



**SUPREME COURT OF CANADA**

**CITATION:** R. v. Lindsay, 2023 SCC  
33

**APPEAL HEARD:** December 14, 2023  
**JUDGMENT RENDERED:** December 14,  
2023  
**DOCKET:** 40569

**BETWEEN:**

**Trevor Ian James Lindsay**  
Appellant

and

**His Majesty The King**  
Respondent

**CORAM:** Karakatsanis, Kasirer, Jamal, O’Bonsawin and Moreau JJ.

**UNANIMOUS** Jamal J.

**JUDGMENT READ**

**BY:**  
(paras. 1 to 4)

**COUNSEL:**

*Alias Sanders*, for the appellant.

*Katherine Elizabeth Fraser*, for the respondent.

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

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**Trevor Ian James Lindsay**

*Appellant*

v.

**His Majesty The King**

*Respondent*

**Indexed as: R. v. Lindsay**

**2023 SCC 33**

File No.: 40569.

2023: December 14.

Present: Karakatsanis, Kasirer, Jamal, O’Bonsawin and Moreau JJ.

ON APPEAL FROM THE COURT OF APPEAL OF ALBERTA

*Criminal law — Defences — Use of force by peace officer — Peace officer convicted of aggravated assault relating to his use of force in interactions with detainee — Trial judge concluding that peace officer did not have reasonable grounds to use force against detainee and*

*therefore could not invoke statutory defence for use of necessary force by persons administering and enforcing law — Majority of Court of Appeal upholding conviction on basis that trial judge made comprehensive and detailed findings of fact amply supported by evidence and that pathway to conviction was clear and based on correct application of relevant legal principles — Conviction upheld — Criminal Code, R.S.C. 1985, c. C-46, s. 25(1).*

### **Cases Cited**

**Referred to:** *R. v. G.F.*, 2021 SCC 20; *R. v. Nasogaluak*, 2010 SCC 6, [2010] 1 S.C.R. 206.

### **Statutes and Regulations Cited**

*Criminal Code*, R.S.C. 1985, c. C-46, s. 25(1).

APPEAL from a judgment of the Alberta Court of Appeal (Veldhuis, Wakeling and Antonio JJ.A.), 2022 ABCA 424, [2022] A.J. No. 1564 (QL), 2022 CarswellAlta 3738 (WL), affirming the conviction entered by Lema J., 2019 ABQB 462, [2019] A.J. No. 818 (QL), 2019 CarswellAlta 1252 (WL). Appeal dismissed.

*Alias Sanders*, for the appellant.

*Katherine Elizabeth Fraser*, for the respondent.

The judgment of the Court was delivered orally by

[1] JAMAL J. — We are all of the view that the appeal should be dismissed.

[2] We do not accept the appellant’s submission that the trial judge misinterpreted the concession of defence counsel that if an assault occurred, it was an aggravated assault. The appellant did not raise this as a ground of appeal before the Court of Appeal. The appellant now claims that the trial judge interpreted this concession as meaning that he did not need to decide whether the Crown had proved the elements of aggravated assault. We disagree. Reading the judgment as a whole, the trial judge concluded that the appellant committed aggravated assault when he intentionally struck and threw the person in his custody to the ground. As the majority of the Court of Appeal correctly noted, based on the trial judge’s reasons, “the pathway to conviction is clear and based on the correct application of relevant legal principles” (para. 6). A trial judge is presumed to know the law and is entitled to focus on the live issues at trial. In our view, the trial judge’s reasons are sufficient in law (see *R. v. G.F.*, 2021 SCC 20, at para. 74).

[3] Nor do we accept the appellant’s argument that the trial judge erred in concluding that s. 25(1) of the *Criminal Code*, R.S.C. 1985, c. C-46, did not provide a defence for the appellant’s use of force against the individual. Section 25(1) “essentially provides that a police officer is justified in using force to effect a lawful arrest, provided that he or she acted on reasonable and probable grounds and used only as much force as was necessary in the circumstances” (*R. v. Nasogaluak*, 2010 SCC 6, [2010] 1 S.C.R. 206, at para. 34). The matters raised by the dissenting judge in the Court of Appeal in essence impugn the trial judge’s findings of fact. In our view, the trial judge was entitled to find on the evidence before him that the appellant had no reasonable grounds to strike the person initially, and that his use of force in striking him three more times in the head and then throwing him to the ground was unnecessary and excessive on a proper standard.

The trial judge's findings of fact were amply supported by the record. We see no basis for this Court to intervene.

[4] The appeal is dismissed.

*Judgment accordingly.*

*Solicitor for the appellant: Alias Sanders, Calgary.*

*Solicitor for the respondent: Alberta Crown Prosecution Service, Appeals and Specialized Prosecutions Office, Edmonton.*