



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

Judgment of June 6, 2025 | On appeal from the Court of Appeal for British Columbia  
Neutral citation: 2025 SCC 18

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**The Supreme Court concludes that a woman whose guilty plea to criminal negligence causing the death of a child in her care resulted from a miscarriage of justice must be acquitted.**

This is an appeal about what remedy an appeal court may grant after setting aside a conviction due to a miscarriage of justice. A miscarriage of justice is when an unfair outcome occurs in a legal proceeding. Under section 686(2) of the *Criminal Code*, when an appeal court has determined that a miscarriage of justice has occurred, it must overturn the conviction. In doing so, the appeal court has three options: order a new trial, stay (end) the proceedings or enter an acquittal.

In 2011, Tammy Marion Bouvette was charged with the second degree murder of a 19-month-old child she was babysitting, who drowned in the bath. An autopsy on the child's body was performed by Dr. Evan Matshes who testified for the Crown at Ms. Bouvette's preliminary inquiry. Ms. Bouvette then pleaded guilty to a lesser charge of criminal negligence causing death. She was convicted and sentenced to 12 months' imprisonment and probation.

In 2020, a special prosecutor appointed to conduct an independent review of the case recommended that the case be reviewed by an appeal court to determine if a miscarriage of justice had occurred. The Crown disclosed materials that it had received before Ms. Bouvette's guilty plea but that had not been disclosed to her or her counsel. This included the results of an external peer review of Dr. Matshes' work indicating that his conclusions regarding the child's autopsy were unreasonable.

The British Columbia Court of Appeal overturned the conviction but declined to enter an acquittal. It concluded that there was evidence on the record upon which a reasonable jury could convict Ms. Bouvette and no sufficiently exceptional circumstances to justify an acquittal. However, it entered a stay of proceedings. Ms. Bouvette appealed to the Supreme Court of Canada seeking an acquittal. The Crown agreed she should be acquitted.

The Supreme Court allowed the appeal.

**In Ms. Bouvette's case, an immediate acquittal is appropriate because the Crown states that she should be acquitted and that it would call no evidence at a new trial.**

Writing for the majority, Justice Kasirer said that Ms. Bouvette should be acquitted immediately under section 686(2) of the *Criminal Code* on the ground that Crown seeks an acquittal and has expressly stated that it would call no evidence at a new trial. Rather than forcing the parties to go through pro forma proceedings to achieve this result, or standing in the way of this result by entering a judicial stay, the just result is for the acquittal to be entered now, even though there is evidence on the record that could lead a reasonable jury, properly instructed, to convict Ms. Bouvette at a new trial.

As Justice Kasirer explained, the first possible ground for acquittal under section 686(2)(a) is where there is a lack of evidence to ground a reasonable conviction. The second possible ground is where the Crown seeks an acquittal and says that it would call no evidence at a new trial. Ms. Bouvette was acquitted under this second ground.

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**Breakdown of the decision:** *Majority*: Justice [Kasirer](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Côté](#), [Rowe](#) and [Jamal](#) agreed) | *Concurring*: Justice [Martin](#) would have allowed the appeal for different reasons (Justices [Karakatsanis](#), [O'Bonsawin](#) and [Moreau](#) agreed)

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