

CANADA / JUDGMENT

R. v. Sabiston

2024 SCC 33

COURT

Supreme Court of Canada

DECIDED

11 October 2024

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

R. v. Sabiston Collection Supreme Court Judgments Date 2024-10-11 Neutral citation 2024 SCC 33 Case number 40937 Judges Côté, Suzanne; Rowe, Malcolm; Jamal, Mahmud; O'Bonsawin, Michelle; Moreau, Mary Notes Case in Brief SCC Case Information Decision Content SUPREME COURT OF CANADA Citation: R. v. Sabiston, 2024 SCC 33 Appeal Heard: October 11, 2024 Judgment Rendered: October 11, 2024 Docket: 40937 Between: His Majesty The King Appellant and Stuart Michael George Sabiston Respondent Coram: Côté, Rowe, Jamal, O'Bonsawin and Moreau JJ. Judgment Read By: (paras. 1 to 2) Côté J. Dissent Read By: (paras. 3 to 6) Moreau J. Majority: Côté, Rowe, Jamal and O'Bonsawin JJ. Dissent: Moreau 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. Stuart Michael George Sabiston Respondent Indexed as: R. v. Sabiston 2024 SCC 33 File No.: 40937. 2024: October 11. Present: Côté, Rowe, Jamal, O'Bonsawin and Moreau JJ. on appeal from the court of appeal for saskatchewan Constitutional law — Charter of Rights — Remedy — Exclusion of evidence — Search incident to investigative detention — Reasonable suspicion — Discoverability — Police discovering firearm during search incident to arrest of accused for possession of stolen property — Accused charged with firearms offences and bringing application to exclude firearm from evidence on basis that his Charter rights to be secure against unreasonable search or seizure and not to be arbitrarily detained were breached — Trial judge finding that accused's rights were breached but declining to exclude firearm — Trial judge holding that police would have had reasonable suspicion to ground lawful investigative detention and thus incident search and that discoverability of firearm mitigated seriousness of breaches and their impact on accused — Accused convicted of firearms offences — Majority of Court of Appeal holding that trial judge erred in finding that police had reasonable suspicion that property had been stolen that justified investigative detention and incident search and therefore erred in considering discoverability of firearm in her exclusion analysis — Majority conducting fresh exclusion analysis, excluding firearm and entering acquittal — Dissenting judge finding that trial judge was entitled to take into account discoverability of firearm and did not err in overall assessment of whether evidence should be excluded — Conviction restored. Cases Cited By Moreau J. (dissenting) R. v. Mann, 2004 SCC 52, [2004] 3 S.C.R. 59. Statutes and Regulations Cited Canadian Charter of Rights and Freedoms, s. 24(2). APPEAL from a judgment of the Saskatchewan Court of Appeal (Barrington-Foote, Tholl and Drennan JJ.A.), 2023 SKCA 105, 429 C.C.C. (3d) 273, 543 C.R.R. (2d) 215, 497 D.L.R. (4th) 305, [2023] S.J. No. 322 (Lexis), 2023

CarswellSask 455 (WL), setting aside the conviction of the accused for firearms offences and entering an acquittal. Appeal allowed, Moreau J. dissenting. Erin Bartsch, for the appellant. Evan Strelioff, for the respondent. The judgment of Côté, Rowe, Jamal and O'Bonsawin JJ. was delivered orally by

- [1] Côté J. — A majority of the Court is of the view to allow the appeal, substantially for the reasons of Tholl J.A. of the Court of Appeal for Saskatchewan (2023 SKCA 105, 429 C.C.C. (3d) 273).
- [2] As a result, the conviction is restored and the file is remanded to the Court of Appeal to address the sentence appeal. Justice Moreau is dissenting. The following are the reasons delivered orally by
- [3] Moreau J. — I am in substantial agreement with the reasons of the majority of the Court of Appeal.
- [4] As this Court stated in *R. v. Mann*, 2004 SCC 52, [2004] 3 S.C.R. 59: The detention must be viewed as reasonably necessary on an objective view of the totality of the circumstances, informing the officer's suspicion that there is a clear nexus between the individual to be detained and a recent or on-going criminal offence. [para. 34] There was no clear nexus between the respondent and the particular crime, namely possession of stolen property (see C.A. reasons, at para. 39).
- [5] The majority of the Court of Appeal did not err in excluding the firearm from evidence under s. 24(2) of the Canadian Charter of Rights and Freedoms. In the absence of a reasonable suspicion, the firearm would not have been discoverable.
- [6] I would dismiss the appeal. Judgment accordingly. Solicitor for the appellant: Attorney General for Saskatchewan, Regina. Solicitors for the respondent: Novus Law Group — Wilcox Holash McCullagh, Prince Albert.

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/20696/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/r-v-sabiston-2024>

Prepared on 26 October 2026 · Esheria