SCC File No. 39350

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF ALBERTA)

B E T W E E N:

HER MAJESTY THE QUEEN

Appellant
(Respondent)

- and -

RUSSEL STEVEN TESSIER

Respondent
(Appellant)

- and -

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(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*, SOR/2002-156)

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PARTS I & II: OVERVIEW AND STATEMENT OF POSITION

1. At issue in this case is whether the Crown must prove – on a reasonable doubt standard under the common law confessions rule – that an accused understood their right to silence in the absence of a police caution.

2. Ontario intervenes to propose an approach that more appropriately balances the "twin goals" of the confessions rule – protecting the individual's right to choose whether to speak to the authorities and fostering society's strong interest in the effective investigation of crime. To maintain this critical balance, Ontario suggests: (1) the voluntariness inquiry should focus on whether the police said or did anything to deprive the accused of the right to choose to speak to them; (2) that the assessment of whether the accused made a "meaningful choice" must not be divorced from the *Oickle* framework, including its objective contextual analysis of the entire circumstances; and (3) maintaining the prevailing view that the presence or absence of a caution will be "a factor" in determining voluntariness, but not a determinative one. As a factor, the significance of the police caution may depend on whether the accused was in *de facto* detention – when actual detention is imminent and before s. 10 *Charter* rights are provided.

3. Traditionally, the "duty" to caution "suspects" only arose when the person was being charged with a crime. But as our notions of detention, short of arrest or charge, have evolved in keeping with *Charter* values, so too has the voluntariness rule. Ontario's position strikes a balance between protecting individual liberties and fostering the cooperation between citizens and police that is necessary to investigate crime and maintain public safety.

PART III: ARGUMENT

i. A brief historical overview of the police caution and voluntariness

4. The history of the police caution is inextricably bound up with the long and complex evolution of the confessions rule in the United Kingdom. An early case which explored a form of police caution is *R. v. Baldry* (1852). There, officers attended at the accused's residence and informed him that he was charged with attempting to kill his wife. He made no reply, buried his face in his hands, and began to sob, whereupon an officer said to him: "You need not say anything to criminate yourself, but what you do say will be taken down and used as evidence against you". Objection was taken to the admissibility of his subsequent confession on the ground that the words "used as evidence against you" constituted a threat. [1] After reviewing conflicting decisions on the point, the justices on appeal disagreed. Pollack C.B. in particular held that nothing turned on the words "against you" or "for or against you", noting that the effect would be the same – that whatever was said could be used as evidence in the cause – though he did note that persons upon being informed of charges should not be discouraged from disclosing an alibi or making "some statement of extreme importance, in order to shew that he did not commit the crime, or was not the person intended to be charged".[2]

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[1] *R. v. Baldry* (1852), 2 Den 430 at 430, 435; 169 ER 568. At that time, there does not appear to have been any *requirement* that police caution persons charged with a crime. The officer's words were found to be comparable to those required by statute of a magistrate when committing an accused to trial (*Baldry* at 435), similar to the "committal warning" in s. 541(2), *Criminal Code*, RSC 1985, c. C-46.

[2] *R. v. Baldry* (1852), 2 Den 430 at 442-443. These same concerns were raised in *R. v. Lantin*, 1948 CanLII 335, 80 CCC 375 (QC CQ) at 381-382, though as explained in *R. v. Raines*, 1973 CanLII 1381, 11 CCC (2d) 336 (BC CA) at 337, use of such language would not be fatal. Moreover, as noted by Watt J. (as he then was) in *R. v. Roy*, [2002] OJ No 5541 (Sup Ct) at paras. 257-260, aff'd on other grounds 2003 CanLII 4272 (ON CA), it is incorrect to suggest that a statement may

5. Nonetheless, the law regarding the role of police cautions in determining voluntariness remained unsettled. In 1912, the Home Secretary published the "Judges' Rules" as a guide for police officers in the obtaining of statements. In their original form, the rules were:[3]

1. When a police officer is endeavouring to discover the author of a crime there is no objection to his putting questions in respect thereof to any person or persons, whether suspected or not, from whom he thinks that useful information can be obtained.
2. Whenever a police officer has made up his mind to charge a person with a crime, he should first caution such person before asking any question or further questions as the case may be.
3. Persons in custody should not be questioned without the usual caution being first administered.
4. If the prisoner wishes to volunteer any statement, the usual caution should be administered. It is desirable that the last two words ("against you") of such caution should be omitted, and that the caution should end with the words "be given in evidence".

