

OBA
OJEN
COMPETITIVE
MOCK TRIALS

Tournament Case 2020

R v Kaye

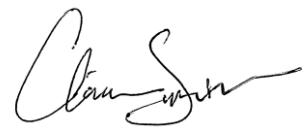
Canada,
Province of Ontario,
County of Missinaba.
In the Superior Court of Justice,

Her Majesty the Queen
against
Morgan Kaye

Morgan Kaye stands charged:

1. That he/she, on or about the 14th of September 2019, in the City of Mariposa, did by criminal negligence to wit: failing to comply with the *Fire Code* in his/her rooming house cause the death of Carl George contrary to section 220 of the Criminal Code.

Dated this 16th day of October, A.D. 2019 at Mariposa, Ontario.



Claire Smith,
Agent for the Attorney-General of Ontario

Criminal Code of Canada

(RSC, 1985, c. C-46, as am.)

Criminal negligence

219 (1) Every one is criminally negligent who

- (a)** in doing anything, or
- (b)** in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

Definition of *duty*

(2) For the purposes of this section, *duty* means a duty imposed by law.

Causing death by criminal negligence

220 Every person who by criminal negligence causes death to another person is guilty of an indictable offence and liable

- (a)** where a firearm is used in the commission of the offence, to imprisonment for life and to a minimum punishment of imprisonment for a term of four years; and
- (b)** in any other case, to imprisonment for life.

Witness List

Crown:

1. Alex Riley
2. Siham Sanga

Defence:

1. Morgan Kaye (defendant)
2. Blair Brown

Sworn Statement of Alex Riley

1 I am a Fire Prevention Officer and Investigator with the Mariposa Fire Service. I am
2 responsible for the inspection of residential, industrial, commercial and other public
3 buildings to ensure compliance with our fire laws and regulations. I am also a member
4 of the Canadian Association of Fire Investigators and have over 10 years of experience
5 in fire prevention and investigation.

6
7 On Friday July 19, 2019, I was dispatched to 50 Knightsbridge Garden Circle to inspect
8 a two-story detached house. I was greeted by an individual named Blair Brown. After I
9 identified myself and explained why I was there, Blair granted me access to the house.

10
11 I started my inspection of the house on the second floor. This floor had three bedrooms
12 labelled with a number (#1, #2 and #3). Each bedroom had its own lock. Bedrooms #1
13 and 2 were locked so I was unable to access them. I was given access to Bedroom #3
14 by Carl George. Carl occupied this bedroom. I also saw a kitchen on the second floor in
15 which there was a refrigerator as well as a plug-in hot plate and oven sitting on the
16 wood floor.

17
18 On the first floor, there was a kitchen with two refrigerators, two stoves and a microwave
19 oven. There was also a large common area with stairs that led to the basement. The
20 basement had a single bedroom and washroom. It did not have a kitchen.

21
22 As I went through the house, I noted a number of violations of the Fire Code related to
23 retrofits. Retrofits are necessary to bring existing buildings up to the current minimum
24 life safety standards. There was a sign on the front lawn advertising rooms for rent with
25 a phone number. I called the number and spoke with the owner, Morgan Kaye. We set
26 up a meeting at the house for August 11, 2019. I told Morgan that on the next visit I
27 would need access to all rooms, that a working smoke alarm was needed on all floors
28 and that the kitchen on the second floor was not allowed under any circumstances.

29

30 I returned to the house on August 11 and met with Morgan. Since the bedrooms were
31 being rented to individual tenants, each of the bedrooms required a smoke alarm and a
32 proper fire-resistant door. None of the bedrooms had these. So based on what I saw, I
33 issued a Notice of Violation that identified the specific sections of the Fire Code that
34 were problematic. The fixes required to bring the house up to code were also set out in
35 detail, namely the requirement for interconnected smoke alarms, smoke alarms in each
36 bedroom, fire-resistant doors throughout the house, and the requirement for a carbon
37 monoxide detector on each floor. The Notice of Violation was mailed to Morgan and
38 presented in person during my next visit.

