



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

Judgment of March 20, 2025 | On appeal from the Court of Appeal for British Columbia

Neutral citation: 2025 SCC 7

The Supreme Court upholds a man’s conviction for indecent assault.

In August 1978, R.A. was babysitting the then five-year-old complainant and other children at his home. In a statement made to the police, R.A. explained that he asked the complainant if she wanted to touch him and she did so, and then R.A. pulled away. He told the complainant not to tell anyone what had happened. R.A. was charged with one count of indecently assaulting the complainant contrary to section 149 of the *Criminal Code*, R.S.C. 1970, c. C-34, as the section existed in 1978.

Following a trial in the Provincial Court, R.A. was acquitted of the charge. The trial judge concluded that the only issue was whether the Crown had proven that there was an “assault”, one of the essential elements of the offence. The trial judge determined that to prove that there had been an “assault”, the Crown was required to prove there had been a direct, intentional application of force to the complainant. She found that because R.A. did not touch the complainant and did not make any threats, the Crown had not proven this element of the offence beyond a reasonable doubt.

The Crown appealed, arguing that the trial judge had misinterpreted the elements of assault when concluding that the sexual touching had to be physically initiated by the accused. The Court of Appeal unanimously allowed the appeal and set aside the acquittal. It concluded that the trial judge was wrong to conclude that there was no direct and intentional application of force by R.A. to the complainant and treating this case as if the complainant had not been touched. It also concluded that any intentional contact with a child by an adult that is committed in circumstances of a sexual nature is an assault, regardless of whose physical movement initiated the contact. Since the only issue was whether R.A.’s conduct amounted to an assault, the Court of Appeal set aside the acquittal and entered a conviction for indecent assault. The Court of Appeal also sent the matter back to Provincial Court for him to be sentenced.

R.A. appealed to the Supreme Court of Canada, arguing that the element of assault required proof of an action by R.A. that went beyond passive reception of touching by the complainant. He also argued that the Court of Appeal was incorrect to apply a different test for determining whether an assault has been committed where the complainant is a child.

The Supreme Court dismissed the appeal.

As such, R.A.’s conviction has been confirmed.

Chief Justice Wagner 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 (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Côté](#), [Rowe](#), [Martin](#), [Kasirer](#), [Jamal](#), [O’Bonsawin](#) and [Moreau](#) heard the appeal).

More information: [Case information](#)

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