R v. Park

[1992] 2 S.C.R. 871

Country: Canada
Region: Americas
Year: 1992
Court: Supreme Court of Canada
Health Topics: Mental health, Public safety, Violence
Human Rights: Right to liberty and security of person

Facts

Parkes attacked his parents-in-law at their home. The attack resulted into the death of one and severe injury to the other. After the attack, he drove to a police station to report what he had done. Parkes was charged with first-degree murder and attempted murder. At trial, his defense was automatism i.e. sleep walking. He further contended that his parents-in-laws were always supportive of his problems and he shared an excellent relationship with them. Based on unanimous expert testimony and evidence that Parkes was sleepwalking, the trial judge put the defense of automatism to the jury. The trial court acquitted him of the charges and the Court of Appeal unanimously upheld the acquittal.
The central issue before the Supreme Court was â€œwhether sleepwalking should be classified as non-insane automatism resulting in an acquittal or as a disease of the mind (insane automatism) giving rise to the special verdict of non-guilty by reasons of insanityâ€•.

Decision and Reasoning

The Majority opinion held that this was a case of non-insane automatism and dismissed the appeal. The Court distinguished between non-insane automatism and the disease of the mind. Automatism, it stated was an involuntary act, which entitled the accused to an unqualified acquittal whereas in cases of insane automatism, the accused is entitled to a verdict of non guilty by reasons of insanity.

The Court further held that the trial judge must undertake two tasks to establish a defense of non-insane automatism:

1)Â Â Â Â Â Determine whether there is evidence on the record to support the defense. This would require the accused to provide evidence to support his/her assertion.

2)Â Â Â Â Â If a proper foundation is established, then consider whether the condition alleged by the accused is, in law, non-insane automatism.

It is then that the jury must decide the issue of whether the accused suffered from the alleged condition at the relevant time. On analysing when automatism should be classified as the â€œdisease of the mindâ€•, it discussed some of the factors such as there being a component of continuing or recurring danger to the public and the condition stemming from psychological factors of the accused.

The Court held that only voluntary actions should be punished under the criminal law. Expert testimony revealed consensus that a person who is sleepwalking cannot think, reflect, or perform voluntary acts. Further, evidence demonstrated no likelihood of sleepwalking leading to violent acts. Moreover, the Crown also failed to prove that Parkesâ€™s automatism was a disease of the mind.

The Court held that the matter should not be referred back to trial for consideration as to whether an order to keep the peace (preventing further acts of violence) should be imposed. The Court held that since recurrence was highly unlikely, an order restricting Parkesâ€™ liberty would raise difficult issues, regarding constitutionality of the action in view of Section 7 of the Canadian Charter of Rights and Freedoms.

The dissenting judges disagreed in part to the extent in that they held that the case should be referred back to the trial judge pursuant to his â€œpreventive justiceâ€• powers. They insisted that imposing some minimally intrusive conditions such as requiring Parkes to consult and do as advised by a sleep specialist in order to assure the communityâ€™s safety would not infringe Section 7 of the Charter.

Decision Excerpts

â€œWhen the automatistic condition stems from a disease of the mind that has rendered the accused insane, then the accused is not entitled to a full acquittal, but to a verdict of insanity.â€• (Page 896)

Â â€œFirst, he or she must determine whether there is some evidence on the record to support leaving the defence with the jury. This is sometimes referred to as laying the proper foundation for the defenceâ€¦Thus an evidence burden rests with the accused, and the mere assertion of the defence will not sufficeâ€¦the judge moves to the second task: he or she must consider whether the condition alleged by the accused is, in law, non-insane automatismâ€• (Page 897)

â€œRecurrence is but one of a number of factors to be considered in the policy phase of the disease of the mind inquiryâ€¦the absence of a danger of recurrence will not automatically exclude the possibility of a finding of insanity.â€• (Page 907)