

Latimer v. Her Majesty the Queen, 112 C.C.C. (3d) 193 (Canada 2001)

Case Summary

This case arose from the death of Tracy Latimer, a 12-year old girl who had a severe form of cerebral palsy. Her father, Robert Latimer, took her life in 1993 by inserting a hose from his truck's exhaust pipe into the cab, where she was seated, causing her death by carbon monoxide poisoning. He was found guilty of second-degree murder. This appeal dealt with three questions of law arising from his trial. First, did the trial judge mishandle the defense of necessity, resulting in an unfair trial? Second, was the trial unfair because the trial judge misled the jury into believing it would have some input into the appropriate sentence? And third, does the imposition of the mandatory minimum sentence for second-degree murder constitute "cruel and unusual punishment" so that Mr. Latimer should receive a constitutional exemption from the minimum sentence?

The Court answered all three questions in the negative. The defense of necessity is narrow and of limited application in criminal law. In this case, there was no good faith basis for that defense. The trial judge was correct to conclude that the jury should not consider necessity. While the timing of the removal of this defense from the jury's consideration was later in the trial than usual, it did not render Mr. Latimer's trial unfair or violate his constitutional rights. On the second issue, the trial judge did not prejudice Mr. Latimer's rights in replying to a question from the jury on whether it could offer input on sentencing. In answer to the third question, the Court held that the mandatory minimum sentence for second-degree murder did not amount to cruel and unusual punishment within the meaning of the Canadian Charter of Rights and Freedoms. The test for what amounts to cruel and unusual punishment is a demanding one and Mr. Latimer failed to show that the sentence was "grossly disproportionate" to the punishment required for murder.

The Court affirmed Mr. Latimer's conviction and sentence of life imprisonment. He must serve a minimum of ten years imprisonment before he may be considered for parole.