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**IN THE SUPREME COURT
B E T W E E N**

Mr Litt

Appellant

V

Respondent

R

Mr Litt lives next door to Zane and Ross Motors, a used car sales lot. Mr Litt has had several fallings out with the owners of Zane and Ross Motors, Michael and Rachel, due to customers parking on his driveway and other activities he finds annoying. On the 23rd December 2016, Mr Specter and his daughter visited Zane and Ross Motors, with the intention of purchasing a car. Mr Specter had parked on the side of the road, partially blocking Mr Litt's drive way.

When Mr Litt saw that his driveway was blocked he became very angry and stormed into the Zane and Ross Motors' showroom. In the showroom Mr Litt shouted obscene language at all the customers and demanded to know who owned the car. Mr Specter was in the restroom at the time but his daughter informed Mr Litt the car belonged to her dad. Mr Litt then began to direct his anger towards Mr Specter's daughter, shouting obscenities at her and threatened to 'batter her and her dad if they didn't move the car now'. Customers of Zane and Ross Motors and their staff became very alarmed and called the police.

When Mr Specter came out of the restroom he witnessed Mr Litt belittling his daughter and moved to intervene. Mr Specter placed himself between Mr Litt and his daughter telling Mr Litt to 'leave his daughter alone'. Mr Litt realised he was faced with the car's owner and punched Mr Specter in the face as police were pulling up in the drive way. The police were in full view of the scene through the buildings large windows. Officers Pearson and Paulsen quickly attempted to perform a lawful arrest of Mr Litt.

Mr Litt resisted arrest and Officers Pearson and Paulsen had to use force. The Officers managed to get handcuffs onto Mr Litt and attempted to place him in the back of the police car while he continued to resist. Officer Pearson moved ahead of Officer Paulsen and Mr Litt to open the car door. Mr Litt was kicking and flailing frantically, trying to break free of Officer Paulsen, as Officer Paulsen attempted to get Mr Litt into the car. Officer Pearson had begun to step back from the car door and move to assist, when Mr Litt accidentally kicked the car door closed. Officer Pearson's arm was caught by the car door and trapped in it. Officer Pearson's arm was broken by the impact.

Subsequently Mr Litt was charged and convicted with recklessly causing grievous bodily harm (GBH) to Officer Pearson under Section 18, Offences Against the

Person Act 1861. At trial the judge directed the jury that if they found that Mr Litt had foreseen and taken the unreasonable risk that, his kicking and failing had the potential to cause some bodily harm to the Officers, in line with *R v Mowatt* [1968] 1 QB 421, then they should find Mr Litt guilty of the offence.

Mr Litt appealed to the Court of Appeal on the ground that:

1. That the degree of foreseeable harm foreseen by the defendant must be equal to that of the harm caused in line with the case of *R v Morrison* [1989] 89. Cr. App. R. 17.

The Court of Appeal upheld the conviction. Mr Litt has been given leave by the Supreme Court to appeal, on the point that it is of general public interest to decide if a Section 18, Offences Against the Person Act 1861, should have a specific relation to resisting arrest on the grounds that:

1. That the degree of foreseeable harm foreseen by the defendant must be equal to that of the harm caused in line with the case of *R v Morrison* [1989] 89. Cr. App. R. 17.
2. That a conviction for the most serious non-fatal offence against the person does not fairly reflect the defendant's culpability, when the defendant was only reckless in relation to the risk of some harm, because the law should not distinguish preventing lawful apprehension or detention in these circumstances.