



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

Judgment of May 17, 2024 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2024 SCC 18

The Supreme Court confirms the convictions of two men guilty of manslaughter.

The issue in these appeals was whether the trial judge made a mistake in instructing the jury on how to establish causation between the accused’s unlawful acts and the victim’s death from stabbing wounds inflicted by a third person.

Emanuel Lozada and Victor Ramos were accused of manslaughter as a result of an unlawful act (known in law as “unlawful act manslaughter”) after participating in a fight in downtown Toronto, which resulted in the fatal stabbing of a victim. It was never suggested that either Mr. Lozada or Mr. Ramos had stabbed the victim. A third person was convicted of second degree murder for the stabbing. Rather, Mr. Lozada and Mr. Ramos were accused of acting as co-principals in the fatal attack or aiders and abettors to the stabber.

To convict Mr. Lozada and Mr. Ramos, the Crown needed to establish causation between their unlawful acts – their participation in the group assault – and the victim’s death. To do so, the Crown had to prove that the unlawful acts were a significant contributing cause to his death. The Crown’s theory was that Mr. Ramos fought with the victim and punched or kicked him, while Mr. Lozada fought with one of the victim’s friends. It argued that the two men’s assaults left the victim vulnerable to being stabbed by the third man. In their defence, Mr. Lozada and Mr. Ramos argued that the stabbing was not a reasonably foreseeable consequence of their decision to join a fight. As such, the stabbing event broke the chain of causation between their assaults and the victim’s death and they could not be held criminally responsible for it.

The jury convicted Mr. Lozada and Mr. Ramos of unlawful act manslaughter. The two men appealed their convictions together at the Ontario Court of Appeal, arguing that the trial judge made a mistake when instructing the jury on whether their conduct was a significant contributing cause of the victim’s death.

The majority of the Court of Appeal dismissed their appeals. It found that when considered in isolation, two passages from the trial judge’s instructions to the jury on reasonable foreseeability misstated the law. However, the majority concluded that read as a whole, the instructions given by the trial judge to the jury were accurate. Mr. Lozada and Mr. Ramos appealed the decision to the Supreme Court of Canada.

The Supreme Court has dismissed the appeals.

The jury was accurately instructed on the issue of causation.

Writing for the majority, Justice Moreau said that on a reading of the jury instructions and the trial judge’s answers to the jury’s questions as a whole, the instructions conveyed the proper test for causation: whether the conduct of Mr. Lozada and Mr. Ramos was a significant contributing cause of the victim’s death. Moreover, the trial judge properly equipped the jury with appropriate analytical tools – i.e. the question of reasonable foreseeability – to assist the jury in determining whether the stabbing could be considered to be an intervening act that would absolve Mr. Lozada and Mr. Ramos of legal responsibility for manslaughter. For these reasons, Justice Moreau dismissed the appeals and upheld the manslaughter convictions.

Breakdown of the decision: **Majority:** Justice [Moreau](#) dismissed the appeals (Justices [Karakatsanis](#) and [Martin](#) agreed) | **Dissent:** Justice [Jamal](#) would have allowed the appeals, set aside the convictions of manslaughter and ordered a new trial (Justice [Rowe](#) agreed)

More information: [Case information in Mr. Lozada’s appeal](#) | [Case information in Mr. Ramos’ appeal](#)

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

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