



SUPREME COURT OF CANADA

CITATION: R. v. Riley, 2020 SCC 31

APPEAL HEARD: November 3,
2020

JUDGMENT RENDERED:
November 3, 2020

DOCKET: 39006

BETWEEN:

Randy Desmond Riley
Appellant

and

Her Majesty The Queen
Respondent

CORAM: Karakatsanis, Côté, Brown, Martin and Kasirer JJ.

UNANIMOUS

JUDGMENT Karakatsanis J.

READ BY:
(para. 1)

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R. v. RILEY

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Appellant

v.

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Indexed as: R. v. Riley

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Present: Karakatsanis, Côté, Brown, Martin and Kasirer JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR NOVA SCOTIA

Criminal law — Charge to jury — Vetovec warning — Curative proviso — Crown calling former co-accused as witness at trial — Witness giving testimony exculpatory of accused — Trial judge giving jury Vetovec warning to caution them about relying on witness's evidence — Jury convicting accused of second degree murder and unlawful possession of firearm —

Majority of Court of Appeal concluding that trial judge erred in giving Vetrovec warning but that error was harmless in its effect and curative proviso applied — Dissenting judge finding it inappropriate to apply curative proviso — Convictions quashed and new trial ordered.

APPEAL from a judgment of the Nova Scotia Court of Appeal (Beveridge, Scanlan and Bourgeois JJ.A.), 2019 NSCA 94, 450 D.L.R. (4th) 251, 160 W.C.B. (2d) 267, [2019] N.S.J. No. 524 (QL), 2019 CarswellNS 875 (WL Can.), affirming the convictions of the accused for second degree murder and unlawful possession of a firearm. Appeal allowed.

Lee V. Seshagiri and Roger A. Burrill, for the appellant.

James A. Gumpert, Q.C., and Melanie Perry, for the respondent.

The judgment of the Court was delivered orally by

[1] KARAKATSANIS J. — We are all of the view that the appeal should be allowed, for the reasons of Scanlan J.A. in the Court of Appeal. The appeal is allowed, the convictions are quashed and a new trial is ordered on the charges of second degree murder and unlawful possession of a firearm. As a result, it is unnecessary to hear the application for leave to appeal.

Judgment accordingly.

Solicitor for the appellant: Nova Scotia Legal Aid, Halifax.

Solicitor for the respondent: Public Prosecution Service of Nova Scotia, Halifax.