



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

Judgment of November 24, 2022 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2022 SCC 44

The Supreme Court rules that an online police investigation targeting people searching for sex with children was not entrapment.

“Project Raphael” was an online investigation conducted by the York Regional Police in Ontario between 2014 and 2017. It targeted people searching online who wanted to pay to have sex with girls and boys. It involved police placing fake advertisements on the escort sub-section of a website called Backpage.com. People who engaged with these ads were led to text message conversations between a supposed 18-year-old sex worker, who was actually an undercover police officer. Once the prospective client and the undercover officer agreed to a sexual transaction, the officer would then reveal that they were too young for sex work. Every client who agreed to continue with the transaction and showed up to the designated hotel room, was arrested. Project Raphael led to the arrest of 104 men, including Corey Ramelson.

Mr. Ramelson was charged with three offences: (1) telecommunicating with a person he believed was under the age of 16, for the purpose of inviting sexual touching; (2) communicating to obtain sexual services for consideration from a person under the age of 18; and (3) telecommunicating to make arrangements to commit sexual offences against a person he believed was under the age of 16.

A trial was held and Mr. Ramelson was convicted of all three offences but he applied to have the proceedings against him stopped, alleging that he was the victim of police entrapment. Mr. Ramelson argued officers had offered him the opportunity to commit a crime. To avoid an operation being considered entrapment, a police investigation must be a “*bona fide* inquiry”. In this case, it meant that police must have had reasonable suspicions that a crime was being committed in the escorts section of the Backpage.com website.

The Ontario Superior Court of Justice initially dismissed Mr. Ramelson’s entrapment application in November 2019. However, after the Supreme Court of Canada’s May 2020 ruling in *R. v. Ahmad*, the Ontario court invited the parties to make additional submissions and ultimately revised its decision, finding that police had entrapped Mr. Ramelson. The *Ahmad* decision had reviewed what could be considered a *bona fide* inquiry in virtual spaces. In light of that judgment, the Ontario Superior Court concluded that Project Raphael was not a *bona fide* inquiry because the classified ads website was too broad a space to support a reasonable suspicion. The Crown appealed that decision to Ontario’s Court of Appeal, which allowed the appeal. Mr. Ramelson then appealed to the Supreme Court of Canada.

The Supreme Court has dismissed the appeal.

Members of the Court heard this case together with *R. v. Jaffer*, *R. v. Haniffa* and *R. v. Dare*, and the judgments are being rendered at the same time. Those cases also involved individuals claiming they were entrapped as a result of Project Raphael, and their appeals have also been dismissed.

Mr. Ramelson was not entrapped.

Writing for a unanimous Court, Justice Andromache Karakatsanis said Project Raphael was a *bona fide* inquiry because “police had reasonable suspicion in a space defined with sufficient precision”. The space was the particular type of ads within the York Region escort subdirectory of Backpage.com that emphasized the sex worker’s youth. She also said that the offences police provided the opportunity to commit “were rationally connected and proportionate” to the offences they suspected were occurring in that space.

To determine whether an investigation, conducted on broad virtual spaces, such as the Internet, is precisely defined, courts must look at the space’s function, its interactivity and the sub-spaces embedded into the broader virtual space.

Justice Karakatsanis said the entrapment doctrine strives to balance competing interests: the rule of law and the need to protect an individual’s privacy interests and personal freedom from state overreach, with the state’s interest in investigating and prosecuting crime. Requiring police investigations to pass the *bona fide* inquiry test, helps to ensure that balance.

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

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