



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

Judgment of October 11, 2024 | On appeal from the Court of Appeal for Saskatchewan

Neutral citation: 2024 SCC 33

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***The Supreme Court affirms a man's conviction of firearms offences.***

In 2019, members of the Regina police's street gang unit stopped Stuart Sabiston while he was walking down an alley and arrested him for possession of stolen property. Mr. Sabiston told police that he had a loaded sawed-off shotgun in his backpack. The police searched his backpack, seized the firearm, and arrested him again for a number of firearms offences. The Crown ultimately did not proceed with the possession of stolen property charge.

At trial for the firearms offences, Mr. Sabiston argued that the police had breached his *Charter* rights, namely his section 8 right against unreasonable search or seizure, and his section 9 right to not be arbitrarily detained. The trial judge found that the police had breached Mr. Sabiston's *Charter* rights because his initial arrest for possession of stolen property was unlawful, as was the search of his backpack that followed. However, she found that the evidence of the firearm should be admitted at trial under section 24(2) of the *Charter*. This section says that evidence obtained in a way that breached the rights of an accused may be excluded from trial if admitting it would bring the administration of justice into disrepute. To determine whether the evidence in question should be excluded, a court will look at three indicators: (1) the seriousness of the state conduct in breach of the *Charter*; (2) the impact of the breach on the accused; and (3) society's interest in adjudicating the matter on its merits. The trial judge found that the police would have been able to legally detain Mr. Sabiston to investigate him, which made the breaches less serious. Mr. Sabiston was convicted of several offences.

A majority of the Court of Appeal allowed Mr. Sabiston's appeal. It found that the police could not have legally detained Mr. Sabiston, and therefore could not have found the firearm without breaching his *Charter* rights. It decided that the evidence of the firearm should be excluded from trial, set aside Mr. Sabiston's conviction, and substituted an acquittal. The dissenting judge would have dismissed the appeal and affirmed the conviction. He found that the trial judge was permitted to consider that the police would have detained Mr. Sabiston and discovered the firearm if the *Charter* breaches had not occurred.

**The Supreme Court allowed the appeal.**

Mr. Sabiston's acquittal was set aside and his conviction restored.

Justice Côté 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.

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**Breakdown of the decision:** A majority of the Court allowed the appeal (Justices [Côté](#), [Rowe](#), [Jamal](#) and [O'Bonsawin](#)) | In dissent, Justice [Moreau](#) would have dismissed the appeal

**More information:** [Case information](#)

**Lower court rulings:** Decision (Provincial Court of Saskatchewan - unpublished) | [Appeal](#) (Court of Appeal for Saskatchewan)