

**SUPREME COURT OF CANADA**

|  |  |
| --- | --- |
| **Citation:** R. *v.* Clifford, 2017 SCC 9, [2017] 1 S.C.R. 164 | **Appeal heard:** February 17, 2017  **Judgment rendered:** February 17, 2017  **Docket:** 37140 |

Between:

**William Scott Clifford**

Appellant

and

Her Majesty The Queen

Respondent

and

Criminal Lawyers’ Association of Ontario and

**Director of Public Prosecutions of Canada**

Interveners

**Coram:** Abella, Moldaver, Karakatsanis, Wagner, Côté, Brown and Rowe JJ.

|  |  |
| --- | --- |
| **Reasons for Judgment:**  (paras. 1 to 2) | Abella .J. (Moldaver, Karakatsanis, Wagner, Côté, Brown and Rowe JJ. concurring) |

R. *v.* Clifford, 2017 SCC 9, [2017] 1 S.C.R. 164

William Scott Clifford Appellant

v.

Her Majesty The Queen Respondent

and

Criminal Lawyers’ Association of Ontario and

Director of Public Prosecutions of Canada Interveners

**Indexed as: R. *v.* Clifford**

2017 SCC 9

File No.: 37140.

2017: February 17.

Present: Abella, Moldaver, Karakatsanis, Wagner, Côté, Brown and Rowe JJ.

on appeal from the court of appeal for british columbia

*Criminal law — Evidence — Alibi — Similar fact evidence — Fire set to garage and trees destroyed on victims’ property — Trial judge finding that accused deliberately provided false alibi — Trial judge assessing defence theory that someone other than accused was responsible for prior acts of vandalism against victims — Court of Appeal finding that deliberately false alibi could properly be relied upon by trial judge as evidence of guilt — Court of Appeal concluding that trial judge did not make improper use of prior vandalism evidence as similar fact evidence supporting conviction — Convictions upheld.*

APPEAL from a judgment of the British Columbia Court of Appeal (Newbury, Willcock and Fenlon JJ.A.), 2016 BCCA 336, 339 C.C.C. (3d) 276, [2016] B.C.J. No. 1644 (QL), 2016 CarswellBC 2150 (WL Can.), upholding the accused’s convictions for arson and mischief entered by Macintosh J., 2015 BCSC 435, [2015] B.C.J. No. 535 (QL), 2015 CarswellBC 745 (WL Can.). Appeal dismissed, Rowe J. dissenting.

Dane F. Bullerwell and Jeffrey W. Beedell, for the appellant.

John M. Gordon, Q.C., for the respondent.

Michael Dineen and *Jonathan Dawe*, for the intervener the Criminal Lawyers’ Association of Ontario.

Janna A. Hyman and *François Lacasse*, for the intervener the Director of Public Prosecutions of Canada.

The judgment of the Court was delivered orally by

1. Abella J. — A majority of this Court would dismiss the appeal, substantially for the reasons of Willcock J.A. While we appreciate the suggestions of the intervenors that the law be re-examined, we are not satisfied that such re-examination is warranted in this case, particularly where neither party has asked us to depart from the jurisprudence of this Court.
2. Justice Rowe would have allowed the appeal, based on the dissenting reasons of Newbury J.A., as set out in paras. 22-26 of her reasons.

*Judgment accordingly.*

Solicitors for the appellant: Pringle, Chivers, Sparks, Teskey, Edmonton; Gowling WLG, Ottawa.

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

Solicitors for the intervener the Criminal Lawyers’ Association of Ontario: Dawe & Dineen, Toronto.

Solicitor for the intervener the Director of Public Prosecutions of Canada: Public Prosecution Service of Canada, Winnipeg and Ottawa.