39

40 During my visit on August 15, I walked through the home with Morgan and pointed out
41 what was needed to make the home compliant. We also discussed at length the
42 requirement for a smoke alarm and fire resistant door for each bedroom on the second
43 floor given the present living arrangements.

44

45 I returned to the house for a fourth time on August 26. While I saw some progress had
46 been made on certain deficiencies, there was still no correction to the nine doors that
47 needed to be retrofitted, the interconnected smoke alarm and pull system had not been
48 installed, and there were no smoke alarms in each bedroom. I reviewed these violations
49 with Morgan again. We then discussed the potential requirements for the house if it was
50 to be rented to a single family instead, as it had been in 2015. I told Morgan that in that
51 case, the smoke alarms in each bedroom and fire-resistant doors would not be required.

52

53 On September 13, 2019, I received a voicemail from Morgan requesting a further
54 inspection of the house to confirm that all of the violations had been addressed. Early in
55 the morning on September 14, 2019, before I could schedule that visit, I was informed
56 that there had been a serious fire at the house overnight. I went to the house
57 immediately to determine its origin and cause.

58

59 As I walked through the fire scene, I found that the fire originated in room #3 on the
60 second floor, which contained the hot plate. I noticed that the doors of the second floor

61 bedrooms had locks on them. I did not find smoke alarms in each bedroom, and the
62 doors had not been retrofitted. I found the burned remains of one smoke alarm on the
63 staircase to the second floor. This alarm had no batteries in it. I also saw two other
64 alarms sitting on a shoe rack on the main floor. One was labelled “main floor” and one
65 labelled “basement”. Both of these alarms had been removed by the firefighters. The
66 “main floor” smoke alarm did not have batteries. The “basement” smoke alarm had a
67 battery but did not activate as it was out of the smoke/fire zone.

68

69 I later learned that Carl, the occupant of the bedroom where the fire started, died of
70 smoke inhalation.

71

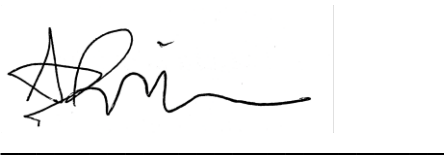
72

73

74

75

76



Alex Riley

Sworn Statement of Siham Sanga

1 My name is Siham Sanga. I lived on the second floor at 50 Knightsbridge Garden Circle,
2 prior to the fire on September 14, 2019. I moved into 50 Knightsbridge Garden Circle in
3 May 2019. The house itself was cramped, and the walls were paper-thin. I used to work
4 at Fifi's bakery just around the block, so the location was ideal, and the rent was only
5 \$375 a month. Though I didn't know them, Carl George and Parker Reed must have
6 moved in at pretty much the same time as I did, since I remember every day that week it
7 seemed like there was a moving truck blocking the sidewalk. They both seemed nice
8 enough, but honestly, I didn't even know their last names until all of this happened. I
9 remember putting my signature on the lease, but I never got my copy from the landlord,
10 Morgan. I was told it was just a "formality".

11
12 I had been living in the house for a few months when something happened that made
13 me suspicious of the rental situation. It was late in the morning on August 27, 2019, and
14 I had just worked an overnight shift at Fifi's, because all the baking needs to be fresh for
15 the customers in the morning. I was feeling pretty groggy when Morgan knocked on my
16 door. Morgan must have knocked on Carl's and Parker's doors already because they
17 were both out in the hallway, looking just as confused as I was. I remember thinking that
18 we had never all been home at the same time.

19
20 Morgan started talking about us not playing with the fire alarms. I felt a little bit guilty
21 because I had taken the batteries out of the fire alarm once or twice before, but I always
22 put them back! And it wasn't my fault - I think something was wrong with that alarm. It
23 went off every time I was baking, which is pretty often. And you can ask anybody, I do
24 not burn my cakes. I am a professional baker.

