



SUPREME COURT OF CANADA

CITATION: R. v. Langan, 2020 SCC 33

APPEAL HEARD: November 5,
2020

JUDGMENT RENDERED:
November 5, 2020

DOCKET: 39019

BETWEEN:

Her Majesty The Queen
Appellant

and

David Roy Langan
Respondent

- and -

**Attorney General of Ontario, Criminal Lawyers' Association (Ontario), Independent
Criminal Defence Advocacy Society and Canadian Association for Equality**
Interveners

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

JUDGMENT READ

BY: Abella J.
(para. 1)

MAJORITY: Abella, Martin and Kasirer JJ.

DISSENT: Côté and Brown JJ.

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Canada Supreme Court Reports.

R. v. LANGAN

Her Majesty The Queen

Appellant

v.

David Roy Langan

Respondent

and

**Attorney General of Ontario,
Criminal Lawyers' Association (Ontario),
Independent Criminal Defence Advocacy Society and
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Indexed as: R. v. Langan

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

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA

Criminal law — Evidence — Admissibility — Assessment — Prior consistent statements — Text messages exchanged between complainant and accused before and after alleged offence admitted into evidence at accused's sexual assault trial — Accused convicted — Majority of Court of Appeal finding trial judge erred by using text messages as prior consistent statements to corroborate complainant's evidence, by failing to hold voir dire to determine relevance of text messages, and in approach to W.(D.) analysis — Majority setting aside conviction and ordering new trial — Dissenting judge finding no errors of law in trial judge's reasons — Conviction restored.

APPEAL from a judgment of the British Columbia Court of Appeal (Bauman C.J.B.C. and MacKenzie and Stromberg-Stein JJ.A.), 2019 BCCA 467, 383 C.C.C. (3d) 516, 452 D.L.R. (4th) 178, [2019] B.C.J. No. 2450 (QL), 2019 CarswellBC 3744 (WL Can.), setting aside the conviction of the accused for sexual assault and ordering a new trial. Appeal allowed, Côté and Brown JJ. dissenting.

C. Geoff Baragar, Q.C., and Lauren A. Chu, for the appellant.

Jerry Steele and Elliot Holzman, for the respondent.

Christine Bartlett-Hugues, for the intervener the Attorney General of Ontario.

Adam Weisberg, for the intervener the Criminal Lawyers' Association (Ontario).

Eric Purtzki, for the intervener the Independent Criminal Defence Advocacy Society.

Daniel P. Sommers, for the intervener the Canadian Association for Equality.

The judgment of the Court was delivered orally by

[1] ABELLA J. — A majority is of the view to allow the appeal for the reasons of Chief Justice Bauman. Justices Côté and Brown would dismiss substantially for the reasons of Justice Stromberg-Stein.

Judgment accordingly.

Solicitor for the appellant: Attorney General of British Columbia, Vancouver.

Solicitors for the respondent: Steele Law Corporation, Victoria.

Solicitor for the intervener the Attorney General of Ontario: Attorney General of Ontario, Toronto.

Solicitors for the intervener the Criminal Lawyers' Association (Ontario): Weisberg Law, Toronto.

Solicitors for the intervener the Independent Criminal Defence Advocacy Society: Melville Law Chambers, Vancouver.

*Solicitors for the intervener the Canadian Association for Equality: Da Cruz
Sommers, Toronto.*