

Randy Leigh Roy (appellant) v. Her Majesty The Queen (respondent)  
(33699; 2012 SCC 26; 2012 CSC 26)

**Indexed As: R. v. Roy (R.L.)**

Supreme Court of Canada  
McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein and Cromwell JJ.  
June 1, 2012

**Summary:**

The accused left a stop sign and drove his motorhome onto a highway and into the path of an oncoming tractor-trailer. His passenger was killed. As a result of his injuries, the accused could not recall the accident. The accused appealed his conviction by judge alone of dangerous driving causing death contrary to s. 249(4) of the Criminal Code.

The British Columbia Court of Appeal, in a decision reported at 285 B.C.A.C. 57; 482 W.A.C. 57, dismissed the appeal. The accused appealed.

The Supreme Court of Canada allowed the appeal and entered an acquittal.

**Criminal Law - Topic 1391**

Motor vehicles - Dangerous driving - What constitutes - The accused left a stop sign and drove his motorhome onto a highway and into the path of an oncoming tractor-trailer - His passenger was killed - As a result of his injuries, the accused could not recall the accident - The evidence revealed no explanation for why he left the stop sign without first ascertaining that it was safe to do so - The accused appealed his conviction for dangerous driving causing death - The British Columbia Court of Appeal dismissed the appeal - The trial judge found that the accused's driving was objectively dangerous, satisfying the first inquiry necessary for a dangerous driving finding - The trial judge failed to make the second inquiry, which entailed asking if he was satisfied beyond a reasonable doubt that the accused's objectively dangerous conduct was accompanied by the required mens rea - The court found that here it might easily be inferred from the trial judge's reasons that the accused had the necessary intent - The Supreme Court of Canada disagreed - The accused's decision to pull onto the highway was consistent with simple misjudgment of speed and distance in difficult conditions and poor visibility - The record disclosed a single and momentary error in judgment with tragic consequences - It did not support a reasonable inference that the accused displayed a marked departure from the standard of care expected of a reasonable person in the same circumstances so as to justify conviction for the serious criminal offence of dangerous driving causing death - Thus an acquittal was the appropriate remedy.

**Criminal Law - Topic 1391.2**

Motor vehicles - Dangerous driving - Causing death or bodily harm - [See **Criminal Law - Topic 1391**].

**Criminal Law - Topic 1393**

Motor vehicles - Dangerous driving - Intention or mens rea - [See **Criminal Law - Topic 1391**].

**Criminal Law - Topic 5058**

Appeals - Indictable offences - Substitution of verdict - Substitution of verdict of acquittal - [See **Criminal Law - Topic 1391**].

**Cases Noticed:**

R. v. Beatty (J.R.), [2008] 1 S.C.R. 49; 371 N.R. 119; 251 B.C.A.C. 7; 420 W.A.C. 7; 2008 SCC 5, appld. [para. 2].

R. v. Hundal (S.), [1993] 1 S.C.R. 867; 149 N.R. 189; 22 B.C.A.C. 241; 38 W.A.C. 241, refd to. [para. 12].

R. v. Beatty (J.R.) (2006), 225 B.C.A.C. 154; 371 W.A.C. 154; 2006 BCCA 229, refd to. [para.12].

American Automobile Ins. Co. v. Dickson, [1943] S.C.R. 143, refd to. [para. 31].

O'Grady v. Sparling, [1960] S.C.R. 804; 1960 CanLII 70, refd to. [para. 31].

Mann v. The Queen, [1966] S.C.R. 238; 1966 CanLII 5, refd to. [para. 31].

R. v. Khan (M.A.), [2001] 3 S.C.R. 823; 279 N.R. 79; 160 Man.R.(2d) 161; 262 W.A.C. 161; 2001 SCC 86, refd to. [para. 48].

R. v. MacNeil (J.P.) (2009), 277 N.S.R.(2d) 22; 882 A.P.R. 22; 2009 NSCA 46, refd to. [para. 53].

R. v. D.C.S. (2000), 184 N.S.R.(2d) 299; 573 A.P.R. 299; 2000 NSCA 61, refd to. [para. 53].

**Counsel:**

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**Solicitors of Record:**

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This appeal was heard on November 9, 2011, by McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein and Cromwell, JJ., of the Supreme Court of Canada. Cromwell, J., delivered the following decision for the court on June 1, 2012.

