because neither of them like me very much and just start swearing at me when I talk to them. I stopped asking questions a while ago – I'm scared by the both of them. Nothing good from that side of the street.

On the night of the 21st of July I looked out my window when I heard a car smash into some garbage bins. The garbage bins in our area are kept on the property lines and they regularly get run over by Bailey. This wasn't the first time this had happened – Bailey looked a little drunk and is never good at parking when they've had a few beers. Tonight was different though because Bailey wasn't alone.

Usually neither of them ever have folks over, so I was curious and stayed at the window to watch. It was like watching a car accident – I couldn't look away. Bailey was banging on the door yelling about how Charlie needed to pay up while the other person on the

porch was waving around their arms but it was too dark to see exactly what was happening. Charlie's face was illuminated by the light in the entryway, and they looked terrified through that glass door. For some reason that escapes me, Charlie opened the door and the two of them on the porch tried to shove their way inside. I don't know what Charlie said to them, but all of a sudden the two of them stopped yelling real quick and slowly started to back away. Then I heard a loud bang. I don't know what happened next because I ducked down away from the window. But I heard a yell of anguish, and it didn't sound like Charlie – I'm used to Charlie's yelling - and then another bang, and when I next looked up Bailey was lying in a pool of blood. I can't believe it. I'll never spy on my neighbours again.

H. Ghosh

Harsha Ghosh

Sworn (or Affirmed) before me at
Mariposa
in the PROVINCE OF ONTARIO, on
this *3rd* day of *August* 20*23*
Rose Smith
A Commissioner for Taking Oaths for Ontario

SWORN WITNESS STATEMENT OF CHARLIE LAVEL

My name is Charlie Lavel. I am 30 years old and work as a teacher's assistant. I moved to the neighbourhood about 5 years ago, similar timing to when Bailey moved in next door. We never really got along because Bailey was one of those people who always had a critique to say – my safety light on the porch went into their bedroom or my dinner smelled weird – you name it, they found a way to complain about it. I think they should have bought a house in the middle of a forest for how much they hated having people nearby.

I knew that I never wanted to get into any interaction with Bailey because we were constantly getting into arguments. About two months ago, the issue of the moment was my tree. Apparently the tree made Bailey's yard too shady, so in the middle of the night they climbed the fence and cut down a branch with a chainsaw. I saw them do it. They waved the chainsaw at me grinning - it was terrifying. Bailey told me they would "get at" me if I called the police or told anyone what happened. After the branch of my tree got cut down, I wanted to call the police, but the look in Bailey's eye convinced me otherwise – Bailey knows where I sleep. I didn't want to poke the bear. This person was truly unhinged. After that I couldn't sleep properly because of how horrified I was. I couldn't eat and I was scared to even leave my house. Every time I close my eyes I see Bailey being deranged and waving around a chainsaw.

Over the last few months I felt like Bailey was getting more and more erratic and maniacal; calling me almost daily with threats, finding problems where there weren't any. The tree was the thing that pushed me over the edge. I thought to myself that I needed to protect myself more seriously because Bailey clearly doesn't respect private property, so I bought a gun.

Our fence has been falling down for years. It's one of those projects that gets pushed to the side when you have a big old house. Bailey was fixated on getting it fixed, but I couldn't afford it yet because I just fixed a leaky pipe in my bathroom. I told Bailey this and asked if we could repair the fence in a few months. Bailey didn't listen to me and paid a ridiculous amount to have it fixed, then demanded I pay up immediately. I couldn't pay but offered to pay in installments. Bailey didn't like that.

A few days later, on the night of July 21st, I got a phone call from Bailey telling me that I would have to pay even if I had to sell my kidney to do so. When I heard a knock on the door shortly after the call I knew I was in danger. I answered the door with my gun in my hand just in case Bailey tried anything. I wasn't going to let Bailey hurt me. I knew only one of us was going to walk away before I even answered the door. When I answered the door Bailey was slurring their words like they were drunk, and yelled that I was "dead meat" if I didn't pay up. I saw that Bailey had brought backup and knew I was in real danger. Bailey is always more belligerent after a few beers. Both of them were waving around knives. I was scared so I shot a warning shot above Bailey's head to try to send a message that I wasn't going to get out of the way. My warning shot didn't work

though and Bailey tried to push into the house. Bailey started running towards me with a knife with a crazy look in their eyes. The next thing I remember the police were there. I didn't want to hurt Bailey. It was a last resort. I needed to protect myself. If I hadn't killed Bailey, I know that I would be dead myself.

Clavel

Charlie Level

Sworn (or Affirmed) before me at
Mariposa
in the PROVINCE OF ONTARIO, on
this 27th day of July 2023
Rose Smith
A Commissioner for Taking Oaths for Ontario

SWORN WITNESS STATEMENT OF YASU DILAG

My name is Dr. Yasu Dilag. I am a psychiatrist with extensive professional experience in the treatment of post-traumatic stress disorder, or PTSD. It is my opinion that Charlie suffered from traumatic experiences that resulted in symptoms severe enough to result in a diagnosis of PTSD.

In my clinical experience, people with PTSD continue to produce high amounts of adrenaline even after the real danger has passed. This disorder causes a malfunctioning in the hippocampus, the part of your brain responsible for emotional processing, which can lead to severe anxiety, memory problems, flashbacks, and nightmares.

PTSD heavily impacts the state-of-mind of those who are afflicted. I am unable to definitively comment on how imminent the real threat was to Charlie at the time of Bailey's death. It is possible that in Charlie's mind, physical force was the only way they could ensure that they would prevail in what they interpreted as a violent encounter with Bailey. It is also possible that through their lens of PTSD-induced reality, Charlie was not acting in a way that was directly proportionate to the situation. PTSD can impact the way that a person responds to and remembers events while preventing an accurate read of the realities of a situation.

Because of Charlie's condition, it is possible that Charlie was responding to Bailey's behaviour and recognizing signs that conflict was unavoidable. For an outside observer unfamiliar with harassment, the behaviour experienced by Charlie might appear to be insignificant. Charlie however, was dealing with a prolonged situation that built up over years resulting in a trauma-based understanding of every interaction. This does not mean that Charlie was necessarily misreading the situation; it simply means that these factors should be considered by the court.

I believe, based on my professional relationship with Charlie, that PTSD might have been impacting Charlie's perception of danger on the night of the events in question. Charlie confided in me that they did not feel safe calling the police to report the increasingly invasive nature of the harassment. Charlie lived in a state of heightened adrenaline levels for so long that "the fight or flight" reaction was involuntary. Charlie could not leave their situation so the stress Charlie faced on a day-to-day basis in their relationship with Bailey only increased. People suffering from PTSD do not all respond to threats of violence in the same way, and it is difficult to achieve an objective analysis of the reasonableness of the reaction.

Sworn (or Affirmed) before me at
Mariposa
in the PROVINCE OF ONTARIO, on
this *3rd* day of *August* 20*23*
Rose Smith
A Commissioner for Taking Oaths for Ontario

Yasu Dilag
Yasu Dilag