



SUPREME COURT OF CANADA

CITATION: R. v. Stratthdee, 2021 SCC
40

APPEAL HEARD: October 15, 2021
JUDGMENT RENDERED: October 15,
2021
DOCKET: 39556

BETWEEN:

Tyler Gordon Stratthdee
Appellant

and

Her Majesty The Queen
Respondent

CORAM: Wagner C.J. and Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin, Kasirer and Jamal JJ.

UNANIMOUS Rowe J.
JUDGMENT READ
BY:
(paras. 1 to 5)

NOTE: This document is subject to editorial revision before its reproduction in final form in the *Canada Supreme Court Reports*.

Tyler Gordon Strathdee

Appellant

v.

Her Majesty The Queen

Respondent

Indexed as: R. v. Strathdee

2021 SCC 40

File No.: 39556.

2021: October 15.

Present: Wagner C.J. and Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin, Kasirer and Jamal JJ.

ON APPEAL FROM THE COURT OF APPEAL OF ALBERTA

Criminal law — Parties to offence — Co-principal liability — Group assault — Accused part of group that entered apartment and assaulted several occupants — One occupant dying of single stab wound — Accused charged with manslaughter — Trial judge acquitting accused on basis that single stab wound could only have been caused by one principal offender and that Crown had not proven beyond reasonable doubt that accused inflicted stab wound — Court of Appeal holding that trial judge erred in law in failing to properly assess accused's

culpability as co-principal to manslaughter in light of her finding that accused participated in group assault — Court of Appeal setting aside acquittal and entering conviction — Conviction upheld.

Cases Cited

Referred to: *R. v. Cabrera*, 2019 ABCA 184, 95 Alta. L.R. (6th) 258, aff'd *R. v. Shlah*, 2019 SCC 56, [2019] 4 S.C.R. 136; *R. v. Pickton*, 2010 SCC 32, [2010] 2 S.C.R. 198.

Statutes and Regulations Cited

Criminal Code, R.S.C. 1985, c. C-46, ss. 21(1)(a), (c), 691(2)(b).

APPEAL from a judgment of the Alberta Court of Appeal (Fraser C.J. and Watson and Pentelechuk JJ.A.), **2020 ABCA 443**, 21 Alta. L.R. (7th) 72, 410 C.C.C. (3d) 46, 463 D.L.R. (4th) 193, [2021] 5 W.W.R. 456, [2020] A.J. No. 1357 (QL), 2020 CarswellAlta 2352 (WL), setting aside the acquittal of the accused for manslaughter entered by Goss J., 2019 ABQB 479, [2019] A.J. No. 853 (QL), 2019 CarswellAlta 1310 (WL), and entering a conviction. Appeal dismissed.

Graham Johnson and Tania Shapka, for the appellant.

Julie Morgan, for the respondent.

The judgment of the Court was delivered orally by

[1] ROWE J. — Mr. Strathdee appeals as of right to this Court under s. 691(2)(b) of the *Criminal Code*, R.S.C. 1985, c. C-46, on the basis that the Alberta Court of Appeal overturned his acquittal for unlawful act manslaughter and entered a conviction. The trial judge, sitting as judge alone, had acquitted Mr. Strathdee after considering joint/co-principal liability and abetting under s. 21(1)(a) and 21(1)(c), respectively, of the *Criminal Code* (2019 ABQB 479). The charges against Mr. Strathdee stemmed from a group assault in which several victims sustained multiple injuries and one victim, Mr. Tong, sustained a *single* stab wound which caused his death.

[2] We agree with the Court of Appeal that there is no basis for the view that the stabbing of Mr. Tong was a distinct act outside the scope of the group attack.

[3] Having regard to the findings of fact in paras. 137 and 156-59 (CanLII) of the trial decision, and the statement of law set out by the Court of Appeal at paras. 61, 66 and 68 of its decision, this Court affirms the result of the Alberta Court of Appeal that Mr. Strathdee is guilty of unlawful act manslaughter.

[4] We also wish briefly to clarify a statement of law in *R. v. Cabrera*, 2019 ABCA 184, 95 Alta. L.R. (6th) 258, aff'd *R. v. Shlah*, 2019 SCC 56, [2019] 4 S.C.R. 136. Any implication from *Cabrera* that joint/co-principal liability is automatically eliminated if the evidence demonstrates application of force by only a single perpetrator is not accurate. Joint/co-principal liability flows whenever two or more individuals come together with an intention to commit an offence, are present during the commission of the offence, and contribute to its commission. In the context of manslaughter, triers of fact should focus on whether an accused's actions were a significant contributing cause of death, rather than focusing on which perpetrator inflicted which

wound or whether all of the wounds were caused by a single individual. In the context of group assaults, absent a discrete or intervening event, the actions of all assailants can constitute a significant contributing cause to all injuries sustained. Properly read, the discussion of party liability in *R. v. Pickton*, 2010 SCC 32, [2010] 2 S.C.R. 198, is fully consistent with the foregoing.

[5] Accordingly, we would dismiss the appeal.

Judgment accordingly.

Solicitors for the appellant: Dawson Duckett Garcia & Johnson, Edmonton.

Solicitor for the respondent: Attorney General of Alberta, Calgary.