



The Supreme Court orders a new trial for an Ontario man accused of murder.

In the early morning hours of February 4, 2016, Peter Khill shot and killed Jonathan Styres, a young man who was breaking into his truck. The vehicle was parked in the driveway of Mr. Khill's home, in a rural area on the outskirts of Hamilton, Ontario.

Before the shooting, Mr. Khill was awoken by his partner who alerted him to loud noises coming from the driveway next to their bedroom window. Looking out the window, Mr. Khill saw the dash lights of his truck were on, indicating that someone was, or had been, in the truck. At that point, Mr. Khill retrieved his shotgun, went outside and confronted Mr. Styres. Moments later, he fired two shots, killing Mr. Styres.

When police arrived on the scene, they arrested Mr. Khill. He told the arresting officer that he had been a soldier. He also said the intruder had raised his hands to gun height, so he reacted as he did.

Mr. Khill was charged with second degree murder. At trial, he testified that he shot Mr. Styres in self-defence, believing Mr. Styres was armed and about to shoot him. Mr. Khill's training as a former part-time reservist was raised at trial.

A jury found Mr. Khill not guilty and acquitted him. The Crown appealed. The Ontario Court of Appeal overturned the acquittal and ordered a new trial, finding that the jury was not properly instructed on the principles of self-defence. Mr. Khill appealed that decision to the Supreme Court of Canada.

The Supreme Court has dismissed Mr. Khill's appeal and has ordered a new trial.

The trial judge should have instructed the jury on self-defence and on Mr. Khill's role in the incident.

Writing for the majority, Justice Martin said the jury received no instructions from the trial judge on how Mr. Khill's role in the incident should inform its assessment of the reasonableness of his conduct. She said this was an error that had an important effect on the verdict.

Justice Martin explained that a "person's role in the incident" refers to "the person's conduct ... during the course of the incident, from beginning to end, that is relevant to whether the ultimate act was reasonable in the circumstances." In this case, if the jury had been properly instructed, it may have arrived at a different conclusion. She said the jury may have found, for example, that Mr. Khill's conduct increased the risk of a fatal confrontation with Mr. Styres outside the home. They may also have assessed Mr. Khill's decision to advance into the darkness against other alternatives he could have taken, such as calling 911, shouting from the window or turning on the lights. Those actions may have prevented the mistaken belief that Mr. Styres was armed and avoided the need to use deadly force.

As a result, the majority concluded that a new trial is necessary to ensure the jury is appropriately instructed on the principles of self-defence and the significance of Mr. Khill's role in the incident.

Breakdown of the decision: *Majority:* Justice Sheilah L. [Martin](#) said the appeal should be dismissed and a new trial ordered due to the trial judge's failure to instruct the jury on self-defence principles (Chief Justice [Wagner](#) and Justices [Abella](#), [Karakatsanis](#) and [Kasirer](#) agreed) | *Concurring:* Michael J. [Moldaver](#) came to the same conclusion as Justice Martin but for different reasons (Justices [Brown](#) and [Rowe](#) agreed) | *Dissenting:* Justice Suzanne [Côté](#) would have allowed the appeal and restored Mr. Khill's acquittal.

More information (case # 39112): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: trial (Ontario Superior Court of Justice - unreported) | [appeal](#) (Court of Appeal for Ontario)
