



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

Judgment of May 29, 2020 | On appeal from the Court of Appeal for Ontario  
Neutral citation: 2020 SCC 11

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***Police need good reason to suspect someone answering a phone (or the number itself) is involved in drug dealing before asking them to sell drugs, the Supreme Court has ruled.***

Police can investigate crime in different ways. To find out about crimes that are hard to investigate (like drug trafficking, child luring, or terrorism), they may have to tempt people to commit them. But there are limits to this. They have to be able to show the court that they had a “reasonable suspicion” (a good reason to suspect) that a certain crime was happening. Needing reasonable suspicion makes sure courts can review police actions to check they are acting properly.

If police don’t have a reasonable suspicion and they tempt a person to commit a crime anyway, it is called “entrapment.” Entrapment is very serious. It undermines society’s sense of justice and the rule of law. When it happens, there has to be a “stay of proceedings.” That means the prosecution must be stopped and the person can’t be convicted of the crime.

This decision dealt with two entrapment cases.

In Mr. Ahmad’s case, the police got a tip that someone named “Romeo” was selling drugs over the phone. The officer called “Romeo’s” phone number. He didn’t know if the tip was trustworthy. He had a short conversation with “Romeo,” who agreed to sell him cocaine. They met in person and “Romeo” sold the officer cocaine. Police arrested and searched “Romeo,” who turned out to be Mr. Ahmad.

The trial judge said Mr. Ahmad wasn’t entrapped. This was because police confirmed enough about the tip during their conversation to have a good reason to suspect he was already selling drugs. They did this before they asked to buy drugs from him. Mr. Ahmad was convicted.

In Mr. Williams’ case, a police officer got information from another officer that someone named “Jay” was selling cocaine. The information also came from a tip. The officer didn’t know if the information was trustworthy or recent. Another officer called Jay’s number and asked to buy crack cocaine. “Jay” agreed to meet and sold the officer crack. “Jay” turned out to be Mr. Williams. The police arranged another drug deal eleven days later. A month later, police arrested Mr. Williams.

The trial judge said police didn’t have a reasonable suspicion of Mr. Williams before they asked to buy drugs from him. The trial judge said Mr. Williams was entrapped, and ordered a stay of proceedings.

The Court of Appeal heard both appeals together, because they dealt with the same issue. It said neither Mr. Ahmad nor Mr. Williams were entrapped.

All the judges at the Supreme Court agreed that Mr. Ahmad wasn’t entrapped, but for different reasons. The majority said Mr. Williams was entrapped.

The majority said police can ask a person answering a phone to commit a crime. But they can only do this if they already have reasonable suspicion. Reasonable suspicion must be about a specific person committing a crime or crime happening in a specific place. But in this digital age, a place doesn’t have to be physical. It can be a phone number. So, police need a good reason to suspect that the person answering is committing a certain crime or the phone number is being used for that crime before asking them to commit a crime.

Police don’t have reasonable suspicion if they just have a tip and don’t know if it’s reliable. They can develop reasonable suspicion by investigating if a tip is reliable before calling. The majority said it’s better to have reasonable suspicion before making the call. But it’s also possible to establish reasonable suspicion by having a conversation with the person who answers.

In both appeals, the police didn’t have reasonable suspicion before calling the phone numbers. But the majority said Mr. Ahmad wasn’t entrapped because police developed a good reason to suspect he was selling drugs while talking to him on the phone. They did this before they asked to buy drugs from him. The police didn’t confirm the tip during the phone call in Mr. Williams’ case, though. The majority said Mr. Williams was entrapped because the police asked to buy drugs from him before they had a good reason to suspect he was selling drugs.

Mr. Ahmad got permission (or “leave”) to appeal to the Supreme Court. People who get convicted on appeal when they weren’t convicted at trial, like Mr. Williams, can appeal “as of right” (meaning they don’t need permission).

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**Breakdown of the decision:** *Majority:* Justices Andromache [Karakatsanis](#), Russell [Brown](#), and Sheilah [Martin](#) dismissed the appeal in *Ahmad* and allowed the appeal in *Williams* (Justices [Abella](#) and [Kasirer](#) agreed) | *Dissenting in part:* Justice Michael [Moldaver](#) said the rules of entrapment needed to be updated to make sure they only catch abusive police conduct that undermines society's sense of justice and the rule of law, and would have dismissed both appeals (Chief Justice [Wagner](#) and Justices [Côté](#) and [Rowe](#) agreed)

**More information:** [Decision](#) | Case information: [38165](#), [38304](#) | [Webcast of hearing](#)

**Lower court rulings:** **38165 (*Ahmad*):** [trial](#), [application for stay of proceedings](#) (Ontario Superior Court of Justice) | **38304 (*Williams*):** [application for stay of proceedings](#) (Ontario Superior Court of Justice) | **38165 (*Ahmad*) & 38304 (*Williams*):** [appeal](#) (Court of Appeal for Ontario)

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