6. Resolution of competing judicial views regarding voluntariness finally came in *Ibrahim v. The King* (1914), though that case did not deal specifically with cautions. It was not until *Voisin v.*

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only be used "against" its maker at their trial. If admitted, it is both evidence for and against them. Conversely, concerns were raised about caution language using "for or against you" in *Trepanier v. The King*, 1911 CanLII 224, 19 CCC 290 (QC CA) at 295-296 and *R. v. Roy*, [2002] OJ No 5541 (Sup Ct) at paras. 258, 306-310, aff'd on other grounds 2003 CanLII 4272 (ON CA). The concern expressed there is that the use of the word "for" may induce a person to make a statement in the hope of obtaining some benefit or advantage – in ignorance of the fact that statements by accused persons are generally only admissible at the behest of the prosecution. To this day, a common form of the police caution uses more neutral language: "You are charged [or will be charged] with . . . Do you wish to say anything in answer to the charge? You are not obliged to say anything but whatever you do say *may be given in evidence*". See *R. v. Singh*, 2007 SCC 48 at para. 31; *R. v. Esposito*, 1985 CanLII 118 at 11, 24 CCC (3d) 88 at 95 (ON CA); *R. v. Roy*, [2002] OJ No 5541 (Sup Ct) at para. 306, aff'd on other grounds 2003 CanLII 4272 (ON CA). See also *R. v. K.F.*, 2010 NSCA 45 at para. 32.

[3] *Ibrahim v. The King*, [1914] AC 599; *Voisin v. The King*, [1918] 1 KB 531 at 539; *R. v. K.F.*, 2010 NSCA 45 at paras. 21-24. For a detailed discussion of the evolution of the Judges' Rules, see Fred Kaufman, *The Admissibility of Confessions*, 3rd ed. (Toronto: Carswell, 1979) at 149-152.

The King (1918) that the rules became well known.[4] The rules did not have the force of law, but were merely administrative directions for the guidance of police in the obtaining of statements.[5] Nonetheless, the rules were obviously concerned with persons that had been, or were about to be, *charged*. In other words, the rules applied where there were reasonable grounds to *believe* the "suspect" had committed a crime.[6]

7. The *Ibrahim* rule was endorsed by this Court in *Prosko v. The King* (1922), although the role of the police caution in determining voluntariness remained unsettled until this Court's decision in *Boudreau v. The King* (1949).[7] There it was held that there was no *requirement* that a "suspect" be cautioned, and that "… the presence or absence of a warning will be a factor and, in many cases, an important one".[8] While this Court modernized the narrow *Ibrahim* formulation of the confessions rule in *R. v. Whittle* and *R. v. Oickle*[9] in light of the *Canadian Charter of Rights and Freedoms*, *Boudreau* has remained authoritative on the role of police cautions in assessing voluntariness even in the *Charter* era.[10]

8. It will be noted that where a person is detained for investigative purposes or placed under arrest, the person is entitled under s. 10 of the *Charter* to be informed of the reason for their detention and of their right to counsel. While s. 7 of the *Charter*, unlike ss. 10(a) and (b), imposes no express duty on the police to inform the person of their rights under that section, police typically caution the person simultaneously when rights to counsel are provided. As this Court noted in *R. v.*

