



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

Judgment of April 10, 2025 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2025 SCC 12

The Supreme Court has confirmed attempted murder convictions and an order for a new trial in the high profile shooting of an Ontario couple in their home.

Ms. Jennifer Pan lived with her parents, with whom she had a difficult relationship. In November 2010, three armed intruders entered the Pan family home. The parents were each shot in the head and shoulders. Mrs. Pan died, and Mr. Pan was seriously injured but survived. Ms. Pan, who was also at home, was left unharmed, tied to a banister.

Ms. Pan, along with Daniel Wong, Lenford Crawford and David Mylvaganam, were charged with the first degree murder of Mrs. Pan and the attempted murder of Mr. Pan. The Crown's theory at trial was that Ms. Pan arranged through Mr. Wong and Mr. Crawford to have her parents killed by persons including Mr. Mylvaganam. At trial, a jury convicted them on both charges.

All appealed their convictions based on what they said were several errors made during the trial. One issue was that the trial judge had told the jury that only two scenarios that could establish guilt arose on the evidence. Under scenario one, there was a single planned and deliberate attack with the intention of murdering both Mr. Pan and Mrs. Pan. Under scenario two, there had been a home invasion and robbery, in the commission of which the Pans were shot. The defence had, however, urged the trial judge to instruct the jury based on a third scenario, that there was a plan to kill only Mr. Pan, and that it was in carrying out that plan that Mrs. Pan was shot. If the jury were to accept this third scenario, some of the accused could have been convicted of second degree murder or manslaughter instead of first degree murder. The trial judge refused to instruct the jury on this possibility because he said it had no "air of reality", meaning no reasonable jury could reach this conclusion in the circumstances of the case.

The accused also argued that the trial judge was wrong to allow a slide show presentation prepared by the Crown to go into the jury room, was wrong not to dismiss a juror for alleged bias, and was wrong in telling the jury how to use evidence about the character of another accused, Eric Carty, whose case proceeded separately.

The Court of Appeal allowed the appeal. It said that the third scenario had an air of reality and should have been left with the jury. It said that this required a new trial on the first degree murder charge. However, the Court of Appeal left the convictions for the attempted murder of Mr. Pan in place, because it said that the trial judge's error did not taint those convictions. It found that the trial judge made no error with respect to the slide show, the alleged juror bias or the evidence about Mr. Carty.

The Crown appealed to the Supreme Court of Canada, seeking to restore the convictions for first degree murder. It said the Court of Appeal was wrong to find that the third scenario had an air of reality and that this required setting aside the convictions.

The accused each cross-appealed, seeking to set aside their convictions for attempted murder. They said the error identified by the Court of Appeal also tainted these convictions, such that a new trial was required on both counts. They also renewed their unsuccessful arguments before the Court of Appeal about the slide show, the alleged juror bias, and the evidence about Mr. Carty.

The Supreme Court dismissed the appeal and the cross-appeals.

The jury should have been instructed to consider the possibility that there was a plan to murder Mr. Pan only.

Writing for a majority of the Court, Chief Justice Wagner said that the Court of Appeal was right to order a new trial for all accused on the first degree murder count. The third scenario had an air of reality and the jury should

have been permitted to consider it. However, the trial judge's error did not taint the attempted murder convictions and therefore those convictions stand. Regarding the other grounds, there was no reversible error in the trial judge's approach to the slide show, and the allegations of juror bias and the instructions to the jury on the evidence about Mr. Carty provided no basis for interfering with the convictions.

Breakdown of the decision: ***Majority.*** Chief Justice [Wagner](#) dismissed the appeal and the cross-appeals (Justices [Côté](#), [Rowe](#), [Kasirer](#), [Jamal](#), [O'Bonsawin](#) and [Moreau](#) agreed) | ***Dissenting.*** Justice [Karakatsanis](#) would have allowed the appeal, restored the convictions for first degree murder, and dismissed the cross-appeals (Justice [Martin](#) agreed).

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