

**SUPREME COURT OF CANADA**

|  |  |
| --- | --- |
| **Citation:** R. *v.* Rochon, 2012 SCC 50, [2012] 2 S.C.R. 673 | **Date:** 20121016  **Docket:** 34557 |

**Between:**

**Her Majesty The Queen**

Appellant

and

**Nicole Rochon**

Respondent

et

**Director of Public Prosecutions of Canada**

Invervener

**official english translation**

**Coram:** McLachlin C.J. and LeBel, Fish, Abella, Rothstein, Cromwell and Moldaver JJ.

|  |  |
| --- | --- |
| **Reasons for Judgment:**  (paras. 1 to 4) | Fish J. (McLachlin C.J. and LeBel, Abella, Rothstein, Cromwell and Moldaver JJ. concurring) |

R. *v.* Rochon, 2012 SCC 50, [2012] 2 S.C.R. 673

Her Majesty The Queen *Appellant*

v.

Nicole Rochon *Respondent*

and

Director of Public Prosecutions of Canada *Intervener*

**Indexed as:  R. *v*. Rochon**

2012 SCC 50

File No.:  34557.

2012:  October 16.

Present:  McLachlin C.J. and LeBel, Fish, Abella, Rothstein, Cromwell and Moldaver JJ.

on appeal from the court of appeal of quebec

*Criminal law — Parties to offences — Doing or omitting to do anything to aid any person to commit offence — Accused entrusting property to son and failing to report son’s marijuana cultivation on property — Evidence insufficient to establish that accused aided in commission of offence — Criminal Code, R.S.C. 1985, c. C-46, s. 21(1)(b).*

APPEAL from a judgment of the Court of Appeal of Quebec (Duval Hesler C.J.Q., Dalphond and Kasirer JJ.A.), 2011 QCCA 2012, 90 C.R. (6th) 38, SOQUIJ AZ-50799783, [2011] J.Q. no 15669 (QL), 2011 CarswellQue 12372, setting aside the accused’s conviction for being a party to drug-related offences entered by Chevalier J., 2008 QCCQ 7960, SOQUIJ AZ-50513168, [2008] J.Q. no 8940 (QL), 2008 CarswellQue 8968. Appeal dismissed, Cromwell J. dissenting.

Jean Campeau and Christine Lafrance, for the appellant.

*Julie Giroux* and *Alexandre Bergevin*, for the respondent.

*François Lacasse*, for the intevener.

English version of the judgment of the Court delivered orally by

1. Fish J. — It is unnecessary to decide in this case whether an omission “to do anything” can serve as a basis for conviction under s. 21(1)(*b*) of the *Criminal Code*, where the accused did not have a duty to act.
2. In light of the trial judge’s findings of fact, we agree with the majority of the Court of Appeal that the evidence was insufficient to establish to the required degree of certainty that the respondent had acted, or failed to act, for the purpose of aiding any person to commit the crimes mentioned in the indictment, even if that was clearly the result.
3. For these reasons, the appeal is dismissed.
4. Cromwell J., dissenting, would have allowed the appeal, substantially for the reasons given by Dalphond J.A., dissenting in the Court of Appeal.

*Judgment accordingly.*

*Solicitor for the appellant:  Jean Campeau, Gatineau.*

*Solicitors for the respondent:  Bergevin & Associés, Montréal.*

*Solicitor for the interverner: Public Prosecution Service of Canada, Ottawa.*