25
26 Morgan also said something about living together as a family, or acting as a family, or
27 something. I didn't really get it, to be honest. I was still tired from my shift, and I really
28 just wanted to go back to bed. Morgan also said something about us all having to pay
29 our rent together. I did not understand why this was happening, since like I said, I barely

30 knew Carl and Parker. But they both gave me their portion of the rent the next day, so I
31 put my signature on a cheque for the total amount and gave it to Morgan. I thought I
32 should get some sleep and I would ask Morgan about it before next month's rent was
33 due. I do not remember signing any document.

34
35 The next day, as I was thinking more about what Morgan had said, it just seemed really
36 suspicious to me. It actually made me reach out to my friend who lives close-by to see if
37 her building had any vacancies. I loved living so close to my work, and you couldn't beat
38 the rent, but the quarters really were cramped, and honestly, the whole new rent
39 situation kind of freaked me out. I knew there was something weird going on.

40
41 On the night of the fire, I was listening to music in my room, just beginning to doze off.
42 All of the sudden, I smelled smoke. When I went to open my door the handle burned my
43 hand, but I managed to get it open. I must have screamed pretty loudly, because Parker
44 came out of the first room. I saw Carl batting away at the flames. I yelled at him to
45 come, but he said he was going to put out the fire himself. I don't know what on earth he
46 was thinking! The whole floor was filled with smoke, and the flames seemed to be
47 everywhere. It was so hard to breathe that I almost passed out right there, but Parker
48 and I managed to get out of the house somehow. That's really all I can remember until I
49 woke up in the hospital the next day.

50
51 I found out later that I had to be treated by paramedics for smoke inhalation, that I
52 sustained 2% partial thickness burns to my face and both hands, plus a Grade 1 smoke
53 inhalation injury. I am just glad the paramedics were there to intubate and resuscitate
54 me. I know I'm lucky to be alive.

55
56
57
58
59



Siham Sanga

Sworn Statement of Morgan Kaye

1 My name is Morgan Kaye. I am the owner of the house located at 50 Knightsbridge
2 Garden Circle. I purchased the house in June of 2015 as an investment property. At that
3 time, the house was being rented to a single family. However, I realized that I could
4 make more money by renting the rooms out to students at the local college instead.

5
6 Once my purchase of the house was finalized, I immediately installed locks on each of
7 the bedroom doors and installed a door on the stairs leading to the basement to make
8 individual “units”. In total, I created three bedrooms on the second floor and one
9 bedroom in the basement. In 2019, I rented the house to four tenants. Bedroom #1 was
10 rented to Parker Reed for \$300 per month, bedroom #2 to Siham Sanga for \$375 per
11 month, and bedroom #3 to Carl George for \$300 per month. I rented the basement to
12 Blair Brown for \$375 per month.

13
14 In July 2019, I received a call from Alex Riley from the Mariposa Fire Service. Officer
15 Riley told me that the house had been inspected, and several Fire Code violations had
16 been noted. Riley told me that the kitchen upstairs had to go. After this conversation I
17 immediately had the kitchen demolished, removing the superficial wall as well as both
18 the oven and refrigerator.

19
20 I met with Officer Riley a few more times at the house to discuss the violations and how
21 they were to be rectified. I did as much as I could to rectify the violations. I had installed
22 a carbon monoxide detector on each floor and demolished the second floor kitchen, but
23 I really didn't understand some of the retrofit requirements. When Officer Riley came to
24 the house on August 26, I was told that that if I continued to rent the upstairs bedrooms
25 to individual students then I would need to install fire alarms and fire-resistant doors in
26 each bedroom. In addition to the cost of this, I knew that the retrofits would be noisy and
27 intrusive for the tenants. I asked Riley if there was any other way to go about it. Riley
28 told me that if I decided to rent the second floor to one family, I would not need to
29 complete the same noisy, intrusive, and expensive retrofits.

