

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Mailhot, 2013 SCC 17, [2013] 2 S.C.R. 96 | **Date:** 20130328  **Docket:** 34881 |

Between:

Jean-Philippe Mailhot

Appellant

and

Her Majesty The Queen

Respondent

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

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| **Reasons for Judgment:**  (paras. 1 to 2) | The Court |

R. *v.* Mailhot, 2013 SCC 17, [2013] 2 S.C.R. 96

Jean‑Philippe Mailhot Appellant

v.

Her Majesty The Queen Respondent

**Indexed as: R. *v.*** Mailhot

2013 SCC 17

File No.: 34881.

2013:  March 19; 2013:  March 28.

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

on appeal from the court of appeal for quebec

Criminal *law — Trial — Charge to jury — Fairness — Trial judge providing jurors with summary of theory of defence but also providing opinion on evidence in support of, or contrary to, that theory — Accused convicted of second degree murder — Whether opinions offered by trial judge amounted to opinions as to verdict.*

Held: The appeal should be allowed and a new trial ordered.

APPEAL from a judgment of the Quebec Court of Appeal (Duval Hesler, Beauregard and Doyon JJ.A.), 2012 QCCA 964, SOQUIJ AZ‑50858815, [2012] J.Q. no4863 (QL), 2012 CarswellQue 5082, upholding the accused’s conviction for second degree murder. Appeal allowed.

Nicholas St‑Jacques, Lida Sara Nouraie and *Christian Desrosiers*, for the appellant.

Carole Lebeuf and Alexandre Boucher, for the respondent.

The following is the judgment delivered by

1. The Court — We all agree with Doyon J.A., dissenting in the Court of Appeal, that a new trial is required because of the effect of the trial judge’s charge on the fairness of the trial (2012 QCCA 964 (CanLII)).
2. Accordingly, the appeal is allowed and a new trial is ordered.

*Appeal allowed.*

Solicitors for the appellant:  Desrosiers, Joncas, Massicotte, Montréal.

Solicitor for the respondent:  Directeur des poursuites criminelles et pénales du Québec, Montréal.