



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

Judgment of December 6, 2024 | On appeal from the Court of Appeal for Ontario  
Neutral citation: 2024 SCC 42

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***The Supreme Court has confirmed that police lawfully used the cellphone of an arrested drug dealer to stop imminent drug trafficking.***

Police lawfully seized a cellphone during the arrest of a known drug dealer. After the arrest, four text messages lit up the lock screen of the phone, appearing to offer to sell drugs to the drug dealer. Without a warrant, the police replied to the texts, impersonating the drug dealer, and encouraged the sender to come to his residence to deliver the drugs. When Dwayne Campbell came to the residence, he was arrested and found in possession of heroin laced with fentanyl. Mr. Campbell claimed that he did not send the first four texts and that someone else had given him the phone to arrange the delivery of the drugs. However, he did acknowledge that he sent and received the later texts about the drug delivery.

Mr. Campbell was charged with drug trafficking and possession. He applied to exclude the text messages from evidence on the grounds that they had been obtained in a way that breached his rights under section 8 of the *Canadian Charter of Rights and Freedoms*. Section 8 protects people against unjustified intrusions on their privacy.

The trial judge found that because Mr. Campbell did not have a reasonable expectation of privacy in the texts, he could not argue that his section 8 *Charter* rights had been infringed. The trial judge added that even if he could have made that argument, the police's use of the phone would have been justified under the *Controlled Drugs and Substances Act* (CDSA) because without immediate action the transaction was at risk and the likelihood that the transaction involved fentanyl made this a matter of public safety. The CDSA allows the police to conduct certain searches without a warrant if "exigent" (meaning urgent) circumstances make it "impracticable" to obtain one.

Mr. Campbell was subsequently convicted of the charges against him and appealed his convictions. The Court of Appeal accepted that he had a reasonable expectation of privacy in his text message conversation and thus could argue that the police had violated his rights under section 8. However, it concluded that the search was justified by exigent circumstances under the CDSA. Accordingly, it dismissed Mr. Campbell's appeal.

Mr. Campbell appealed further to the Supreme Court of Canada seeking to overturn his convictions. The Supreme Court has dismissed his appeal.

**The police's use of the drug dealer's cellphone without first obtaining a warrant was justified by the urgent circumstances.**

Writing for a majority, Justice Jamal concluded that Mr. Campbell had a reasonable expectation of privacy in his text message conversation with the user of the phone and could challenge the search under section 8 of the *Charter*. The warrantless search of Mr. Campbell's text message conversation was justified by "exigent circumstances" that made it "impracticable" to obtain a warrant under the CDSA. The police needed to act immediately to intercept the sale of the drugs to prevent them from being trafficked imminently in the community. Although the police had grounds to obtain a warrant, it was impracticable to obtain one as only a telewarrant would have been available and it would likely arrive too late. The search was thus reasonable and justified by law and did not breach section 8.

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**Breakdown of the decision: Reasons for Judgment:** Justice [Jamal](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Kasirer](#) and [O'Bonsawin](#) agreed) | **Concurring:** Justice [Rowe](#) agreed to dismiss the appeal | **Concurring:** Justice [Côté](#) agreed to dismiss the appeal for different reasons | **Dissenting:** Justices [Martin](#) and [Moreau](#) would have allowed the appeal and entered acquittals (Justice [Karakatsanis](#) agreed)

**More information:** [Decision](#) | [Case information](#) | [Webcast of hearing](#)

**Lower court rulings:** Application to exclude evidence (Ontario Superior Court of Justice – unreported) | Conviction (Ontario Superior Court of Justice – unreported) | [Appeal](#) (Court of Appeal for Ontario)

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