



Case in Brief: **R. v. T.J.M.**

Judgment of January 29, 2021 | On appeal from the Court of Queen's Bench of Alberta

Neutral citation: 2021 SCC 6

Both a provincial court and a superior court (allowed to decide criminal cases) have authority to hear and decide on bail applications of a youth charged under the Criminal Code, the Supreme Court has decided.

This case deals with the legal concept known as “jurisdiction”. Jurisdiction means the authority of a court to hear and determine cases. Specifically, if a judge of a superior court (with authority to decide criminal cases) is allowed to hear and decide a bail application of a youth charged with murder under the *Criminal Code*.

In Canada, the *Youth Criminal Justice Act (YCJA)* is the law that governs the youth justice system. It applies to young people who are at least 12 but under 18 years old, who are alleged to have committed criminal offences.

T.J.M. was a young person according to the *YCJA*. He was charged with second degree murder and the Crown (prosecution) gave notice of the intention to seek an adult sentence if T.J.M. was convicted. Either of these facts allow the young person to choose the type of trial they want under the *YCJA*. As such, T.J.M. was given the choice of type of trial. He chose to be tried by a superior court judge alone (without a jury) with a preliminary inquiry. In Alberta, the superior court is called “Court of Queen's Bench of Alberta”.

T.J.M.'s lawyer appeared in superior court to seek bail under a section of the *YCJA* which says if a young person is charged with an offence that falls under a specific section of the *Criminal Code*, only a youth justice court judge can release the young person from custody. Murder is an offence that falls under that specific section of the *Criminal Code*.

The superior court judge found that he did not have jurisdiction to hear the application for bail of a young person even if their choice was to be tried in the superior court. He found that only the designated youth justice court of the province had jurisdiction – in this case, the provincial court. He based his decision on his interpretation of the *YCJA*. In Alberta, the provincial court is called “Provincial Court of Alberta”.

All nine judges of the Supreme Court of Canada agreed that the *YCJA* defines “youth justice court” as any court established by the province as a youth justice court and a judge sitting in that court as a “youth justice judge”. The *YCJA* also describes three circumstances where the superior court of criminal jurisdiction in the province would have authority. Those are any of the circumstances where the youth is given the choice to decide on the type of trial and the youth chooses to be tried by a superior court judge with or without a jury.

The Supreme Court judges said it did not matter what type of trial was chosen. The *YCJA* requires that the youth be tried by a youth justice court judge. This means by either a judge of the provincial youth justice court or a judge of a superior court.

The Supreme Court then looked at the meaning of the word “proceeding” in this context. They said the word “proceeding” was not limited to the trial. It includes any steps after a young person chooses to be tried in the superior court, including an application for bail. Given that, a superior court judge has jurisdiction to hear and decide an application for bail.

It also found that both the provincial youth justice and superior courts have the authority over bail in such circumstances.

In this case, the issue was “moot” before the Supreme Court heard it. This means a judge's decision does not matter for the immediate purpose of the parties. The Crown had already entered a “stay of proceedings”, which means that the criminal process was stopped. T.J.M. was released from custody and there would be no preliminary hearing or trial.

This case has a “publication ban”, which in this case, means no one is allowed to publish *anything* that could reveal T.J.M.’s identity. Courts use initials to protect the identities of those people involved in the case. The punishment for breaking the publication ban could be jail, a fine, or both. People may publish things about the case, as long as they don’t reveal identities of people protected by the ban.

As a general rule, the *YCJA* protects the privacy of young people accused or found guilty of a crime by keeping their identity and other personal information confidential.

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

More information (case # 38944): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court ruling: Court of Queen’s Bench of Alberta (unreported)
