

CANADA / JUDGMENT

R. v. Deslauriers

2021 SCC 3

COURT

Supreme Court of Canada

DECIDED

20 January 2021

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R. v. Deslauriers Collection Supreme Court Judgments Date 2021-01-20 Neutral citation 2021 SCC 3 Report

[2021] 1 SCR 9 Case number 39131 Judges Wagner, Richard; Abella, Rosalie Silberman; Moldaver, Michael J.; Côté, Suzanne; Brown, Russell; Rowe, Malcolm; Kasirer, Nicholas On appeal from Quebec Notes SCC Case Information Decision Content SUPREME COURT OF CANADA Citation: R. v. Deslauriers, 2021 SCC 3, [2021] 1 S.C.R. 9 Appeal Heard: January 20, 2021 Judgment Rendered: January 20, 2021 Docket: 39131 Between: Her Majesty The Queen Appellant and Éric Deslauriers Respondent Official English Translation Coram: Wagner C.J. and Abella, Moldaver, Côté, Brown, Rowe and Kasirer JJ. Judgment Read By: (paras. 1 to 5) Wagner C.J. Majority: Wagner C.J. and Moldaver, Côté, Rowe and Kasirer JJ. Dissent: Abella and Brown JJ.

r. v. deslauriers Her Majesty The Queen Appellant v. Éric Deslauriers Respondent Indexed as: R. v. Deslauriers 2021 SCC 3 File No.: 39131. 2021: January 20. Present: Wagner C.J. and Abella, Moldaver, Côté, Brown, Rowe and Kasirer JJ. on appeal from the court of appeal for quebec Criminal law — Evidence — Admissibility — Assessment — Expert evidence — Young person dying as result of police officer's use of firearm — Police officer charged with manslaughter and criminal negligence causing death and convicted on first count — Majority of Court of Appeal holding that trial judge erred in dismissing accused's motion for disclosure of evidence in possession of third parties, in accepting version of facts that was inconsistent with evidence on certain points, and in rejecting expert's testimony as regards conformity of accused's conduct with training given to police officers — Court of Appeal setting aside conviction and ordering new trial on both counts — New trial warranted. Cases Cited Referred to: R. v. O'Connor, [1995] 4 S.C.R. 411; R. v. McNeil, 2009 SCC 3, [2009] 1 S.C.R. 66; R. v. Sekhon, 2014 SCC 15, [2014] 1 S.C.R. 272. APPEAL from a judgment of the Quebec Court of Appeal (Duval Hesler C.J. and Chamberland and Schrager JJ.A.), 2020 QCCA 484, 453 D.L.R. (4th) 234, 63 C.R. (7th) 179, [2020] Q.J. No. 2073 (QL), 2020 CarswellQue 12673 (WL Can.), setting aside the conviction for manslaughter entered by Roy J., 2017 QCCQ 11018, [2017] J.Q. no 13259 (QL), 2017 CarswellQue 8663 (WL Can.), and ordering a new trial. Appeal dismissed, Abella and Brown JJ. dissenting. Julie Laborde and Marie-Claude Bourassa, for the appellant. Tristan Desjardins and Nadine Touma, for the respondent. English version of

the judgment of the Court delivered orally by

- [1] The Chief Justice — The Crown appeals as of right on questions of law further to the majority judgment of the Quebec Court of Appeal setting aside the guilty verdict entered by Judge Joëlle Roy of the Court of Québec and ordering a new trial. A majority of this Court would dismiss the appeal for the reasons given by Chamberland J.A.
- [2] Judge Roy erred in law in denying Mr. Deslauriers the right to obtain and, if need be, file documents relating to the existence of three criminal investigations and a report from the Centre jeunesse des Laurentides involving the victim. There was a likely and reasonable possibility that the information in question could assist Mr. Deslauriers in exercising his right to make full answer and defence.
- [3] Moreover, Judge Roy erred in her interpretation and treatment of the evidence crucial to the accused, such as to cause a miscarriage of justice. Because of our reasons, however, it is not necessary to dispose of this question already decided by the Quebec Court of Appeal. Judge Roy also erred in her treatment of the testimony given by an expert, Mr. Poulin, concerning Mr. Deslauriers's conduct as a police officer, which was central to his defences.
- [4] Finally, although it is not necessary to deal with the recusation aspect of the judgment under appeal, and insofar as the Crown wishes to continue the proceedings leading to a second trial, it will have to proceed before another trial judge. For these reasons, the appeal is dismissed.
- [5] Abella and Brown JJ. are of the view that the documents sought by the defence do not meet the threshold of "likely relevance" within the meaning of *R. v. O'Connor*, [1995] 4 S.C.R. 411, and *R. v. McNeil*, 2009 SCC 3, [2009] 1 S.C.R. 66. They are also of the view that the expert, Bruno Poulin, strayed beyond the proper scope of his expert evidence and that his testimony was neither relevant nor necessary within the meaning of *R. v. Sekhon*, 2014 SCC 15, [2014] 1 S.C.R. 272. For these reasons, they would have allowed the appeal, set aside the Court of Appeal's judgment and restored the guilty verdict. Judgment accordingly. Solicitor for the appellant: Director of Criminal and Penal Prosecutions, Longueuil. Solicitors for the respondent: Desjardins Côté, Montréal; Poupart, Touma, Montréal.

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