30
31 Officer Riley also suggested that I prepare a document to specify that I rented the upper
32 level of the house to Carl, Siham, and Parker as a family, not individual tenants, and
33 that they were responsible for maintaining the batteries in the smoke alarms in the
34 kitchen and upper floor hallway. They were also to pay rent as a family through one
35 person. I knew the tenants were all very close anyways, they are always hanging out
36 and chatting. I thought that if they could potentially avoid weeks of work on their suites,
37 they would be happy to agree.

38
39 The next day I prepared a document detailing the arrangement. I discussed this
40 proposal with Siham, Parker and Carl and it was just as I thought. They all made an oral
41 agreement to live as a family in the manner described in the document I had prepared.
42 Siham signed the document right there. I do not think Carl or Parker had a chance to
43 sign it. I have provided a photocopy of the agreement, although with everything that has
44 happened, I must have misplaced the original.

45
46 Once I had their agreement, I completed all of the corrective work Officer Riley had
47 specified. I did not apply the retrofits that Riley said were required if I continued to rent
48 to individual tenants, since they were to be treated as a family. I also told Siham,
49 Parker, and Carl that the locks on their bedroom doors had to be removed to meet the
50 Fire Code requirements. I had planned to go to the house on September 15 to check
51 that they had been removed, but because of the fire I never got the chance.

52
53 I know that after the fire had been put out, the firefighters found a hotplate in Carl's
54 room. I had no idea that Carl had this in his room or that he was cooking in there. As I
55 said, I had the entire second floor kitchen demolished. Nobody mentioned anything to
56 me. I respect my tenants' privacy, and it's a small space, so whenever we chat it is
57 always in the common area.

58
59 This fire is a tragedy. Even though the fire is not my fault, my reputation as a landlord is
60 ruined. I do not want to speak ill of the dead, but I blame Carl. After the fire, Blair told

61 me that they had been drinking with Carl before the fire, and also suggested Carl might
62 have had a drinking problem. If I had known this, I would never have allowed Carl to live
63 in the house.

64

65



66

67

68

69 Morgan Kaye

Sworn Statement of Blair Brown

1 My name is Blair Brown. I previously lived at 50 Knightsbridge Garden Circle, prior to
2 the fire on September 14, 2019. I now live temporarily with a friend on Albina Way.

3
4 50 Knightsbridge Garden Circle is a detached house with two floors and a basement. I
5 moved into the house in August 2017 when I started the Golf Facility Operations
6 program at Yourtown College. At first, I rented one of the three bedrooms on the second
7 floor. It was a small room but since I was rarely home it did not bother me. In May 2019,
8 the basement became available. Since I wanted a bit more privacy, I decided to move
9 downstairs. Around the same time, Siham Sanga, Carl George, and Parker Reed
10 moved in upstairs. I'm not sure if anybody knew each other before moving in, but we all
11 became acquainted pretty quickly.

12
13 For instance, about once a week I would go out for a couple drinks with friends at
14 Cousin's Deli down the street. But Mariposa isn't too big, and we would run into Carl
15 there more often than not, sitting alone. He seemed like a decent guy, and it's no fun to
16 sit alone, so I would often invite him over to our table. There were a few times where he
17 did go overboard, though, and I had to help him back to the house.

18
19 Even after I moved downstairs, I would still go up to the main floor to use the kitchen or
20 hang out with the other tenants. I would always make a special trip upstairs when Siham
21 was baking groundnut cakes - you could smell them through the whole house. They
22 were delicious groundnut cakes. But while the cakes always tasted amazing, the baking
23 process did not always go as planned for Siham and the fire alarm would constantly go
24 off. One time Siham stood on top of the kitchen table and hit the alarm with a broom to
25 try to disable it. I think Siham even removed the batteries from the smoke alarm
26 upstairs.