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[4] *Voisin v. The King*, [1918] 1 KB 531 at 539; *R. v. K.F.*, 2010 NSCA 45 at paras. 21-22; *R. v. Esposito*, 1985 CanLII 118 at 11-12, 24 CCC (3d) 88 at 95-96 (ON CA).
[5] *R. v. Fitton*, [1956] SCR 958 at 964; *R. v. Esposito*, 1985 CanLII 118 at 11-12, 24 CCC (3d) 88 at 95 (ON CA); *R. v. K.F.*, 2010 NSCA 45 at paras. 21-24.
[6] *R. v. Fitton*, [1956] SCR 958 at 964.
[7] *Prosko v. The King*, (1922) 63 SCR 226; *Boudreau v. The King*, [1949] SCR 262.
[8] *Boudreau v. The King*, [1949] SCR 262 at 267.
[9] *R. v. Whittle*, [1994] 2 SCR 914; *R. v. Oickle*, 2000 SCC 38.
[10] For example, see *R. v. Singh*, 2007 SCC 48 at paras. 31-33; *R. v. Bottineau*, 2011 ONCA 194 at paras. 84-96; *R. v. Pearson*, 2017 ONCA 389 at paras. 16-22; *R. v. Joseph*, 2020 ONCA 73 at para. 49; *R. v. Al-Enzi*, 2021 ONCA 81 at para. 86.

Singh, if the person chooses to exercise their rights under s. 10(b), the law presumes that they will have been informed of their right to remain silent, and the role of caution in the voluntariness determination may be diminished; where the person does not exercise their right to counsel, the role of the caution may be more significant.[11] The same may be said where the person chooses to exercise their right to counsel but has not yet had an opportunity to exercise that right.

9. As the concept of investigative and psychological detention have evolved, the situations in which the person is entitled to be informed of their rights under ss. 10(a) and (b) has moved further away from the point of actual arrest – that is to say, before the police have reasonable grounds to charge someone with an offence. The role the caution plays in assessing voluntariness has moved along with it. While the caution has historically been viewed as playing a more significant role where there are reasonable grounds to effect an arrest, in practical terms, the simultaneous furnishing of s. 10 rights and the police caution will often occur before the police reach that stage.

ii. Voluntariness inquiry should focus on the conduct of the police and its effect

10. How the caution evolved shows why it should be regarded as only "a factor" of the voluntariness inquiry. Although the confessions rule applies whether or not the person giving the statement is in detention, the significance of a caution in determining voluntariness differs for statements made *before* and *after* detention: there is *no requirement* to caution someone who is *not* detained or arrested.[12] An approach to voluntariness like the one adopted by the Alberta Court of Appeal[13], requiring a specific finding that the accused understood their right to silence in the absence of a police caution (while not detained), would be problematic for three reasons:

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[11] *R. v. Singh*, 2007 SCC 48 at para. 33; *R. v. Oickle*, 2000 SCC 38 at paras. 29-31.
[12] See for example, *R. v. Boudreau*, [1949] SCR 262 at 267; *R. v. Singh*, 2007 SCC 48 at para. 31; *R. v. Bottineau*, 2011 ONCA 194 at para. 88; *R. v. Pearson*, 2017 ONCA 389 at para. 19; *R. v. Joseph*, 2020 ONCA 73 at para. 55.
[13] *R. v. Tessier*, 2020 ABCA 289 at paras. 37, 60 ("ABCA Reasons"), *Appellant's Record, Vol. 1*, pp. 56, 61.

a. It diverts the voluntariness inquiry from its proper focus (scrutiny of police conduct on an objective basis);

b. It divorces the "meaningful choice" issue from the *Oickle* framework; and

c. It distorts the critical balancing of the "twin goals" of the confessions rule.

