SUPREME COURT OF CANADA

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Case in Brief: *R. v. Moshfeghi Zadeh*

Judgment of October 30, 2026 | On appeal from the Court of Appeal for British Columbia
Neutral citation: 2026 SCC 35

The Supreme Court of Canada says that even a momentary lapse in attention behind the wheel can, on its own, constitute the offence of dangerous driving.

A man drove his SUV through a red light at a downtown Vancouver intersection. He was struck by another vehicle travelling through the intersection on a green light. The impact caused the SUV to flip onto the sidewalk, where it struck a father carrying his 18-month old daughter. The father was seriously injured and the child died. The driver of the SUV was charged with dangerous driving causing death and dangerous driving causing bodily harm.

At trial, the judge concluded that the man likely experienced a brief lapse of attention for a few seconds before entering the intersection. However, she said that a momentary lapse of attention could not, on its own, be a marked departure from the standard of a reasonable driver in the circumstances, which is required to find someone guilty of the offence of dangerous driving. As a result, the man was found not guilty. The Crown appealed the decision.

A majority of the Court of Appeal of British Columbia dismissed the appeal. It concluded that the judge misstated the law by finding that something more than a momentary lapse in attention is always required to find an accused guilty of dangerous driving. However, her decision as a whole was not tainted by that error. The Crown appealed to the Supreme Court.

The Supreme Court of Canada allowed the appeal.

When analyzing dangerous driving, the period of inattention is a factor to consider among others.

Writing for a majority of judges, Justice O'Bonsawin explained that the trial judge was wrong to ask whether the man's driving involved something more than a momentary lapse of attention. Instead, she should have asked whether his driving fell significantly below what would be expected of a reasonable driver in the same circumstances. To answer this question, judges must look at all the circumstances and assess the driver's conduct. This includes not just the duration of the inattention, but also the nature of the vehicle, its speed, the location of the lapse of attention, road conditions, and all other relevant factors. Under the proper analysis, the period of inattention is a factor, not the focus.

In this case, there were visual cues that should have alerted the accused to stop before the intersection, including several red lights and pedestrians crossing the road. That evidence was relevant to the risk created by the inattention and to what was expected of a reasonable driver in the circumstances. Justice O'Bonsawin concluded that the trial judge's legal error had an important impact on the acquittals and as such, they must be set aside. She ordered a new trial.

Breakdown of the decision: ***Majority***: Justice O'Bonsawin allowed the appeal (Justices Rowe, Martin, Jamal and Moreau agreed) | ***Dissenting***: Justice Côté would have dismissed the appeal (Chief Justice Wagner and Justices Karakatsanis and Kasirer agreed)

More information: Decision | Case information

Lower court rulings: Acquittals (Provincial Court of British Columbia – not available online) | Appeal (Court of Appeal for British Columbia)

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