

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Bruce, 2011 SCC 4 | **Date:** 20110202  **Docket:** 33735 |

**Between:**

**Derek Dwight Bruce**

Appellant

and

**Her Majesty The Queen**

Respondent

**Coram:** LeBel, Deschamps, Fish, Abella, Charron, Rothstein and Cromwell JJ.

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| **Reasons for Judgment:**  (paras. 1 to 2)  **Dissenting Reasons:**  (para. 3) | LeBel J. (Deschamps, Abella, Charron, Rothstein and Cromwell JJ. concurring)  Fish J. |

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r. *v.* bruce

Derek Dwight Bruce *Appellant*

*v.*

Her Majesty The Queen *Respondent*

**Indexed as:**R. ***v.*** Bruce

2011 SCC 4

File No.:  33735.

2011:  January 19; 2011:  February 2.

Present: LeBel, Deschamps, Fish, Abella, Charron, Rothstein and Cromwell JJ.

on appeal from the court of appeal for alberta

*Criminal Law — Reasonable Verdict — Appellant challenging adequacy of evidence identifying him as assailant — Whether decision of trial judge supported by evidence.*

*Held* (Fish J. dissenting): The appeal should be dismissed.

**Statutes and Regulations Cited**

*Criminal Code*, R.S.C. 1985, c. C-46, s. 691(1)(*a*).

APPEAL from a judgment of the Alberta Court of Appeal (Berger, O’Brien and Bielby JJ.A.), 2010 ABCA 131, 477 A.R. 208, 483 W.A.C. 208, [2010] A.J. No. 433 (QL), upholding the accused’s conviction. Appeal dismissed, Fish J. dissenting.

Akram Attia and Daryl J. Royer, for the appellant.

David C. Marriott, Q.C., for the respondent.

The judgment of LeBel, Deschamps, Abella, Charron, Rothstein and Cromwell JJ. was delivered by

LeBel J.—

1. The Court is seized with an appeal as of right brought under s. 691(1)(*a*) of the *Criminal Code*, R.S.C. 1985, c. C-46, from a judgment of the Alberta Court of Appeal (2010 ABCA 131, 477 A.R. 208) rendered on April 22, 2010. A majority of the Court of Appeal dismissed an appeal from a judgment of the Alberta Provincial Court (Chrumka J.) declaring the appellant, Derek Dwight Bruce, guilty on counts of breaking and entering, committing assault causing bodily harm and possession of a weapon.
2. I am of the view that the appeal fails. Although this appeal does not raise only issues of credibility, I agree with the majority of the Court of Appeal that the trial judge’s decision was reasonable, was supported by the evidence and that he had committed no error in the application of the relevant law to the facts. For these reasons, the appeal is dismissed.

The following are the reasons delivered by

Fish J. —

1. With respect for those who are of a different view, I would allow the appeal and order a new trial, essentially on the ground that the decision of the trial judge rests on inferences that do not flow logically and reasonably from the evidence upon which they are made to rest, notably on the issue of identification ― the only real issue in this case.

*Appeal dismissed,* Fish J. *dissenting.*

Solicitors for the appellant:  Attia Reeves Tensfeldt Snow, Edmonton.

Solicitor for the respondent:  Attorney General of Alberta, Edmonton.