Dave Accused is charged with one count of assault with a weapon.

R7: of Barry Smith dated 22 October 2022

I was at Sir John A pub. I was sitting at the bar and heard some loud voices. I looked over and saw a regular, Dave, yelling at a hipster in a plaid shirt. I couldn’t really hear what he was yelling about but then I heard Dave say “I’m gonna fuck you up” and then Dave swung his bottle at the plaid shirt guy. Plaid shirt guy then tried to punch Dave, but he missed, and Dave got him with the bottle right to the head. He dropped hard.

I got up to see if I could help out. And when I walked over to Dave, he tried to fist bump me and Dave said “Got him”.

The following Q&A is on the R7 but in different handwriting.

Q: Do you know the victim?

A: Never seen him before

Q: how much did you have to drink?

A: 3 jack and cokes, one drink per period. And Habs were up 4-2 in the 3rd when everything happened.

Q: What kind of bottle was Dave holding?

A: Coors. He always drinks Coors.

Q: What’s Dave’s last name?

A: I don’t know. He’s a mechanic.

Q: What did you do when Dave “tried to fist bump you”

A: just like instinct I did it. But I didn’t have anything to do with this.

**Additional Facts**

No audio/video interview or line-up was done.

Barry is subpoenaed for trial. He doesn’t show up for any of the prep sessions the I/O tried to schedule.

On the day of trial Barry shows up at 9:30. He says “I don’t want to be here, but I will tell the truth.”

Barry agrees to read over his written statement.

The victim testifies first. His accounts is that he was wearing a plaid shirt. Some big guy started yelling at him. He’s not really sure why. The guy started saying he was going to “get him” and “fuck him up” and then all of a sudden swung a beer bottle at him and missed. He swung again and hit him hard in the head. He dropped to the floor. His head really hurt. He had a big cut to his scalp that took 7 stitches. He had a concussion but is ok now. After he got hit he didn’t really see what happened. His friends took him to the hospital.

Barry testifies as follows:

1. He was at Sir John A
2. He heard about a fight.
3. He heard Dave might be involved.
4. Other than hearing some loud voices he didn’t see anything.
5. He was really really really drunk and his memory sucks.
6. The Habs won- he’s sure about that.