

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Li, 2020 SCC 12, [2020] 1 S.C.R. 675 | **Appeal Heard:** June 11, 2020  **Judgment Rendered:** June 11, 2020  **Docket:** 38903 |

Between:

Cheung Wai Wallace Li

Appellant

and

Her Majesty The Queen

Respondent

**Coram:** Wagner C.J. and Abella, Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin and Kasirer JJ.

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| **Unanimous Judgment Read By:**  (paras. 1 to 4) | Martin J. |

Cheung Wai Wallace Li Appellant

v.

Her Majesty The Queen Respondent

**Indexed as: R. *v.*** Li

2020 SCC 12

File No.: 38903.

2020: June 11.

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

on appeal from the court of appeal for british columbia

*Criminal law — Appeals — Appeals to Supreme Court of Canada — Appeal as of right — Accused pleading guilty to drug offence — Trial judge entering stay of proceedings — Court of Appeal lifting stay — Accused filing appeal as of right under s. 691(2)(b) of Criminal Code — Phrase “enters a verdict of guilty” includes making order setting aside permanent stay where order is tantamount to entering verdict of guilty — Accused’s appeal properly brought as of right — Criminal Code, R.S.C. 1985, c. C‑46, s. 691(2)(b).*

*Criminal law — Abuse of process — Entrapment — Dial‑a‑dope operations — Accused pleading guilty to drug offence but seeking stay of proceedings based on entrapment — Trial judge finding that police did not have required reasonable suspicion and entering stay — Court of Appeal holding that trial judge misapprehended portions of evidence, misapplied legal test for entrapment and reached conclusion not available on evidence — Court of Appeal lifting stay and remitting matter for sentencing — Police had reasonable suspicion before making call that phone number was being used for drug dealing — No entrapment.*

**Cases Cited**

**Referred to:** *R. v. Magoon*, 2018 SCC 14, [2018] 1 S.C.R. 309; *R. v. Ahmad*, 2020 SCC 11, [2020] 1 S.C.R. 577.

**Statutes and Regulations Cited**

*Criminal Code*, R.S.C. 1985, c. C-46, s. 691(2)(b).

APPEAL from a judgment of the British Columbia Court of Appeal (Groberman, Fisher and Abrioux JJ.A.), 2019 BCCA 344, 381 C.C.C. (3d) 363, [2019] B.C.J. No. 1898 (QL), 2019 CarswellBC 2941 (WL Can.), setting aside the stay of proceedings entered by the trial judge and remitting the matter for sentencing. Appeal dismissed.

Eric Purtzki, for the appellant.

Chris Greenwood, for the respondent.

The judgment of the Court was delivered orally by

[1] Martin J. — Mr. Li pled guilty at trial, the trial judge entered a stay of proceedings based on entrapment, and the Court of Appeal lifted the stay and remitted the matter for sentencing. In this case, Mr. Li has a right of appeal to this Court under s. 691(2)(b) of the *Criminal Code*, R.S.C. 1985, c. C-46. The phrase “enters a verdict of guilty” includes making an order that sets aside a permanent stay where that order is tantamount to entering a verdict of guilty, thus securing the purpose of this provision, which is to ensure that an accused person has one level of appeal to raise a question of law arising from their conviction (see *R. v. Magoon*, 2018 SCC 14, [2018] 1 S.C.R. 309, at para. 38).

[2] We recognize that neither level of court in this appeal had the benefit of this Court’s reasons in *R. v. Ahmad*, 2020 SCC 11, [2020] 1 S.C.R. 577. As explained in *Ahmad*, when investigating a suspected dial-a-dope operation, the police must have reasonable suspicion over the individual or over the phone number or over a combination of both, before they can ask to purchase drugs from the person answering the phone.

[3] Applying this framework and considering the totality of the circumstances, the police had reasonable suspicion, before making the call, that the phone number was being used for drug dealing. The police used a *Swan* sheet to record what actions they took to verify this tip. The tip was that a specific phone number was being used in a dial-a-dope operation to sell cocaine, the sales took place near a particular mall and involved a tan Honda Odyssey with a specific licence plate. In addition to the phone number, the tip provided details such as which drug was for sale, the area of operation, a vehicle description, and licence plate number. The police confirmed the assertion of illegality by connecting this car and licence plate, and five other vehicles, to a person with an extensive and recent history of suspected dial-a-dope drug dealings.

[4] Therefore, there was no entrapment. As a result, we dismiss the appeal, enter a verdict of guilty, and remit the matter for sentencing.

*Judgment accordingly.*

Solicitors for the appellant: Melville Law Chambers, Vancouver.

Solicitor for the respondent: Public Prosecution Service of Canada, Vancouver.