Appeal allowed;  
acquittal entered.

Editor: Jana A. Andersen

**Criminal Law - Topic 1391.2**

Motor vehicles - Dangerous driving - Causing death or bodily harm - The accused left a stop sign and drove his motorhome onto a highway and into the path of an oncoming

tractor-trailer - His passenger was killed - As a result of his injuries, the accused could not recall the accident - The evidence revealed no explanation for why he left the stop sign without first ascertaining that it was safe to do so - The accused appealed his conviction for dangerous driving causing death - The British Columbia Court of Appeal dismissed the appeal - The trial judge found that the accused's driving was objectively dangerous, satisfying the first inquiry necessary for a dangerous driving finding - The trial judge failed to make the second inquiry, which entailed asking if he was satisfied beyond a reasonable doubt that the accused's objectively dangerous conduct was accompanied by the required mens rea - The court found that here it might easily be inferred from the trial judge's reasons that the accused had the necessary intent - The Supreme Court of Canada disagreed - The accused's decision to pull onto the highway was consistent with simple misjudgment of speed and distance in difficult conditions and poor visibility - The record disclosed a single and momentary error in judgment with tragic consequences - It did not support a reasonable inference that the accused displayed a marked departure from the standard of care expected of a reasonable person in the same circumstances so as to justify conviction for the serious criminal offence of dangerous driving causing death - Thus an acquittal was the appropriate remedy.

### **Criminal Law - Topic 1393**

Motor vehicles - Dangerous driving - Intention or mens rea - The accused left a stop sign and drove his motorhome onto a highway and into the path of an oncoming tractor-trailer - His passenger was killed - As a result of his injuries, the accused could not recall the accident - The evidence revealed no explanation for why he left the stop sign without first ascertaining that it was safe to do so - The accused appealed his conviction for dangerous driving causing death - The British Columbia Court of Appeal dismissed the appeal - The trial judge found that the accused's driving was objectively dangerous, satisfying the first inquiry necessary for a dangerous driving finding - The trial judge failed to make the second inquiry, which entailed asking if he was satisfied beyond a reasonable doubt that the accused's objectively dangerous conduct was accompanied by the required mens rea - The court found that here it might easily be inferred from the trial judge's reasons that the accused had the necessary intent - The Supreme Court of Canada disagreed - The accused's decision to pull onto the highway was consistent with simple misjudgment of speed and distance in difficult conditions and poor visibility - The record disclosed a single and momentary error in judgment with tragic consequences - It did not support a reasonable inference that the accused displayed a marked departure from the standard of care expected of a reasonable person in the same circumstances so as to justify conviction for the serious criminal offence of dangerous driving causing death - Thus an acquittal was the appropriate remedy.

### **Criminal Law - Topic 5058**

Appeals - Indictable offences - Substitution of verdict - Substitution of verdict of acquittal - The accused left a stop sign and drove his motorhome onto a highway and into the path of an oncoming tractor-trailer - His passenger was killed - As a result of his injuries, the accused could not recall the accident - The evidence revealed no explanation for why he left the stop sign without first ascertaining that it was safe to do so - The accused appealed his conviction for dangerous driving causing death - The British

Columbia Court of Appeal dismissed the appeal - The trial judge found that the accused's driving was objectively dangerous, satisfying the first inquiry necessary for a dangerous driving finding - The trial judge failed to make the second inquiry, which entailed asking if he was satisfied beyond a reasonable doubt that the accused's objectively dangerous conduct was accompanied by the required mens rea - The court found that here it might easily be inferred from the trial judge's reasons that the accused had the necessary intent - The Supreme Court of Canada disagreed - The accused's decision to pull onto the highway was consistent with simple misjudgment of speed and distance in difficult conditions and poor visibility - The record disclosed a single and momentary error in judgment with tragic consequences - It did not support a reasonable inference that the accused displayed a marked departure from the standard of care expected of a reasonable person in the same circumstances so as to justify conviction for the serious criminal offence of dangerous driving causing death - Thus an acquittal was the appropriate remedy.