



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

Judgment of December 13, 2018 | On appeal from the Court of Appeal for Ontario  
Neutral citation: 2018 SCC 56

---

***A person who shares an electronic device with someone else can't waive the other user's Charter rights, the Supreme Court has ruled. Police violated a man's Charter rights when they took his computer to search it with only his spouse's consent.***

Mr. Reeves wasn't allowed to live in the family home after he was charged with domestic violence. His spouse told Mr. Reeves' probation officer that the year before, she thought she'd seen child pornography on the home computer they shared. In response to this report, a police officer came to the home. He didn't have a search warrant, and didn't think he had enough evidence of a possible crime to get one. But Mr. Reeves' spouse let the officer in and signed a form saying he could take the computer.

The police kept the computer for four months before doing anything. They didn't report to a judge or justice of the peace that they had taken it, which the law said they had to do. When they finally searched it, they used a faulty warrant. However, they found 140 images and 22 videos of child pornography. Mr. Reeves was charged.

Section 8 of the *Canadian Charter of Rights and Freedoms* says that "everyone has the right to be secure against unreasonable search or seizure." This means the state can't search or take something private without permission, unless the law specifically allows it, like when police have a warrant. Everyone agreed that the police violated Mr. Reeves' *Charter* rights when they didn't report the seizure and when they searched the computer with a faulty warrant. But Mr. Reeves argued the initial seizure of the computer was also a *Charter* breach. He said that the violations were together so serious that the files shouldn't be allowed into evidence. The Crown (the prosecution) argued the police were allowed to take the shared computer because Mr. Reeves' spouse gave them permission.

The judge who heard the pre-trial argument agreed with Mr. Reeves that the computer evidence couldn't be used. Without it, Mr. Reeves was found not guilty. The Court of Appeal said that, given the series of *Charter* breaches, this was a borderline case, but said the evidence should be allowed. It ordered a new trial.

All the judges at the Supreme Court agreed with the pre-trial judge that the files shouldn't be allowed into evidence. They said the not-guilty verdict should stand.

The majority said that the police breached Mr. Reeves' *Charter* rights by taking the computer without his consent and without a warrant. An individual who shares a computer with someone else takes the risk that the other person can access their personal data, and maybe even tell the police about it. But the law shouldn't allow the police to take the device or its data directly, without the individual's consent or a warrant. When two people share a personal computer, one can't consent to its search or seizure on behalf of the other. Only Mr. Reeves could waive his own *Charter* privacy rights; his spouse could not.

When deciding if section 8 has been violated, courts balance society's interest in protecting personal privacy with its interest in allowing police to enforce the law. The real question isn't whether someone broke the law (when charges are laid, there's usually evidence that they did). It's whether the police went too far in trying to find evidence of a crime. Where a police investigation invades someone's privacy in a way that could cause the public to lose confidence in the justice system, courts won't allow the evidence to be used. While this may result in a not-guilty verdict, it is necessary to signal the importance of protecting the privacy of every Canadian, including those never charged with a crime. The majority said the police went too far when, along with the two other *Charter* breaches, the officer took Mr. Reeves' home computer without his permission or a warrant.

The majority didn't decide if the police officer's entry into the home was legal, because it didn't rule on whether one person can allow the police to enter and search shared spaces. It wasn't the central issue in this case.

The devices Canadians use every day, like laptops and cell phones, contain a great deal of private information. They can also be used to access even more information stored elsewhere, like in email and social media accounts. This case was important because it affected the privacy rights of all Canadians in shared devices.

---

**Breakdown of the Decision:** *Majority:* Justice Andromache [Karakatsanis](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Gascon](#), [Brown](#), [Rowe](#), and [Martin](#) agreed) | *Concurring (separate reasons):* Justice Michael [Moldaver](#) added that police may have had the authority to enter the shared residence acting under their common-law duties; Justice Suzanne [Côté](#) said the home entry and computer seizure were lawful because of the spouse’s consent, but would have allowed the appeal based on the other violations

**More information (case # 37676):** [Decision](#) | [Case information](#) | [Webcast of hearing](#)

**Lower court rulings:** [exclusion order](#) (Ontario Court of Justice) | [appeal](#) (Court of Appeal for Ontario)

---