



**SUPREME COURT OF CANADA**

**CITATION:** R. v. Clark, 2022 SCC  
49

**APPEAL HEARD:** November 30, 2022  
**JUDGMENT RENDERED:**  
November 30, 2022  
**DOCKET:** 40090

**BETWEEN:**

**Ryan David Clark**  
Appellant

and

**His Majesty The King**  
Respondent

**CORAM:** Karakatsanis, Côté, Brown, Martin and Kasirer JJ.

**UNANIMOUS**  
**JUDGMENT READ** Karakatsanis J.  
**BY:**  
(para. 1)

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

---

**Ryan David Clark**

*Appellant*

v.

**His Majesty the King**

*Respondent*

**Indexed as: R. v. Clark**

**2022 SCC 49**

File No.: 40090.

2022: November 30.

Present: Karakatsanis, Côté, Brown, Martin and Kasirer JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR SASKATCHEWAN

*Criminal law — Charge to jury — Evidence — Identification — Accused convicted of second degree murder by jury — Accused appealing conviction on basis that trial judge erred by failing to provide specific caution to jury regarding frailties of in-court identification by two witnesses — Majority of Court of Appeal holding that instructions properly equipped jury to understand task in evaluating eyewitness evidence including in-court identification — Majority upholding conviction — Dissenting judge finding that circumstances required caution about inherent frailties*

*of in-court identification evidence and that new trial should be ordered — Conviction set aside and new trial ordered.*

## **Cases Cited**

**Referred to:** *R. v. Hibbert*, 2002 SCC 39, [2002] 2 S.C.R. 445.

APPEAL from a judgment of the Saskatchewan Court of Appeal (Ottenbreit, Leurer and Tholl JJ.A.), **2022 SKCA 36**, 475 D.L.R. (4th) 659, [2022] 6 W.W.R. 659, [2022] S.J. No. 98 (QL), 2022 CarswellSask 125 (WL), affirming the conviction of the accused for second degree murder. Appeal allowed.

*Bruce K. Campbell and Edward F. Sacher*, for the appellant.

*Erin Bartsch*, for the respondent.

The judgment of the Court was delivered orally by

[1] KARAKATSANIS J. — We agree with Justice Leurer, in dissent, that a specific *Hibbert* type instruction (*R. v. Hibbert*, 2002 SCC 39, [2002] 2 S.C.R. 445) was required in the circumstances of this case. The appeal is allowed, substantially for the reasons of Justice Leurer. The conviction is set aside and a new trial ordered.

*Judgment accordingly.*

*Solicitor for the appellant: Legal Aid Saskatchewan, Regina Rural Area  
Office, Regina.*

*Solicitor for the respondent: Attorney General of Saskatchewan, Regina.*