



**SUPREME COURT OF CANADA**

**CITATION:** R. v. W.M., 2020 SCC 42

**APPEAL HEARD:** December 10,  
2020

**JUDGMENT RENDERED:** December  
10, 2020

**DOCKET:** 39114

**BETWEEN:**

**Her Majesty The Queen**  
Appellant

and

**W.M.**  
Respondent

**CORAM:** Wagner C.J. and Abella, Moldaver, Côté and Rowe JJ.

**UNANIMOUS**

**JUDGMENT READ** Wagner C.J.

**BY:**

(paras. 1 to 3)

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R. v. W.M.

**Her Majesty The Queen**

*Appellant*

v.

**W.M.**

*Respondent*

**Indexed as: R. v. W.M.**

**2020 SCC 42**

File No.: 39114.

2020: December 10.

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

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

*Criminal law — Evidence — Misapprehension of evidence — Miscarriage of justice  
— Accused convicted of sexual interference — Trial judge's reasons stating that accused*

*underwent sexual offender treatment in 2008 rather than correct date of 2000 — Majority of Court of Appeal ordering new trial on basis that trial judge’s misapprehension of evidence had impact on conviction and led to miscarriage of justice — Dissenting judge finding that trial judge’s misapprehension of evidence did not play essential role in reasoning process resulting in conviction — Conviction restored.*

APPEAL from a judgment of the Ontario Court of Appeal (Strathy C.J.O. and Miller and Trotter JJ.A.), 2020 ONCA 236, 453 D.L.R. (4th) 370, [2020] O.J. No. 1278 (QL), 2020 CarswellOnt 4061 (WL Can.), setting aside the conviction of the accused for sexual interference and ordering a new trial. Appeal allowed.

*Caitlin Sharawy*, for the appellant.

*W. John McCulligh*, for the respondent.

The judgment of the Court was delivered orally by

[1] THE CHIEF JUSTICE — We are all of the view that the appeal must be allowed for the reasons of Justice Miller.

[2] The trial judge’s mistake regarding the specific year of the sex offender treatment did not have any material impact on his overall assessment of the similar fact evidence or the accused’s

credibility when one considers the trial judge's reasons as a whole. In the result, no miscarriage of justice occurred.

[3] The appeal is allowed and the conviction is restored.

*Judgment accordingly.*

*Solicitor for the appellant: Attorney General of Ontario, Toronto.*

*Solicitor for the respondent: W. John McCulligh Professional Corporation,  
Brampton.*