



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

Judgment of October 16, 2019 (written reasons issued April 2, 2020) | On appeal from the Court of Appeal of Manitoba
Neutral citation: 2020 SCC 9

NOTE: *this document contains details about sexual violence against a child that may be upsetting to some readers.*

Courts should impose tougher punishments for sexual crimes against children, the Supreme Court has ruled.

Mr. Friesen met a woman online. One night, he was at the woman's home. The woman's friend was also there, babysitting the woman's two kids. Mr. Friesen and the woman had sex. He then told her to bring her four-year-old daughter to the bedroom so he could do something sexually violent to her. The woman carried her sleeping daughter into the room and put her on the bed. The child woke up. She started to cry. She tried to get away. Mr. Friesen was hurting her. The woman's friend woke up. She came and took the child away. Mr. Friesen told the woman to bring the child back. He said if she didn't do it, he would tell the friend that the woman had sexually assaulted her one-year-old son. But the friend confronted Mr. Friesen, and he left. The woman recorded everything on her phone.

Mr. Friesen pleaded guilty to sexual interference (touching someone under 16 in a sexual way). He also pleaded guilty to trying to extort the woman (threatening her to make her do something).

The judge who decided the sentence said Mr. Friesen should go to prison for six years. He got six years by comparing Mr. Friesen's case to another case. That case said a sentence should start at four to five years. The Court of Appeal said the judge made a mistake. It said he shouldn't have relied on the other case as a starting point, because the facts were different. In that other case, there was a "relationship of trust" between the child and the abuser. A "relationship of trust" is a relationship where the adult should protect the child and keep them safe. For example, a parent-child or teacher-student relationship. Violating a relationship of trust is very serious. The Court of Appeal said Mr. Friesen didn't have a relationship of trust with the child. It said he should go to prison for four and a half years.

The judges at the Supreme Court were unanimous. All the judges said the original six-year sentence should stand. Given the facts, they said six years was actually a light sentence.

Protecting children is one of the basic values of Canadian society. In 2012, over half of victims of sexual crimes reported to police were under 18. These crimes are often hidden because they are often done in homes, by someone the child knows and trusts.

Our understanding of sexual violence against children has changed over the years. Parliament made punishments for sexual crimes tougher. It also said judges should focus on preventing and condemning sexual crimes against children when deciding sentences. The Supreme Court judges said that sentences have to reflect the harm to the child, which can last a lifetime, and might not be fully known right away. They said sentences also have to reflect society's deeper understanding of the wrongfulness of sexual violence against children.

The Supreme Court judges said courts should start giving higher sentences for sexual crimes against children. They said longer sentences (for example, ten years or more) shouldn't be unusual. They said sexual crimes against children should be punished more severely than sexual crimes against adults. They noted Parliament made the maximum sentences the same for sexual interference and sexual assault of a child, so one isn't less serious than the other. The judges set out a list of factors to help lower courts decide an appropriate sentence. They didn't create strict ranges or starting points, though. They said courts of appeal should do this because they know their local situations best.

Some people said using starting points (instead of ranges) for sentences caused problems. But the Supreme Court didn't decide on this. The judges said they would wait for a more appropriate case.

The Supreme Court judges said appeal courts should only change a sentence if the sentencing judge made a legal mistake. But in this case, the sentencing judge considered the facts properly and there was no mistake.

Sexual crimes against children are serious and widespread. These crimes are the original basis of many cases that come to the Supreme Court. The actual legal issues appealed may be different, though. Recent cases that

started out as charges for sexual crimes against children and teenagers include [R. v. K.G.K.](#), [R. v. Poulin](#), [R. v. R.V.](#), [R. v. Mills](#), [R. v. Morrison](#), [R. v. Jarvis](#), and [R. v. Reeves](#).

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

More information (case # 38300): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

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