



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

Judgment of April 29, 2022 | On appeal from the Court of Appeal of Quebec  
Neutral citation: 2022 SCC 16

---

***The Supreme Court rules that police violated a Quebec man’s right to a lawyer when he was arrested for murder.***

Patrick Dussault was arrested by police in Gatineau, Quebec, in August 2013 and charged with murder and arson. The police informed him of his right to counsel under section 10(b) of the *Canadian Charter of Rights and Freedoms* (*Charter*). Section 10(b) provides that “everyone has the right on arrest or detention to retain and instruct counsel without delay and to be informed of that right”.

At the police station, Mr. Dussault spoke to a lawyer on the phone who explained the charges against him and his right to remain silent. When the lawyer had the impression that Mr. Dussault did not understand, he offered to come to the station and to continue the conversation in person. Mr. Dussault agreed and the police approved the lawyer’s visit.

In the meantime, the lawyer told Mr. Dussault not to speak to anyone until he arrived at the station. He also asked the police to suspend their investigation until he was present. Yet when the lawyer arrived, the police did not allow him to see Mr. Dussault. Instead, they told Mr. Dussault the lawyer was not at the station. The police proceeded to interrogate Mr. Dussault. The accused then made an incriminating statement that was later used against him in court. Mr. Dussault pleaded guilty to the arson charge and a jury trial was held to decide the murder charge.

At trial, Mr. Dussault asked the judge to exclude the incriminating statement from the evidence. He argued that it violated his right to counsel under section 10(b) of the *Charter*. The trial judge disagreed and admitted the statement. The jury eventually convicted Mr. Dussault of murder. He then appealed to Quebec’s Court of Appeal.

The Court of Appeal found that police had violated Mr. Dussault’s section 10(b) *Charter* right and ordered a new murder trial. The Crown then appealed to the Supreme Court of Canada.

The Supreme Court has dismissed the appeal.

**Mr. Dussault’s section 10(b) *Charter* right was violated.**

Writing for a unanimous Court, Justice Michael Moldaver said police failed to provide Mr. Dussault with a further opportunity to speak with his lawyer before they interrogated him. As a result, his section 10(b) *Charter* right was violated.

An initial conversation between the accused and a lawyer normally satisfies the right to counsel. But if the police cause the accused to doubt the legal advice received or the trustworthiness of the lawyer who provided it, the police must provide the accused another opportunity to speak with a lawyer.

In this case, the Supreme Court found that the police caused Mr. Dussault to doubt his lawyer’s advice. It said they led Mr. Dussault to believe that: (1) an in-person meeting would happen when his lawyer arrived at the station; and (2) his lawyer had not come to the station. This “was one of those rare cases in which the police were obligated to provide the accused with a second opportunity to consult counsel”, wrote Justice Moldaver.

---

**Breakdown of the decision: *Unanimous*:** Justice [Moldaver](#) dismissed the appeal, concluding that Mr. Dussault’s right to counsel under section 10(b) of the *Charter* was violated (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Côté](#), [Brown](#), [Rowe](#), [Martin](#), [Kasirer](#) and [Jamal](#) agreed)

**More information (case # 39330):** [Decision](#) | [Case information](#) | [Webcast of hearing](#)

**Lower court rulings:** judgment – unreported (Superior Court of Quebec) | [appeal](#) (Quebec Court of Appeal)

---