The proper focus of the voluntariness inquiry

11. It is uncontroversial that the voluntariness inquiry should focus on "the *conduct of the police and its effect* on the suspect's ability to exercise his or her free will".[14] While the individual characteristics of the accused are relevant, the test remains an objective one focusing on any police conduct that might interfere with a person's freedom to speak, rather than that person's subjective understanding beyond having an "operating mind".[15]

12. Similar to the objective test in determining whether a "detention" occurs under the *Charter* (*i.e.* whether a *reasonable* person in the accused's circumstances would conclude that they were free to leave or compelled to stay),[16] the focus on what is *objectively* reasonable ensures that the rule of law is maintained "in the sense that the claims of all individuals will be subjected to the same standard", despite individual differences in their subjective perceptions of police interactions.[17] By contrast, the Alberta Court of Appeal's approach to voluntariness emphasized the accused's subjective understanding, focusing on "*whether the person making the statement understood* they did not have to say anything, *and understood* that if they responded to questions, their answers could be used against them".[18]

13. This approach would elevate the accused's "awareness about what is at stake" (in the absence of a caution) to a discrete voluntariness inquiry, and misdirect the focus from an objective

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[14] *R. v. Singh*, 2007 SCC 48 at para. 36 [emphasis added].
[15] *R. v. Hebert*, [1990] 2 SCR 151 at 181-182.
[16] *R. v. Grant*, 2009 SCC 32 at para. 44.
[17] *R. v. Le*, 2019 SCC 34 at para. 115.
[18] ABCA Reasons at para. 37, *Appellant's Record, Vol. 1*, p. 56 [emphasis added].

scrutiny of police conduct (the well-known *Oickle* factors) to a determination of what the accused subjectively understood.[19] As discussed below, it is wrong to disengage the "meaningful choice" analysis from the *Oickle* framework. Specifically, whether an accused made a "meaningful choice" to speak to the police should not be determined primarily by the presence or absence of a police caution. Rather, the protection afforded by the confessions rule has "always been intended to guard against the *potential abuse* by the state of its superior powers" over an individual suspect. That is why the voluntariness inquiry scrutinizes the "causal nexus between the *conduct of the police* and the making of the statement".[20]

"Meaningful choice" is protected by the* Oickle *analytical framework

14. To guard against the "potential abuse" of police power, the confessions rule requires the Crown to prove that the accused possessed an operating mind, and that their will was not overborne by police threats, inducements, or an atmosphere of oppression.[21] The *Oickle* framework requires an assessment of the "entire circumstances":[22] the *absence* of threats, promises, oppression, or police trickery (as part of a broader context in which to consider the absence of a caution as one factor) may well support a finding of voluntariness. This is a sensible approach consistent with the overriding concern of the criminal justice system ("the innocent must not be convicted") because "false confessions are rarely the product of *proper* police techniques".[23]

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[19] ABCA Reasons at paras. 52-54, *Appellant's Record, Vol. 1*, pp. 59-60. Although the Alberta Court of Appeal relied on *R. v. Worrall*, [2002] OJ No 2711 (Sup Ct) at para. 106, more recent decisions from the Ontario Court of Appeal have consistently rejected the suggestion that involuntariness flows directly from the absence of a caution: *R. v. Joseph*, 2020 ONCA 73 at para. 53; *R. v. Pearson*, 2017 ONCA 389 at para. 19; *R. v. Bottineau*, 2011 ONCA 194 at para. 88; *R. v. Al-Enzi*, 2021 ONCA 81 at para. 86.

[20] *R. v. Singh*, 2007 SCC 48 at para. 44 [emphasis added].
[21] *R. v. Oickle*, 2000 SCC 38 at paras. 48-64.
[22] *R. v. Oickle*, 2000 SCC 38 at para. 68.
[23] *R. v. Oickle*, 2000 SCC 38 at paras. 36, 45 [emphasis added].

