

Her Majesty The Queen (appellant) v. R.P. (respondent)  
(34038; 2012 SCC 22; 2012 CSC 22)

**Indexed As: R. v. R.P.**

Supreme Court of Canada  
LeBel, Deschamps, Fish, Abella, Cromwell, Moldaver and Karakatsanis, JJ.  
May 11, 2012.

**Summary:**

The accused was convicted of indecently assaulting his sister-in-law more than 30 years after the impugned acts. The accused appealed.

The Quebec Court of Appeal, Thibault, J.A., dissenting, in a decision with neutral citation 2010 QCCA 2237, allowed the appeal and set aside the conviction. The Crown appealed.

The Supreme Court of Canada, LeBel and Fish, JJ., dissenting, allowed the appeal and restored the trial judge's verdict.

**Criminal Law - Topic 4424.01**

Procedure - Verdicts - General - Convictions - Setting aside - The accused was convicted of indecently assaulting his sister-in-law more than 30 years after the impugned acts - According to the complainant, the abuse had occurred in the accused's residence while the complainant was babysitting and on the drive home - The accused denied the allegations - There was almost no physical evidence - Credibility was determinative - The accused appealed - The appeal court found that the trial judge had erred in accepting the complainant's testimony over the other witnesses - After undertaking its own assessment of the witnesses' credibility, the court concluded that the trial judge's verdict was unreasonable and entered an acquittal - The Crown appealed - The Supreme Court of Canada held that the intervention of the appeal court was not justified in this case - The verdict was clearly one a judge could reasonable have rendered - The trial judge did not draw an inference or make a finding of fact that was plainly contradicted by the evidence - The trial judge's assessment of credibility was reasonable - The trial judge's verdict was restored - See paragraphs 11 to 18.

**Criminal Law - Topic 4424.01**

Procedure - Verdicts - General - Convictions - Setting aside - The Supreme Court of Canada stated that "To decide whether a verdict is unreasonable, an appellate court must ... determine whether the verdict is one that a properly instructed jury or a judge could reasonably have rendered. The appellate court may also find a verdict unreasonable if the trial judge has drawn an inference or made a finding of fact essential to the verdict that (1) is plainly contradicted by the evidence relied on by the trial judge in support of that inference or finding, or (2) is shown to be incompatible with evidence that has not otherwise been contradicted or rejected by the trial judge ... Whereas the question whether a verdict is reasonable is one of law, whether a witness is credible is a question of fact. A court of appeal that reviews a trial court's assessments of credibility in order to

determine, for example, whether the verdict is reasonable cannot interfere with those assessments unless it is established that they 'cannot be supported on any reasonable view of the evidence' ..." - See paragraphs 9 and 10.

**Criminal Law - Topic 4865**

Appeals - Indictable offences - Verdict unreasonable or unsupported by evidence - [See both **Criminal Law - Topic 4424.01**].

**Criminal Law - Topic 5007**

Appeals - Indictable offences - Review of verdicts - Where verdict based on findings of credibility - [See both **Criminal Law - Topic 4424.01**].

**Criminal Law - Topic 5010**

Appeals - Indictable offences - Review of verdict - Duty of court of appeal - [See both **Criminal Law - Topic 4424.01**].

**Criminal Law - Topic 5020**

Appeals - Indictable offences - Setting aside verdicts - Verdict unreasonable or unsupported by evidence - [See both **Criminal Law - Topic 4424.01**].

**Cases Noticed:**

R. v. Yebes, [1987] 2 S.C.R. 168; 78 N.R. 351, reld to. [paras. 9, 25].

R. v. Biniaris (J.), [2000] 1 S.C.R. 381; 252 N.R. 204; 134 B.C.A.C. 161; 219 W.A.C. 161; 2000 SCC 15, reld to. [paras. 9, 25].

R. v. Sinclair (T.) (2011), 418 N.R. 282; 268 Man.R.(2d) 225; 520 W.A.C. 225; 2011 SCC 40, reld to. [paras. 9, 28].

R. v. Beaudry (A.), [2007] 1 S.C.R. 190; 356 N.R. 323; 216 C.C.C.(3d) 353; 2007 SCC 5, reld to. [para. 9].

R. v. Burke (J.) (No. 3), [1996] 1 S.C.R. 474; 194 N.R. 247; 139 Nfld. & P.E.I.R. 147; 433 A.P.R. 147, reld to. [para. 10].

R. v. A.G., [2000] 1 S.C.R. 439; 252 N.R. 272; 132 O.A.C. 1; 2000 SCC 17, reld to. [para. 13].

R. v. R.W., [1992] 2 S.C.R. 122; 137 N.R. 214; 54 O.A.C. 164; 74 C.C.C.(3d) 134, reld to. [para. 25].

**Statutes Noticed:**

Criminal Code, R.S.C. 1985, c. C-46, sect. 686(1)(a)(i) [para. 7].

**Counsel:**

Sarah-Julie Chicoine and Jean Campeau, for the appellant;

Yves Savard and Claudia Langdeau, for the respondent.

**Solicitors of Record:**

Poursuites criminelles et pénales du Quebec, Quebec, for the appellant;

Savard, Pigeon, Levis, Quebec, for the respondent.

This appeal was heard on December 16, 2011, before LeBel, Deschamps, Fish, Abella, Cromwell, Moldaver and Karakatsanis, JJ., of the Supreme Court of Canada. The following decision was delivered by the court in both official languages, including the following opinions:

Deschamps (Abella, Cromwell, Moldaver and Karakatsanis, JJ., concurring) - see paragraphs 1 to 20;  
Lebel and Fish, JJ., dissenting - See paragraphs 21 to 62.

Appeal allowed.

Editor: Elizabeth M.A. Turgeon

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