



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

Judgment of July 21, 2022 | On appeal from the Court of Appeal for British Columbia
Neutral citation: 2022 SCC 31

The Supreme Court finds an accused person guilty of first degree murder for chasing and then killing a man who escaped from a moving truck.

In 2015, Darren Sundman and two accomplices killed a rival drug dealer. It happened as all four men were riding in a truck outside Prince George, British Columbia. Mr. Sundman started hitting the victim with a handgun while the truck was traveling so fast that the victim could not escape the truck. But when the truck slowed down to make a turn, the victim jumped out and tried to run away. Mr. Sundman and the two accomplices chased after the victim on foot. Mr. Sundman shot the victim several times, stopping him from being able to run any farther. One of the accomplices then said “I got him, boss”, before shooting the victim at close range, killing him almost instantly. Even though Mr. Sundman did not fire the fatal shot, he and the two accomplices had an intent to kill the victim, and so they were each charged with first degree murder.

First degree murder usually means the murder was both planned and deliberate. That is, the accused person intended to kill someone and prepared it or thought it out ahead of time. But an unplanned murder can also be in the first degree when the accused person killed the victim while committing another serious offence, such as sexual assault or kidnapping. In this case, the Crown argued that the murder was planned and deliberate, or that Mr. Sundman and his accomplices had forcibly confined the victim when they killed him. Forcible confinement is when someone unlawfully keeps another person trapped or detained against their will.

At trial, the judge acquitted Mr. Sundman of first degree murder, but convicted him of second degree murder. The judge found that because the killing was not planned, and because the victim managed to escape his confinement when he jumped out of the truck, this could not be first degree murder.

The Crown appealed the verdict to British Columbia’s Court of Appeal. It overturned the trial judge’s decision and convicted Mr. Sundman of first degree murder. It said the victim could still be considered “confined” after jumping out of the truck because he was being chased. Mr. Sundman appealed to the Supreme Court of Canada.

The Supreme Court has upheld Mr. Sundman’s conviction for first degree murder.

Confinement does not always mean being physically restrained.

Writing for a unanimous Supreme Court, Justice Mahmud Jamal said that, “as a matter of law and common sense”, the victim’s “brief escape” from the truck does not change the seriousness of Mr. Sundman’s crime. “On any sensible view,” he wrote, Mr. Sundman’s “moral blameworthiness cannot be considered to be lower” simply because the victim “managed to jump from a moving truck and was running for his life when he was executed just moments later”.

Forcible or unlawful confinement involves depriving a person of their liberty so that they cannot move about the way they want to. The Supreme Court has clarified that confinement does not mean a person has to be restricted to a particular place. The person also does not need to be physically restrained. Restraint can be enforced through violence, fear, intimidation, or through psychological means or other methods.

In this case, the victim was forcibly or unlawfully confined inside the truck, because it was moving so fast. When the victim escaped from the truck and ran, he was still forcibly or unlawfully confined even though he was no longer physically restrained. He could not move about the way he wanted to, because Mr. Sundman and his accomplices chased him on foot while shooting at him with their guns. The Supreme Court concluded that the murder happened while the victim was still unlawfully confined, even when outside the truck.

The confinement and the murder did not have to happen at the exact same time.

The Supreme Court also said if a murder occurs during another serious offence, like confinement, treating it as first degree murder does not mean that the confinement and the killing needed to happen exactly at the same time. The test is whether the confinement and the murder were part of the same transaction or interaction, or if they represented a single continuous sequence of events.

In this case, the Supreme Court found that Mr. Sundman and his accomplices murdered the victim “while committing” the offence of unlawful confinement, because the two crimes happened in a single transaction between the victim and his killers. The confinement and the murder were close in time, and they involved a situation of continuous or ongoing domination over the victim that began in the truck, continued when the victim briefly escaped, and ended when he was killed.

As for the accomplices, one was convicted of second degree murder and the other was convicted of manslaughter. Those verdicts were not appealed to the Supreme Court.

Breakdown of the decision: *Unanimous*: Justice [Jamal](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Moldaver](#), [Karakatsanis](#), [Côté](#), [Brown](#), [Rowe](#), [Martin](#) and [Kasirer](#) agreed)

More information (case # 39569): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: [judgment](#) (Supreme Court of British Columbia) | [appeal](#) (Court of Appeal for British Columbia)
