

CANADA / JUDGMENT

R. v. W. (B. A.)

[1992] 3 SCR 811**COURT**

Supreme Court of Canada

DECIDED

4 December 1992

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R. v. W. (B. A.) Collection Supreme Court Judgments Date 1992-12-04 Report

[1992] 3 SCR 811 Case number 22649 Judges La Forest, Gérard V.; L'Heureux-Dubé, Claire; Sopinka, John; McLachlin, Beverley; Iacobucci, Frank On appeal from Ontario Subjects Criminal law Notes SCC Case Information: 22649 Decision Content R. v. W. (B. A.), [1992] 3 S.C.R. 811 Her Majesty The Queen Appellant v. B.A.W. Respondent Indexed as: R. v. W. (B. A.) File No.: 22649. 1992: December 4. Present: La Forest, L'Heureux-Dubé, Sopinka, McLachlin and Iacobucci JJ. on appeal from the court of appeal for ontario Criminal law -- Evidence -- Cross-examination -- Complainant's credibility -- Sexual offences -- Collateral matter -- Relevance tenuous -- Trial judge properly exercising discretion in excluding cross-examination. Cases Cited Applied: R. v. Meddoui, [1991] 3 S.C.R. 320. APPEAL from a judgment of the Ontario Court of Appeal (1991), 13 W.C.B. (2d) 682, [1991] Ont. D. Crim. Conv. 5406-07, allowing the accused's appeal and ordering a new trial. Appeal allowed. Susan Chapman, for the appellant. Nicholas A. Xynnis, for the respondent. //La Forest J.// The judgment of the Court was delivered orally by La Forest J. -- The Court is ready to hand down judgment. The judgment will be pronounced by Justice McLachlin. //McLachlin J.// McLachlin J. -- We are all of the view that the appeal should be allowed. It was for the trial judge to determine whether the evidence, which was tendered solely on the basis of credibility, demonstrated a degree of relevance which outweighed its prejudicial value. After considering the motion on record and the submissions of counsel, he concluded that it did not. In doing so, he committed no error of law. In the absence of an indication that the complainant's evidence on collateral matters might be false, the claim for its relevance was tenuous. On the other hand, its prejudice and its potential to mislead the jurors was significant. The words of this Court in R. v. Meddoui, [1991] 3 S.C.R. 320, at pp. 320-21, are relevant. There Sopinka J. stated: With respect to the ground relating to cross-examination, the proposed line of questioning related to a collateral matter. Furthermore, its relevance was extremely tenuous and while wide latitude is permitted in cross-examination in a criminal case, the trial judge properly exercised his discretion in excluding the cross-examination. The appeal is allowed and the convictions are restored. The matters are remitted to the Court of Appeal for disposition of the sentence appeal. Judgment accordingly. Solicitor for the appellant: The Attorney General for Ontario,

Toronto. Solicitors for the respondent: Heller, Rubel, Toronto.

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