

CANADA / JUDGMENT

R. v. Blanchard

2019 SCC 9

COURT

Supreme Court of Canada

DECIDED

13 February 2019

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R. v. Blanchard Collection Supreme Court Judgments Date 2019-02-13 Neutral citation 2019 SCC 9 Report

[2019] 1 SCR 486 Case number 38258 Judges Wagner, Richard; Abella, Rosalie Silberman; Moldaver, Michael J.; Karakatsanis, Andromache; Gascon, Clément; Côté, Suzanne; Brown, Russell; Rowe, Malcolm; Martin, Sheilah On appeal from Quebec Notes SCC Case Information Decision Content SUPREME COURT OF CANADA Citation: R. v. Blanchard, 2019 SCC 9, [2019] 1 S.C.R. 486 Appeal Heard: February 13, 2019 Judgment Rendered: February 13, 2019 Docket: 38258 Between: Kathleen Blanchard Appellant and Her Majesty The Queen Respondent Coram: Wagner C.J. and Abella, Moldaver, Karakatsanis, Gascon, Côté, Brown, Rowe and Martin JJ. Reasons for Judgment: (para. 1) Brown J. (Wagner C.J. and Abella, Moldaver, Karakatsanis, Gascon, Côté, Brown Rowe and Martin JJ. concurring) R. v. Blanchard, 2019 SCC 9, [2019] 1 S.C.R. 486 Kathleen Blanchard Appellant v. Her Majesty The Queen Respondent Indexed as: R. v. Blanchard 2019 SCC 9 File No.: 38258. 2019: February 13. Present: Wagner C.J. and Abella, Moldaver, Karakatsanis, Gascon, Côté, Brown, Rowe and Martin JJ. on appeal from the court of appeal for quebec Criminal law — Defences — Automatism — Extreme intoxication akin to automatism — Accused charged with refusing to comply with demand to provide breath sample — Crown conceding availability of defence of extreme intoxication akin to automatism at trial and during oral argument at Court of Appeal — Court of Appeal erred in raising and deciding availability of defence in view of Crown's concession — Acquittal restored. APPEAL from a judgment of the Quebec Court of Appeal (Doyon, Bouchard and Mainville JJ.A.), 2018 QCCA 1069, [2018] AZ-51506641, [2018] Q.J. No. 5689 (QL), 2018 CarswellQue 5523 (WL Can.), setting aside the acquittal entered by Vanchestein J.C.Q., 2016 QCCQ 9556, [2016] AZ-51324967, [2016] J.Q. no 12000 (QL), and entering a conviction. Appeal allowed. Giuseppe Battista, for the appellant. Maxime Hébrard and Kevin Mailhiot, for the respondent. The judgment of the Court was delivered orally by

- [1] Brown J. — We would allow the appeal. At trial and during oral argument at the Court of Appeal, the Crown conceded the availability of the defence of extreme intoxication akin to automatism, to a charge of failing to provide a breath sample. In light of this, and in our respectful view, the majority at the Court of Appeal erred in raising and deciding the

availability of that defence. Having regard to the Crown's concession, we are not persuaded that the trial judge erred in law in his understanding or application of the defence of automatism. In these unusual circumstances, it would not be in the interests of justice to overturn this acquittal, and we therefore restore it. In doing so, however, we expressly refrain from deciding the availability of this defence in the absence of an adequate record on the constitutional issues, full submissions and notice to the proper parties. Judgment accordingly. Solicitors for the appellant: Battista Turcot Israel Corbo, Montréal. Solicitor for the respondent: Director of Criminal and Penal Prosecutions, Longueuil.

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