

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Normore, 2018 SCC 42, [2018] 3 S.C.R. 5 | **Appeal heard:** October 17, 2018  **Judgment rendered:** October 17, 2018  **Docket:** 37993 |

Between:

**Her Majesty The Queen**

Appellant

and

Alex Normore

Respondent

**Coram:** Wagner C.J. and Abella, Côté, Rowe and Martin JJ.

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| **Reasons for Judgment:**  (paras. 1 to 4) | Wagner C.J. (Abella, Côté, Rowe and Martin JJ.concurring) |

R. *v.* Normore, 2018 SCC 42, [2018] 3 S.C.R. 5

Her Majesty The Queen Appellant

v.

Alex Normore Respondent

**Indexed as:** R. ***v.*** Normore

2018 SCC 42

File No.: 37993.

2018: October 17.

Present: Wagner C.J. and Abella, Côté, Rowe and Martin JJ.

on appeal from the court of appeal for newfoundland and labrador

*Criminal law — Trial — Contempt of court — Witness refusing to answer defence counsel’s question — Trial judge not taking further steps to elicit evidence and not citing witness for contempt — Court of Appeal holding that trial judge erred in not taking further steps to address refusal to answer and ordering new trial — Convictions restored.*

**Statutes and Regulations Cited**

*Criminal Code*, R.S.C. 1985, c. C-46, s. 686(1)(b)(iii).

APPEAL from a judgment of the Court of Appeal for Newfoundland and Labrador (White, Harrington and Hoegg JJ.A.), 2018 NCLA 10, 44 C.R. (7th) 269, [2018] N.J. No. 43 (QL), 2018 CarswellNfld 45 (WL Can.), setting aside the convictions entered by Hurley J., 2016 NLTD(G) 43, 380 Nfld. & P.E.I.R. 248, 1177 A.P.R. 248, [2016] N.J. No. 87 (QL), 2016 CarswellNfld 87 (WL Can.), and ordering a new trial. Appeal allowed.

Sheldon Steeves, for the appellant.

Derek Hogan, for the respondent.

The judgment of the Court was delivered orally by

[1] The Chief Justice — Mr. Normore was convicted at trial of attempting to commit murder, uttering a threat to cause death, and breaking and entering a place and committing attempted murder. His appeal against these convictions was allowed by a majority of the Court of Appeal, Hoegg J.A. dissenting. The Crown appeals to this Court as of right. We would allow the appeal.

[2] We are of the view that the trial judge did not err in the way in which he addressed a witness’s refusal to answer a question put to him by defence counsel. It was open to the trial judge to take further steps to attempt to elicit an answer from the witness. However, in all the circumstances of this case, including the marginal bearing of defence counsel’s line of questioning on the matters in issue, it was a proper exercise of the trial judge’s discretion to instead continue with the main proceedings and to leave the issue of potential contempt proceedings against the witness until a later point in time.

[3] Even if it is assumed that the trial judge committed an error in the way he addressed the refusal of a witness to answer a question put to him by defence counsel, any such error did not result in a substantial wrong or miscarriage of justice, and the convictions should therefore be upheld pursuant to s. 686(1)(b)(iii) of the *Criminal Code*, R.S.C. 1985, c. C-46. The question the witness refused to answer was put to him by defence counsel in an attempt to raise doubts about who wrote two notes found in Mr. Normore’s residence. The trial judge relied on these notes, along with other evidence, to find that Mr. Normore had committed the offences in question. However, in all of the circumstances of this case, including that Mr. Normore subsequently admitted to writing the most incriminating statement in these notes, we are of the view that the trial judge’s failure to take further steps to compel the witness to answer the question put to him could not have had an effect on the verdict.

[4] Therefore, the appeal is allowed and the convictions are restored.

*Judgment accordingly.*

Solicitor for the appellant: Special Prosecutions Office, St. John’s.

Solicitor for the respondent: Newfoundland and Labrador Legal Aid Commission, St. John’s.