27
28 On July 19, 2019, I was sitting on the front step of the house enjoying my last fifteen
29 minutes outside before I left for work at the college. An individual dressed in a uniform

30 approached me and identified themselves as a Fire Inspector. Alex Riley was the name.
31 Alex asked to see the inside of the house, so I opened the door to let them in, and then
32 went back outside. I left shortly after, because I had to get going. I didn't think anything
33 of it until the owner of the house, Morgan Kaye, brought the subject up with me a few
34 weeks later.

35

36 Over the past two years I have become friendly with Morgan. In August, I received
37 several notices indicating that work in my unit was needed to improve the house's fire
38 safety. Morgan was apologetic about the intrusion, but a new smoke alarm needed to
39 be installed. I believe a carbon monoxide detector was also installed. I'm not sure about
40 the work done to the main floor or the second floor, but I remember Morgan mentioning
41 a few days before the fire that there was a good deal on fire alarms at BoxMart. We
42 would often let each other know when we came across a good deal, since everything in
43 this city is getting so expensive.

44

45 On the night of the fire, I left the house around 10:30 p.m. to go to the bar with my
46 friends. Before I left, I had a few drinks with Carl. Since he usually likes to party, I asked
47 Carl if he wanted to come out with my friends, but he declined the invitation. He
48 mentioned that he was starving and he was going to make macaroni and cheese.

49

50 I returned to the house after last call around 2:15 a.m. and I could not believe my eyes.
51 There were firefighters all over the place and smoke was billowing out of the house. I
52 just stood there in shock and watched as the firefighters worked on putting the fire out. I
53 didn't know where any of the other tenants were. I think they were finally able to put it
54 out around 3:00 a.m., around which time I found out that Carl did not make it out alive.

55

56

57

58

59 Blair Brown



List of Exhibits

1. Toxicologist's Report and Autopsy Findings of Carl George
2. Notice of Fire Code Violation
3. Handwritten document dated August 27, 2019

**Toxicologist's Report
and Autopsy
Findings Summary**

Patient Name	GEORGE, Carl
Patient ID	07162007
Age	38 Y DOB 28/02/1981
Gender	M
Weight	177 lbs.
Report Issued	16/09/2019 18:00

Postmortem Toxicology Report - Basic with Vitreous Alcohol Confirmation, Blood (Forensic).

Compound	Result	Units	Matrix Source
Ethanol	311	mg/dl	001 - Chest Blood
Blood Alcohol Concentration (BAC)	0.311	g/100ml	001 - Chest Blood

Autopsy Findings

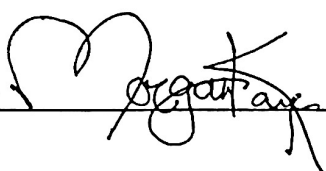
1. Patient's Blood Alcohol Concentration (BAC) level immediately prior to death was confirmed to be at hazardous, well above-average levels (0.311g/100ml).
2. Cause of death was determined to be inhalation of smoke and soot due to fire.
3. No recent significant injuries noted otherwise.
4. Sustained following injuries from a HOUSE FIRE. The incident occurred at 50 Knightsbridge Garden Circle in Mariposa, ON early in the morning of September 14, 2019. I certify that death occurred from the cause and in the manner stated above in accordance with the written findings contained herein.

Signed this 16TH day of September 2019

Giles R. Schmidt

G.S. Labs

I, Morgan Kaye, the owner of 50 Knightsbridge Garden Circle, gave you the upper level (Siham Sanga, Parker Reed, Carl George) to rent as a family, not as individual tenants. You are sharing the common areas and using the bedrooms. You are to maintain two smoke alarms, one in the kitchen hall main floor, the other in the hallway on the upper floor, in operating condition. A carbon monoxide alarm is plugged in the hallway near the bedrooms on the upper floor in operating condition. If any of you or your visitors take out the smoke alarms, batteries or carbon monoxide alarm, you are responsible for this. You will pay the rent as a family by one person.

Owner  _____

Tenant  _____

Tenant _____

Tenant _____

Date: August 27, 2019