

CANADA / JUDGMENT

R. v. Neverson

[1992] 1 SCR 1014**COURT**

Supreme Court of Canada

DECIDED

30 April 1992

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R. v. Neverson Collection Supreme Court Judgments Date 1992-04-30 Report

[1992] 1 SCR 1014 Case number 22587 Judges La Forest, Gérard V.; L'Heureux-Dubé, Claire; Gonthier, Charles Doherty; Cory, Peter deCarteret; Stevenson, William On appeal from Quebec Subjects Criminal law Notes SCC Case Information: 22587 Decision Content R. v. Neverson, [1992] 1 S.C.R. 1014 Septimus Neverson Appellant v. Her Majesty The Queen Respondent Indexed as: R. v. Neverson File No.: 22587. 1992: April 30. Present: La Forest, L'Heureux-Dubé, Gonthier, Cory and Stevenson JJ. on appeal from the court of appeal for quebec Criminal law -- Trial -- Addresses to jury -- Accused charged with murder -- Murder weapon found in accused's car -- Defence counsel incorrectly summarizing evidence concerning access to accused's car in his address to jury -- Defence counsel's errors not corrected in trial judge's charge -- Accused's acquittal set aside by Court of Appeal and new trial ordered -- Verdict would not have been necessarily the same if evidence had been correctly summarized. Cases Cited Referred to: R. v. Morin, [1988] 2 S.C.R. 345. APPEAL from a judgment of the Quebec Court of Appeal (1991), 69 C.C.C. (3d) 80, 42 Q.A.C. 16, setting aside the accused's acquittal on a charge of first degree murder, and ordering a new trial. Appeal dismissed. Ivan Lerner, for the appellant. Normand J. Chénier, for the respondent. //La Forest J.// The judgment of the Court was delivered orally by La Forest J. -- It will not be necessary to hear from you Mr. Chénier. The Court is ready to hand down judgment. The judgment will be pronounced by Mr. Justice Stevenson. Stevenson J. -- This is an appeal, as of right, from a judgment of the Quebec Court of Appeal ordering a new trial when the accused, appellant, had been acquitted at trial by a jury. Before us, counsel for the appellant quite properly and fairly conceded that the dissenting member of the Court of Appeal had based her disagreement with the majority of that court on one single question: accepting that the trial judge erred, had the Crown, after demonstrating the error, also met the burden of showing that on a new trial the verdict would not necessarily have been the same. That test was recently discussed in R. v. Morin, [1988] 2 S.C.R. 345, at p. 374. We are in agreement with the conclusions of McCarthy and Nichols JJA. on that question. The judgment ordering a new trial stands. The appeal is dismissed. Judgment accordingly. Solicitor for the appellant: Ivan Lerner, Montréal. Solicitor for the respondent: Normand J. Chénier, Montréal.

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