

**SUPREME COURT OF CANADA**

|  |  |
| --- | --- |
| **Citation** : R. *v.* Whyte, 2011 SCC 49, [2011] 3 S.C.R. 364 | **Date** : 20111020**Docket** : 33965 |

Between:

Mark Whyte

Appellant

and

Her Majesty The Queen

Respondent

**Coram :** Deschamps, Fish, Abella, Rothstein and Cromwell JJ.

|  |  |
| --- | --- |
| **Reasons for Judgment** :(paras. 1 to 2) | Deschamps J. (Fish, Abella, Rothstein and Cromwell JJ. concurring)  |

R. *v*. Whyte, 2011 SCC 49, [2011] 3 S.C.R. 364

Mark Whyte *Appellant*

v.

Her Majesty The Queen *Respondent*

**Indexed as:  R. *v*. Whyte**

2011 SCC 49

File No.:  33965.

2011:  October 20.

Present:  Deschamps, Fish, Abella, Rothstein and Cromwell JJ.

on appeal from the court of appeal for ontario

 *Constitutional law — Charter of Rights — Enforcement — Exclusion of evidence — Conduct of police not constituting violation of ss. 8 and 9 of Canadian Charter of Rights and Freedoms — Evidence obtained pursuant to arrest and search improperly excluded at trial.*

 APPEAL from a judgment of the Ontario Court of Appeal (Rosenberg, Cronk and Epstein JJ.A.), 2011 ONCA 24, 272 O.A.C. 317, 266 C.C.C. (3d) 5, 225 C.R.R. (2d) 223, [2011] O.J. No. 126 (QL), 2011 CarswellOnt 124, setting aside the acquittal entered by Ricchetti J., 2010 ONSC 979, 214 C.R.R. (2d) 71, [2010] O.J. No. 1295 (QL), 2010 CarswellOnt 1917, and entering a conviction. Appeal dismissed.

 *Reid Rusonik* and *Nathan Gorham*, for the appellant.

 *Jennifer M. Woollcombe*, for the respondent.

 The judgment of the Court was delivered orally by

1. Deschamps J. ― We are of the view that the Court of Appeal did not err in finding that, as a matter of law,

 [s]ince the police had reasonable grounds, subjective and objective, to believe that the occupants of the vehicle were in possession of illegal firearms, the arrest of the occupants of the vehicle and search as an incident of the arrest were lawful. There was no violation of the respondent’s rights under ss. 8 and 9 of the *Charter* and the evidence should not have been excluded.

(2011 ONCA 24, 266 C.C.C. (3d) 5, at para. 32)

1. The appeal is therefore dismissed.

*Judgment accordingly.*

Solicitors for the appellant:  Rusonik, O’Connor, Robbins, Ross, Gorham & Angelini, Toronto.

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