



Case in Brief: **R. v. Lawlor**

Judgment of December 15, 2023 | On appeal from the Court of Appeal of Alberta
Neutral citation: 2023 SCC 34

The Supreme Court sets aside the conviction of a man found guilty of first-degree murder and orders a new trial.

This case is about whether the judge in a murder trial correctly instructed the jury with respect to the accused’s mental health conditions and his post-offence conduct.

On April 9, 2014, Mr. Derrick Michael Lawlor participated in a sexual encounter with two other men in a park in Kitchener, Ontario. The following day, the body of one of those men was found in the park. He had died due to external neck compression.

Mr. Lawlor had consumed both psychiatric medication and alcohol around the time he was in the park with the victim and the third man. He had made several statements both before and after the victim’s death about how he wanted to harm and kill gay men, and that he had at times carried a rope and a knife to do so. In the days following the killing, Mr. Lawlor also searched the internet for news with respect to the discovery of a body in the park.

Mr. Lawlor was tried by a judge and jury. In the judge’s instructions to the jury on the element of intent, which is required to find an accused guilty of first-degree murder, the trial judge did not specifically highlight any evidence related to Mr. Lawlor’s mental health. Such evidence could have impacted whether he intended to commit the offence. Rather, he asked the jury to consider “all of the evidence”, including Mr. Lawlor’s state of mind and any evidence of impairment by drugs and alcohol. The trial judge also briefly referred to Mr. Lawlor’s internet searches after the offence, but did not give the jury further instructions to limit what it could infer from this evidence to determine guilt. The jury ultimately found Mr. Lawlor guilty of first-degree murder.

On appeal before the Ontario Court of Appeal, Mr. Lawlor did not contest the fact that he caused the victim’s death and acknowledged he was at least guilty of manslaughter. However, he argued the trial judge failed to expressly instruct the jury on the use of evidence of his mental health, which was relevant to determining his intent to commit the offence. Mr. Lawlor also claimed the trial judge should have provided the jury with instructions limiting their use of the evidence with respect to his conduct after the offence. A majority of the Court of Appeal dismissed his appeal.

One judge disagreed and would have allowed the appeal and ordered a new trial. In his view, the considerable evidence on Mr. Lawlor’s mental health was central to determining whether he had the requisite intent for murder. He also thought the trial judge should have warned the jury against drawing incriminating inferences from Mr. Lawlor’s post-offence conduct without considering alternative explanations as to why he was searching the internet for news about the victim’s death.

The Supreme Court has allowed the appeal.

As a result, Mr. Lawlor’s conviction was set aside and a new trial was ordered.

Justice O’Bonsawin read the judgment of a majority of the Court. You can watch a recording of it [here](#).

A print version of the judgment that was read out will be available [here](#) once finalized.

Breakdown of the decision: A majority of the Court allowed the appeal (Justices [Rowe](#), [Martin](#), [O’Bonsawin](#) and [Moreau](#)) | In dissent, Justice [Kasirer](#) would have dismissed the appeal.

More information: [Decision](#) | [Case information](#)

Lower court rulings: Decision (Ontario Superior Court of Justice – unpublished) | [Appeal](#) (Court of Appeal for Ontario)