15. Moreover, the *Oickle* framework protects "meaningful choice" by ensuring that the conduct of the police (viewed objectively) would not deprive the accused of the ability to choose whether to speak to them. As noted above, the evolving concept of investigative and psychological detention means that, in practice, the simultaneous furnishing of s. 10 *Charter* rights and the police caution will often occur before the police have reasonable grounds to charge someone with an offence. As the following table illustrates, the presence or absence of a caution may be more or less significant depending on different combinations of (1) the sufficiency of grounds to detain or arrest, and (2) the timing of detention or arrest:[24]

Sufficiency of Grounds	Minimal Suspicion Insufficient to Detain	Reasonable Suspicion Sufficient to Detain[25]	Reasonable Belief Sufficient to Arrest
Timing of Detention/Arrest	Remote	Near	Imminent

16. These two variables (sufficiency of grounds and timing of detention/arrest) may combine in different ways, producing a spectrum of possibilities where, at one end, no caution is needed because police suspicion is minimal and the prospect of detention remote. At the other end of the spectrum, the existence of reasonable grounds and imminence of detention may justify a caution because the suspect's position has become more vulnerable vis-à-vis the authorities. This conceptual framework accords with Charron J.'s "sound advice" (*not* a requirement) on when the police should caution a suspect:

> The warning should be given when there are *reasonable grounds to suspect that the person being interviewed has committed an offence*. An easy yardstick to determine

[24] Compare Appellant's Factum at paras. 82-84; Respondent's Factum at para. 61.

[25] What amounts to a "reasonable suspicion" may vary according to contexts (*e.g.* the "reasonable suspicion" sufficient to conduct a warrantless sniffer-dog search is not an onerous standard: *R. v. Kang-Brown*, 2008 SCC 18 at para. 75; *R. v. Chehil*, 2013 SCC 49 at para. 26). We focus here on a "reasonable suspicion" sufficient to detain an individual: *R. v. Mann*, 2004 SCC 52 at para. 45.

> when the warning should be given is for a police officer to consider the question of what he or she would do if the person attempted to leave the questioning room or leave the presence of the officer where a communication or exchange is taking place. *If the answer is arrest (or detain) the person, then the warning should be given*.[26]

17. Notably, this practical advice to caution is premised on the police having sufficient grounds to detain *and* where the detention is imminent (*i.e.* a *de facto* detention scenario). As discussed below, this is important for delineating when a caution may or may not be advisable.

The "twin goals" of the confessions rule must be preserved

18. The genius of the confessions rule consists in its adaptability to account for the variety of circumstances that may be relevant to the voluntariness of a confession. The voluntariness inquiry is a *contextual* one that considers all the relevant circumstances,[27] guided by its "twin goals" to preserve a proper balance between (1) the individual's right to choose whether to speak to the authorities, and (2) society's interest in uncovering the truth in crime investigations.[28]

19. An approach to voluntariness like that taken by the Alberta Court of Appeal would distort the critical balancing of state and individual interests, by overshooting the protection afforded to the individual's freedom of choice, at the expense of society's need to investigate and solve crimes.

20. In particular, the search for truth depends on the police questioning witnesses and potential suspects. The Alberta Court of Appeal acknowledged that its approach, which focuses on what the accused subjectively understood, "…could imply that police should caution every individual at the start of every interaction, just in case he or she unexpectedly says something inculpatory. *Obviously, this approach would be unworkable*."[29] Unfortunately, the Court identified this problem without really solving it. Arguably, the problem is inherent in the Court's approach. The solution

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[26] *R. v. Singh*, 2007 SCC 48 at para. 32, quoting from René Marin, *Admissibility of Statements* (9th ed. (looseleaf)) [emphasis added]; see also *R. v. Joseph*, 2020 ONCA 73 at paras. 49-56.
[27] *R. v. Oickle*, 2000 SCC 38 at para. 47; *R. v. Pearson*, 2017 ONCA 389 at para. 19.
[28] *R. v. Oickle*, 2000 SCC 38 at para. 33; *R. v. Singh*, 2007 SCC 48 at para. 45.
[29] ABCA Reasons at para. 39, *Appellant's Record, Vol. 1*, p. 57 [emphasis added].

consists in rejecting it and affirming an approach that has served the administration of justice well for decades.

