



Police weren't allowed to arrest someone for not holding an escalator handrail, the Supreme Court has ruled.

In 2009, Ms. Kosoian went into a subway (metro) station on her way to downtown Montreal. There was a sign by the escalator saying “caution” and “hold handrail,” with a picture of someone holding a handrail. While going down the escalator, Ms. Kosoian was looking in her bag for money to buy her ticket. She wasn't holding the handrail. Constable Camacho saw her and told her to hold the handrail. She didn't, because she didn't think she had to. When she got to the bottom, Constable Camacho stopped her. He asked her to follow him into a holding room so he could give her a ticket for her conduct. She refused, because she didn't think she had done anything wrong. Constable Camacho and another officer grabbed her and took her to the room. They asked her for identification. She said no, and asked to call a lawyer.

Constable Camacho said Ms. Kosoian was under arrest. The officers handcuffed her and forced her to sit on a chair with her hands crossed behind her back. They searched her bag without permission. She was upset, but calmed down when the officers told her there was a surveillance camera in the room. They gave her two fines amounting to hundreds of dollars. The fines were for disobeying the picture and preventing the officers from doing their jobs.

The next day, Ms. Kosoian's spouse filed a complaint with the Société de transport de Montréal (STM), which ran the subway. He asked for the surveillance tapes. The STM never responded, and the tapes were automatically erased after five days. Ms. Kosoian went to a doctor, who said she had post-traumatic stress and a sprained wrist from the incident. She was later found not guilty in municipal court and didn't have to pay the fines for the tickets.

Ms. Kosoian thought the arrest was illegal, and sued. She said Constable Camacho, his employer (the City of Laval), and the STM were all responsible.

The trial judge and the majority at the Court of Appeal said Constable Camacho didn't act wrongly, based on the information and training he had. They said the arrest wasn't illegal. They said Ms. Kosoian caused her own problems by not cooperating.

The Supreme Court unanimously disagreed. It said the picture was a warning. There was no law saying people had to hold the handrail. Ms. Kosoian didn't have to obey the picture. Constable Camacho was wrong to stop and search her for breaking a law that didn't exist. The City of Laval was responsible as his employer. The STM was wrong for not training him properly.

The STM taught police officers that pictures in subway stations showed legal rules. But some were just warnings. Those that were legal rules and really had to be obeyed had clues. For example, one picture showed the amount of the fine with an image of a gavel to suggest a court of law (even though Canadian judges don't use gavels). The handrail picture didn't have this. In any case, there was no government law or by-law saying people had to hold escalator handrails.

The Court said the STM training partly explained why Constable Camacho believed holding the handrail was a legal rule, and why he acted the way he did. But police officers still have to use their own judgment. Before stopping Ms. Kosoian, Constable Camacho should have made sure he had a real legal basis for doing so. A reasonable police officer should have known that people didn't have to hold handrails. Or at least they should have had some doubt. Police officers are allowed to assume that rules they are asked to enforce may be enforced. They aren't allowed to assume a rule *exists* just because they are told so.

The Court said Constable Camacho and the STM were equally responsible for what happened. Even if Ms. Kosoian didn't act in the best way, she had no legal obligation to hold the handrail. That meant she didn't have to cooperate and was allowed to walk away. The Court said Ms. Kosoian should get \$20,000 for the harm she suffered.

This case was about civil liability for doing something wrong. In a free and democratic society, police officers can't interfere with people's freedoms except where the law says so. They have to know the law and act within it.

Breakdown of the decision: *Unanimous*: Justice Suzanne [Côté](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Moldaver](#), [Karakatsanis](#), [Gascon](#), [Brown](#), [Rowe](#), and [Martin](#) agreed)

More information (case # 38012): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

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