



SUPREME COURT OF CANADA

CITATION: R. v. Slatter, 2020 SCC 36

APPEAL HEARD: November 6, 2020

JUDGMENT RENDERED: November 6, 2020

DOCKET: 38870

BETWEEN:

Her Majesty The Queen
Appellant

and

Thomas Slatter
Respondent

- and -

**Inclusion Canada (previously known as Canadian Association for Community Living),
Women's Legal Education and Action Fund Inc.,
DisAbled Women's Network Canada, ARCH Disability Law Centre,
Barbra Schlifer Commemorative Clinic and Criminal Lawyers' Association of Ontario**
Intervenors

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

UNANIMOUS JUDGMENT READ BY: Moldaver J.
(paras. 1 to 3)

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Appellant

v.

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2020: November 6.

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

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Criminal law — Trial — Judgments — Reasons for judgment — Sufficiency of reasons — Evidence — Reliability and credibility — Witness with intellectual or developmental disability — Accused convicted at trial of sexually assaulting complainant with intellectual and developmental disability — Majority of Court of Appeal holding that trial judge’s reasons were insufficient because he failed to address reliability of complainant’s evidence in view of expert evidence as to her suggestibility and failed to provide reasons for rejecting defence evidence — Majority of Court of Appeal setting aside conviction and ordering new trial — Dissenting judge holding that trial judge’s reasons allowed for meaningful appellate review on basis that they adequately addressed complainant’s reliability and that his rejection of defence evidence was implicit in his reasoned acceptance of complainant’s evidence — Conviction restored.

APPEAL from a judgment of the Ontario Court of Appeal (Doherty, Pepall and Trotter JJ.A.), 2019 ONCA 807, 148 O.R. (3d) 81, 452 D.L.R. (4th) 4, 58 C.R. (7th) 18, 382 C.C.C. (3d) 245, [2019] O.J. No. 5073 (QL), 2019 CarswellOnt 16055 (WL Can.), setting aside the conviction of the accused for sexual assault and ordering a new trial. Appeal allowed.

Jamie Klukach and Caitlin Sharawy, for the appellant.

Robert J. Reynolds and *Mike Pretsell*, for the respondent.

Janine Benedet, for the intervener Inclusion Canada (previously known as Canadian Association for Community Living).

Suzan E. Fraser, for the interveners Women's Legal Education and Action Fund Inc., DisAbled Women's Network Canada and ARCH Disability Law Centre.

Deepa Mattoo, for the intervener Barbra Schlifer Commemorative Clinic.

Matthew R. Gourlay, for the intervener Criminal Lawyers' Association of Ontario.

The judgment of the Court was delivered orally by

[1] MOLDAVER J. — We are all of the view that the appeal must be allowed, for the reasons of Justice Pepall, with which we agree.

[2] We would simply underline that when assessing the credibility and reliability of testimony given by an individual who has an intellectual or developmental disability, courts should be wary of preferring expert evidence that attributes general characteristics to that individual, rather than focusing on the individual's veracity and their actual capacities as demonstrated by their ability to perceive, recall and recount the events in issue, in light of the totality of the evidence. Over-reliance on generalities

can perpetuate harmful myths and stereotypes about individuals with disabilities, which is inimical to the truth-seeking process, and creates additional barriers for those seeking access to justice.

[3] Accordingly, we would allow the appeal and restore the conviction.

Judgment accordingly.

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

Solicitors for the respondent: Reynolds O'Brien, Belleville; Pretsell, Davies, Thompson, Benton, Belleville.

Solicitor for the intervener Inclusion Canada (previously known as Canadian Association for Community Living): University of British Columbia, Vancouver.

Solicitors for the interveners Women's Legal Education and Action Fund Inc., DisAbled Women's Network Canada and ARCH Disability Law Centre: Fraser Advocacy, Toronto.

*Solicitor for the intervener Barbra Schlifer Commemorative Clinic:
Barbra Schlifer Commemorative Clinic, Toronto.*

*Solicitors for the intervener Criminal Lawyers' Association of Ontario:
Henein Hutchison, Toronto.*