

CANADA / JUDGMENT

R. v. P. (J.)

[1993] 1 SCR 469**COURT**

Supreme Court of Canada

DECIDED

24 February 1993

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R. v. P. (J.) Collection Supreme Court Judgments Date 1993-02-24 Report

[1993] 1 SCR 469 Case number 22901 Judges Lamer, Antonio; La Forest, Gérard V.; L'Heureux-Dubé, Claire; Gonthier, Charles Doherty; Cory, Peter deCarteret; McLachlin, Beverley; Iacobucci, Frank On appeal from Quebec Subjects Criminal law Notes SCC Case Information: 22901 Decision Content R. v. P. (J.), [1993] 1 S.C.R. 469 P. (J.) Appellant v. Her Majesty The Queen Respondent Indexed as: R. v. P. (J.) File No.: 22901. 1993: February 24. Present: Lamer C.J. and La Forest, L'Heureux-Dubé, Gonthier, Cory, McLachlin and Iacobucci JJ. on appeal from the court of appeal for quebec Criminal law -- Evidence -- Children -- Exceptions to hearsay rule -- Capacity of children to testify -- Whether trial judge erred in failing to inquire into three-year-old child's capacity to testify before admitting mother's hearsay evidence -- Whether conviction should nonetheless be upheld -- Criminal Code, R.S.C., 1985, c. C-46, s. 686(1) (b)(iii). Statutes and Regulations Cited Criminal Code, R.S.C., 1985, c. C-46, s. 686(1) (b)(iii). APPEAL from a judgment of the Quebec Court of Appeal (1992), 13 C.R. (4th) 79, 74 C.C.C. (3d) 276, dismissing the accused's appeal from his conviction by Judge Morier on a charge of sexual assault. Appeal dismissed. Richard Shadley and Jean Villeneuve, for the appellant. Lori Renée Weitzmann, for the respondent. //McLachlin J.// The judgment of the Court was delivered orally by McLachlin J. -- This is an appeal as of right. Assuming without deciding that the trial judge erred in failing to inquire into the capacity of the child to testify, we are all of the view that the evidence is such that this is a proper case for the application of the provision in s. 686(1) (b)(iii) of the Criminal Code . Judgment accordingly. Solicitors for the appellant: Shadley, Melançon & Boro, Montréal. Solicitor for the respondent: Lori Renée Weitzmann, Montréal.

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Prepared on 29 October 2026 · Esheria