SUPREME COURT OF CANADA

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

Judgment of November 14, 2025 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2025 SCC 37

The Supreme Court of Canada upholds a man's conviction for sending sexually explicit material to a person under 16 years of age.

In this case, a 52-year-old man named W.W. was accused of sending sexually explicit videos and messages to the 15-year-old daughter of a friend. The girl was helping him care for his horse. During that time, W.W. began sending her text messages and videos. Some of the messages contained sexually explicit content, and the girl eventually told her father, who contacted the police.

W.W. was charged under section 171.1(1)(b) of the *Criminal Code*, which makes it a crime to send sexually explicit material to someone under 16 years of age for the purpose of facilitating a later sexual offence. This offence targets early steps that can lead to a sexual offence, such as grooming. The Crown does not need to prove that a sexual offence actually happened later.

At trial, the judge accepted that W.W. had sent those materials to the under-age girl. However, the judge was not sure that W.W. had sent them with the intent to facilitate the commission of a sexual offence later on. The judge said that the messages might have been inappropriate, but they were not clearly meant to facilitate the commission of a sexual offence. Based on this, W.W. was found not guilty.

The prosecution appealed to the Ontario Court of Appeal, which found that the trial judge had misapplied the law. At trial, the judge thought that W.W. might have been simply "flirting", and he believed that this possibility created reasonable doubt about whether W.W. intended to facilitate a sexual offence. The Court of Appeal said this was the wrong test. The law does not require proof that W.W. intended to actually commit the sexual offence, only that he intended to make a sexual offence easier or more likely by sending the explicit material. The Court of Appeal concluded that, based on the judge's own findings of fact, the only reasonable conclusion was that the messages were part of grooming and therefore met the required intent.

The Court of Appeal also said that the trial judge focused too much on whether the messages were simply "flirtatious" and on whether W.W. was shown in the videos, even though that was not required to find guilt.

Ultimately, the Court of Appeal concluded that a properly instructed jury would have found W.W. guilty, so it set aside the acquittal and entered a conviction. That means the Court of Appeal replaced the not-guilty verdict with a guilty one, without ordering a new trial.

The Supreme Court dismissed the appeal.

As such, W.W.'s conviction has been confirmed.

Justice Kasirer read the judgment of the unanimous 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 unanimous Court dismissed the appeal (Chief Justice Wagner and Justices Karakatsanis, Côté, Rowe, Martin, Kasirer and Moreau agreed).

More information: Case information

Lower court rulings: Acquittal (Ontario Superior Court of Justice) | Appeal (Court of Appeal for Ontario)
