



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

Judgment of March 26, 2025 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2025 SCC 10

The Supreme Court confirms that a man was acquitted of various firearm offences in error.

This is an appeal about what counts as a “firearm” for the purposes of various firearm offences in the *Criminal Code*. The term is defined in section 2 of the *Code* to mean a barrelled weapon from which any projectile can be discharged and is capable of causing serious bodily injury or death, including the frame or receiver of that weapon or anything that can be adapted for use as a firearm.

During a roadside stop, the police found a handgun in the fanny pack belonging to Mr. Amari Donawa. The handgun was sent to the Centre of Forensic Sciences, but for reasons that were not explained, the police did not send the magazine or the ammunition. Mr. Donawa was charged with various firearm offences.

At trial, the expert testified that the handgun could not be fired easily without the magazine. The trial judge found that the handgun was not a firearm because making it useable, according to the expert, required special expertise, considerable time, and parts not readily available to Mr. Donawa. As a result, the trial judge acquitted Mr. Donawa of the various firearm offences.

The Crown appealed these acquittals to the Court of Appeal for Ontario. The central issue in the appeal was whether the trial judge was correct to conclude that the handgun was not a firearm as defined in section 2 of the *Code*.

The Court of Appeal unanimously allowed the Crown’s appeal and set aside the acquittals. According to the Court of Appeal, the trial judge made a number of errors in deciding the Crown had failed to prove that the handgun was a firearm. The trial judge did not consider that there was a magazine in the handgun when the police found it and that the expert testified that the handgun could be used if a magazine was inserted into it. The trial judge also failed to consider Mr. Donawa’s statement to police that he had fired the handgun at a gun range. He focused on whether the handgun could be adapted for use as a firearm without considering whether the handgun, as found, was capable of being used as a firearm without needing to be adapted. The failure to consider all of the evidence in relation to the ultimate issue of guilt or innocence was an error of law that justified setting aside the acquittals on the firearm offences. The Court of Appeal entered convictions on two counts (careless storage of a firearm and possession of a firearm with an altered serial number) and ordered a new trial on other counts.

Mr. Donawa appealed the Court of Appeal’s decision, seeking to restore his acquittals. When a person is acquitted of certain criminal offences at trial, but the acquittal is set aside and the Court of Appeal enters a guilty verdict, the person has a right to appeal to the Supreme Court of Canada on any question of law.

The Supreme Court dismissed the appeal.

As such, the Court of Appeal’s order convicting Mr. Donawa on some counts and ordering a new trial on others is confirmed.

Justice Martin read the judgment 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: The Court dismissed the appeal (Justices [Martin](#), [Kasirer](#), [Jamal](#), [O’Bonsawin](#) and [Moreau](#) heard the appeal)

More information: [Case information](#)

Lower court rulings: Acquittals (Ontario Superior Court of Justice) (not available online) | [Appeal](#) (Court of Appeal for Ontario)

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