

CANADA / JUDGMENT

R. v. Kwon

2025 SCC 11

COURT

Supreme Court of Canada

DECIDED

27 March 2025

Source: decisions.scc-csc.ca · Research copy typeset by Esheria. Not court-issued or certified.

R. v. Kwon Collection Supreme Court Judgments Date 2025-03-27 Neutral citation 2025 SCC 11 Case number 41322 Judges Rowe, Malcolm; Martin, Sheilah; Kasirer, Nicholas; O'Bonsawin, Michelle; Moreau, Mary On appeal from Saskatchewan Subjects Criminal law Notes Case in Brief SCC Case Information Decision Content SUPREME COURT OF CANADA Citation: R. v. Kwon, 2025 SCC 11 Appeal Heard: March 27, 2025 Judgment Rendered: March 27, 2025 Docket: 41322 Between: His Majesty The King Appellant and Soon Hyong Kwon Respondent Coram: Rowe, Martin, Kasirer, O'Bonsawin and Moreau JJ. Judgment Read By: (paras. 1 to 4) Moreau J. Majority: Martin, Kasirer, O'Bonsawin and Moreau JJ. Dissent: Rowe J. Note: This document is subject to editorial revision before its reproduction in final form in the Canada Supreme Court Reports. His Majesty The King Appellant v. Soon Hyong Kwon Respondent Indexed as: R. v. Kwon 2025 SCC 11 File No.: 41322. 2025: March 27. Present: Rowe, Martin, Kasirer, O'Bonsawin and Moreau JJ. on appeal from the court of appeal for saskatchewan Criminal law — Sexual assault — Elements of offence — Capacity to consent — Evidence — Circumstantial evidence — Trial judge drawing inference from circumstantial evidence that complainant lacked capacity to consent to sexual intercourse with accused — Trial judge convicting accused of sexual assault — Court of Appeal unanimously holding that trial judge erred in relying on stereotypical reasoning — Majority of Court of Appeal holding that there was no legally admissible evidence on which accused could be convicted and setting aside conviction and entering acquittal — Dissenting judge agreeing that trial judge erred but holding that new trial would be appropriate remedy — New trial ordered. APPEAL from a judgment of the Saskatchewan Court of Appeal (Barrington-Foote, Drennan and Tholl JJ.A.), 2024 SKCA 50, 438 C.C.C. (3d) 196, [2024] 8 W.W.R. 1, [2024] S.J. No. 144 (Lexis), 2024 CarswellSask 190 (WL), setting aside the conviction of the accused for sexual assault and entering an acquittal. Appeal allowed, Rowe J. dissenting. Anthony B. Gerein, for the appellant. Matthew J. Schmeling and Elise T. von Holwede, for the respondent. The judgment of the Court was delivered orally by

- [1] Moreau J. — This is an appeal as of right from the Court of Appeal for Saskatchewan. The respondent was found guilty of sexual assault. He appealed his conviction.

- [2] The Court of Appeal was unanimous that the trial judge made reviewable errors in her treatment of the respondent's evidence and in her analysis of his defence of honest but mistaken belief in consent. Justices Barrington-Foote and Drennan, for the majority, found that the verdict was unreasonable and entered an acquittal. Justice Tholl, dissenting, would have quashed the conviction and ordered a new trial.
- [3] Before this Court, the Crown submits that the majority erred by finding that the verdict was unreasonable. A majority of this Court would allow the appeal, substantially for the reasons of Justice Tholl. Justice Rowe would have dismissed the appeal, substantially for the reasons of the majority in the Court of Appeal.
- [4] Accordingly, the appeal is allowed and a new trial is ordered. Judgment accordingly.
Solicitor for the appellant: Office of the Attorney General for Saskatchewan, Regina.
Solicitors for the respondent: McDougall Gauley, Regina.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/20933/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-kwon-2025>

Prepared on 26 October 2026 · Esheria