21. In *R. v. Esposito*, the Ontario Court of Appeal held that a police officer is "entitled to question any person, whether suspected or not, from whom he thinks that useful information can be obtained".[30] Later, that Court affirmed in *R. v. L.B.*, "The law has not yet reached a point that a compulsion to comply will be inferred whenever a police officer requests information, for that would mean police could never ask questions".[31] As this Court recognized in *Singh*, potential suspects are an indispensable source of information: "Indeed, if the suspect in fact committed the crime, he or she is likely the person who has the most information to offer about the incident".[32]

iii. Conclusion

22. The repute of our criminal justice system depends on properly balancing the "twin goals" of the confessions rule – too much emphasis on either individual rights or societal interests will frustrate the twin goals without justification and bring the administration of justice into disrepute.[33] To maintain this critical balance, Ontario suggests: (1) the voluntariness inquiry should focus on whether the police said or did anything to deprive the accused of the right to choose to speak to them (as opposed to what the accused subjectively understood); (2) the "meaningful choice" issue must not be divorced from the *Oickle* framework; and (3) the presence or absence of a caution should not be determinative of the voluntariness inquiry, but its significance may well depend on whether the accused was in actual or *de facto* detention at the time of the police interaction.

PARTS IV & V: SUBMISSIONS ON COSTS & TIME FOR ORAL ARGUMENT

23. Ontario does not seek costs and has been granted ten minutes for oral argument.

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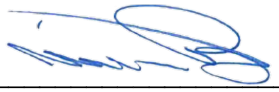
[30] *R. v. Esposito*, 1985 CanLII 118 at 10, 24 CCC (3d) 88 at 94 (ON CA).
[31] *R. v. L.B.*, 2007 ONCA 596 at para. 52.
[32] *R. v. Singh*, 2007 SCC 48 at para. 28.
[33] *R. v. Singh*, 2007 SCC 48 at para. 45.

PART VI: SUBMISSIONS ON CASE SENSITIVITY

24. Ontario makes no submissions on case sensitivity.

ALL OF WHICH is respectfully submitted by,



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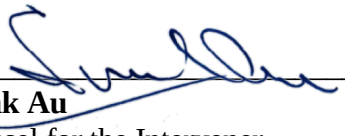

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DATED at Toronto this 24th day of August 2021.

PART VII: TABLE OF AUTHORITIES

Canadian Cases	**Paragraph Reference in Factum**
Boudreau v. The King, [1949] SCR 262	7, 10
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R. v. Roy, [2002] OJ No 5541 (Sup Ct), aff'd 2003 CanLII 4272 (ON CA)	4

Canadian Cases	**Paragraph Reference in Factum**
R. v. Singh, 2007 SCC 48	7, 8, 10, 11, 13, 16, 18, 21, 22
R. v. Tessier, 2020 ABCA 289	10, 13, 20
R. v. Whittle, [1994] 2 SCR 914	7
R. v. Worrall, [2002] OJ No 2711 (Sup Ct)	13
Trepanier v. The King, 1911 CanLII 224, 19 CCC 290 (QC CA)	4

English Cases	**Paragraph Reference in Factum**
Ibrahim v. The King, [1914] AC 599	6, 7
R. v. Baldry (1852), 2 Den 430	4
Voisin v. The King, [1918] 1 KB 531	6

Secondary Sources	**Paragraph Reference in Factum**
Fred Kaufman, *The Admissibility of Confessions*, 3rd ed. (Toronto: Carswell, 1979)	5

Canadian Legislation			**Paragraph Reference in Factum**
Canadian Charter of Rights and Freedoms, enacted as Schedule B to the *Canada Act 1982* (UK), 1982, c 11 *Charte Canadienne Des Droits et Libertés*, édictée comme annexe B *Canada Act 1982* (UK), 1982, c 11	**English**	**French**	
	s. 7	art. 7	8
	s. 10	art. 10	2, 8, 9, 15
Criminal Code, RSC 1985, c C-46 *Code criminel*, LRC (1985), ch C-46	s. 541(2)	para. 541(2)	4