

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* MacLeod, 2014 SCC 76, [2014] 3 S.C.R. 619 | **Date:** 20141210**Docket:** 35957 |

Between:

Her Majesty The Queen

Appellant

and

Clarence Michael MacLeod

Respondent

**Coram:** Abella, Cromwell, Moldaver, Wagner and Gascon JJ.

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| **Reasons for Judgment:**(para. 1) | Cromwell J. (Abella, Moldaver, Wagner and Gascon JJ. concurring)  |

R. *v.* MacLEOD, 2014 SCC 76, [2014] 3 S.C.R. 619

Her Majesty The Queen Appellant

v.

Clarence Michael MacLeod Respondent

**Indexed as:** R. ***v.*** MacLeod

2014 SCC 76

File No.: 35957.

2014: December 10.

Present: Abella, Cromwell, Moldaver, Wagner and Gascon JJ.

on appeal from the court of appeal for nova scotia

 *Criminal law — Second degree murder — Charge to jury — Lesser verdict of manslaughter — Air of reality — Defence counsel arguing at trial that alternate verdict of manslaughter incompatible with main defence — Trial judge erred in failing to charge jury on manslaughter.*

 APPEAL from a judgment of the Nova Scotia Court of Appeal (Saunders, Beveridge and Farrar JJ.A.), 2014 NSCA 63, 346 N.S.R. (2d) 222, 311 C.C.C. (3d) 300, [2014] N.S.J. No. 294 (QL), 2014 CarswellNS 425, setting aside the accused’s conviction for second degree murder and ordering a new trial. Appeal dismissed.

 Mark A. Scott and Marian Fortune-Stone, Q.C., for the appellant.

 Roger A. Burrill, for the respondent.

 The judgment of the Court was delivered orally by

1. Cromwell J. ― In our view, it was an error of law in this case not to leave manslaughter with the jury notwithstanding the position of the defence at trial.  The appeal is dismissed.

 Judgment accordingly.

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

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