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| cid:image001.jpg@01D72252.19B69DE0  **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 | | | |

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| **Coram:** Karakatsanis, Côté, Brown, Martin and Kasirer JJ. | | |
| **Unanimous Judgment Read By:**  (para. 1) | Karakatsanis J. |
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**Note:** This document is subject to editorial revision before its reproduction in final form in the *Canada Supreme Court Reports*.

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**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](https://canlii.ca/t/jn75g), 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.*