

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Bouchard, 2014 SCC 64, [2014] 3 S.C.R. 283 | **Date:** 20141016  **Docket:** 35690 |

Between:

Her Majesty The Queen

Appellant

and

Sebastien Bouchard

Respondent

**Coram:** Abella, Cromwell, Moldaver, Wagner and Gascon JJ.

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| **Reasons for Judgment:**  (paras. 1 to 2) | Cromwell J. (Abella, Moldaver, Wagner and Gascon JJ. concurring) |

r. *v.* bouchard, 2014 SCC 64, [2014] 3 S.C.R. 283

Her Majesty The Queen Appellant

v.

Sebastien Bouchard Respondent

**Indexed as:** R. ***v.*** Bouchard

2014 SCC 64

File No.: 35690.

2014: October 16.

Present: Abella, Cromwell, Moldaver, Wagner and Gascon JJ.

on appeal from the court of appeal for ontario

*Criminal law* ― *Defences* ― *Provocation* ― *Charge to jury* ― *Accused arguing at trial that Crown did not prove requisite intent for murder and that he was provoked* ― *Evidence of provocative conduct relevant for both statutory defence and mens rea* ― *Misdirection by trial judge justified order for new trial.*

**Statutes and Regulations Cited**

*Criminal Code*, R.S.C. 1985, c. C-46, s. 232.

APPEAL from a judgment of the Ontario Court of Appeal (Doherty, Rouleau and Lauwers JJ.A.), 2013 ONCA 791, 314 O.A.C. 113, 305 C.C.C. (3d) 240, [2013] O.J. No. 5987 (QL), 2013 CarswellOnt 18112, setting aside the accused’s conviction for second degree murder and ordering a new trial. Appeal dismissed.

Benita Wassenaar, for the appellant.

Howard L. Krongold, for the respondent.

The judgment of the Court was delivered orally by

1. Cromwell J. ― This Crown appeal comes to us as of right based on the dissent of Rouleau J.A. in the Court of Appeal for Ontario.
2. We agree with Doherty J.A., writing for a majority of that court, that the trial judge’s instructions may well have led the jury to understand that the deceased’s allegedly provocative acts and the respondent’s reaction to them had relevance to the *mens rea* issue only if they met the narrow legal definition of provocation in s. 232 of the *Criminal Code*, R.S.C. 1985, c. C-46, and that this constituted misdirection.
3. We therefore dismiss the appeal and affirm the Court of Appeal’s order for a new trial.

*Judgment accordingly.*

Solicitor for the appellant: Attorney General of Ontario, Toronto.

Solicitors for the respondent: Abergel Goldstein & Partners, Ottawa.