

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* A.R.J.D., 2018 SCC 6, [2018] 1 S.C.R. 218 | **Appeal heard:** February 9, 2018  **Judgment rendered:** February 9, 2018  **Docket:** 37715 |

Between:

**A.R.J.D.**

Appellant

and

Her Majesty The Queen

Respondent

**Coram:** Wagner C.J. and Abella, Moldaver, Karakatsanis, Gascon, Côté and Brown JJ.

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| **Reasons for Judgment:**  (paras. 1 to 3) | Wagner C.J. (Abella, Moldaver, Karakatsanis, Gascon, Côté and Brown JJ. concurring) |

R. *v.* A.R.J.D., 2018 SCC 6, [2018] 1 S.C.R. 218

A.R.J.D. Appellant

v.

Her Majesty The Queen Respondent

**Indexed as: R. *v.* A.R.**J.D.

2018 SCC 6

File No.: 37715.

2018: February 9.

Present: Wagner C.J. and Abella, Moldaver, Karakatsanis, Gascon, Côté and Brown JJ.

on appeal from the court of appeal for alberta

*Criminal law — Sexual assault — Evidence — Behaviour of victim —Accused acquitted at trial of sexually assaulting stepdaughter over several years — Trial judge finding that lack of evidence of complainant avoiding accused raising reasonable doubt — Court of Appeal holding that trial judge erred by relying on impermissible stereotype about behaviour of sexual assault victim — Setting aside of acquittals and order for new trial upheld.*

APPEAL from a judgment of the Alberta Court of Appeal (Paperny, Slatter and Schutz JJ.A.), 2017 ABCA 237, 55 Alta. L.R. (6th) 213,[2017] 11 W.W.R. 508, 353 C.C.C. (3d) 1, 40 C.R. (7th) 306, [2017] A.J. No. 746 (QL), 2017 CarswellAlta 1272 (WL Can.), setting aside the acquittals of the accused and ordering a new trial. Appeal dismissed.

Kent J. Teskey, Q.C., and Lindsay Tate, for the appellant.

David A. Labrenz, Q.C., for the respondent.

The judgment of the Court was delivered orally by

1. The Chief Justice — The appellant was acquitted at trial of three sexual offences alleged to have been committed against his stepdaughter when she was between the ages of 11 and 16. A majority of the Court of Appeal of Alberta allowed the Crown’s appeal. The appellant now appeals to this Court as of right.
2. We would dismiss, substantially for the reasons of the majority of the Court of Appeal. In considering the lack of evidence of the complainant’s avoidance of the appellant, the trial judge committed the very error he had earlier in his reasons instructed himself against: he judged the complainant’s credibility based solely on the correspondence between her behaviour and the expected behaviour of the stereotypical victim of sexual assault. This constituted an error of law. We do not read the majority reasons, including paras. 39 and 41 highlighted by the defence, as suggesting otherwise.
3. The appeal is dismissed.

*Judgment accordingly.*

Solicitors for the appellant: Pringle, Chivers, Sparks, Teskey, Edmonton.

*Solicitor for the respondent: Alberta Crown Prosecution Service, Appeals Education & Prosecution Policy Branch, Edmonton.*