



Case in Brief: **R. v. A.M.**

Judgment of October 16, 2026 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2026 SCC 33

The Supreme Court of Canada says a complainant's previous sexual activity can be admissible in trials for sexual services and human trafficking offences.

Section 276 of the *Criminal Code* introduces rules that limit when evidence of past sexual activity can be used in trials for certain offences. This case is about whether those rules apply to trials involving sexual services and human trafficking offences.

Two men were accused of having acted as pimps for the complainant. During a two-and-a-half-year period, she worked out of a house they rented, among other places. They were charged with several sexual services and human trafficking offences. Before trial, they asked to cross-examine (question) the complainant about her previous sex work. They said their questions would focus on the financial and advertising aspects of her work, rather than its sexual nature.

The trial judge concluded that section 276 of the *Criminal Code* applied to the case and the accused could not question the complainant about her previous sex work. He also excluded parts of her earlier testimony concerning that work. Following the trial, the two men were convicted of advertising the complainant's sexual services for money, recruiting and controlling her, and receiving a material benefit from her sexual services. However, they were acquitted of the human trafficking offences. The two men appealed their convictions.

The Ontario Court of Appeal allowed their appeals and ordered new trials on the sexual services offences. It concluded that the trial judge had applied section 276 although it was not applicable to the case. It also concluded that the trial judge improperly restricted the accused's questioning of the complainant. The Crown appealed to the Supreme Court of Canada.

The Supreme Court dismissed the appeal.

The trial judge should not have prevented the accused from questioning the complainant about the commercial aspects of her previous sex work.

Writing for a unanimous Court, Justice Moreau explained section 276 of the *Criminal Code* does not categorically apply to sexual services and human trafficking offences. This section is intended to prevent courts or a jury from relying on evidence that support the twin myths, or the historical myths that unchaste women are more likely to consent to the sexual activity or are less worthy of belief. However, Justice Moreau explained that not all evidence of prior sexual history is irrelevant or inadmissible. In some cases, a judge can reach conclusions from the evidence of a complainant's prior sexual history that are not prejudicial (harmful). She said it was the situation in this case.

Here, the evidence that the accused wanted to introduce concerned the commercial nature of the complainant's previous sex work, rather than its sexual nature. It was intended to show that the complainant had previously chosen to work in the sex trade voluntarily, rather than having been recruited or exploited by the accused. Justice Moreau therefore agreed with the Court of Appeal that the accused should not have been prevented from questioning the complainant about the commercial aspects of her previous sex work. As a result, she upheld the order for new trials on the sexual services offences.

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

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