



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

Judgment of March 25, 2022 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2022 SCC 9

The Supreme Court upholds the conviction of a man arrested with a gun at a Toronto nightclub, despite an error by the trial judge.

This is a criminal case about whether the accused had a fair trial. Mr. Samaniego and another man (his co-accused) went one evening to a nightclub in Toronto called Las Brisas. The security guard allowed the co-accused into the club, as they were good friends. However, the security guard did not allow Mr. Samaniego in because he had threatened him in the past. Later in the evening, the police were called about a gun at Las Brisas. They arrested Mr. Samaniego and the co-accused for possession of a loaded restricted firearm.

At trial, the Crown called the security guard as a witness. The security guard testified that Mr. Samaniego threatened him when he did not allow him into the club and showed him a gun tucked into his waistband. The guard also testified that the co-accused came out of the club to resolve the situation, took the gun away from Mr. Samaniego and then went back in, but later came out again, dropped the gun in front of the guard and picked it back up. The Crown's position was that both men had the gun at some point.

In defence, Mr. Samaniego's lawyer argued that only the co-accused had possession of the gun and that the security guard was lying to protect the co-accused because he was his friend.

During the trial, the judge made four rulings that limited the questions the security guard could be asked, including questions about who dropped the gun and who picked it up. The jury eventually convicted Mr. Samaniego.

Mr. Samaniego appealed his conviction to the Court of Appeal. He argued the trial judge's rulings were wrong. A majority of the Court of Appeal disagreed, finding that the trial judge's rulings were trial management decisions and did not affect the fairness of the trial. Mr. Samaniego then appealed to the Supreme Court of Canada.

The Supreme Court has dismissed the appeal.

The accused had a fair trial despite an error in one of the trial judge's rulings.

Writing for the majority, Justice Moldaver said one of the four rulings was wrong in part. It was the ruling that limited the questions Mr. Samaniego's lawyer could ask the security guard about who dropped the gun and who picked it up. Justice Moldaver said that ruling was both a trial management ruling and an evidentiary ruling. As he explained, judges can make rulings to ensure that trials are well run. These are known as "trial management rulings". "Evidentiary rulings" relate to the admissibility of evidence, requiring the judge to apply the rules of evidence. Sometimes these two types of rulings overlap.

During the preliminary inquiry, the security guard had told a different story at first about who dropped the gun and who picked it up. He later changed his story and repeated the same account he had told police and at the trial. Mr. Samaniego's lawyer was wanting to show the guard had said one thing at the preliminary inquiry and another at the trial. This was not true, and the trial management part of this ruling was to prevent that.

As to the security guard saying different things during the preliminary inquiry, the trial judge should have allowed Mr. Samaniego's lawyer to question him about it. That evidentiary part of the ruling was wrong. The fact the guard eventually changed his story did not erase his first version of events. This was an inconsistency that the lawyer could ask him about.

Although the ruling was wrong in part, the error caused no harm to Mr. Samaniego. His lawyer was still able to challenge the security guard's credibility. As a result, the majority judges ruled Mr. Samaniego had a fair trial and they upheld his conviction.

Breakdown of the decision: *Majority:* Justice [Moldaver](#) dismissed the appeal, holding that Mr. Samaniego had a fair trial despite the partial error (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Martin](#), [Kasirer](#) and [Jamal](#) agreed) | *Dissenting:* Justices [Côté](#) and [Rowe](#) would have allowed the appeal, set aside the conviction and ordered a new trial (Justice [Brown](#) agreed)

More information (case # 39440): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: [appeal](#) (Court of Appeal for Ontario)
