



Local News

# Supreme Court says MRU student's magic mushroom assault defence was valid

Bill Kaufmann

May 13, 2022 • May 13, 2022 • 4 minute read • 15 Comments

SPECIAL OFFER

Get the Calgary Herald and National Post for only \$2/week. Cancel anytime Get the Calgary Herald for only \$2/week. Cancel anytime *Subscribe Now>*

[Manage Print Subscription/Tax Receipt](#)

Sections Search

CALGARY HERALD

Subscribe

Sign In

## NOTICE FOR THE POSTMEDIA NETWORK

This website uses cookies to personalize your content (including ads), and allows us to analyze our traffic. Read more about [cookies here](#). By continuing to use our site, you agree to our [Terms of Service](#) and [Privacy Policy](#).

OK



Matthew Brown was accused of attacking an MRU professor in her Springbank Hill home in 2018. The Supreme Court has ruled his defence that he was too high on magic mushrooms to understand what he was doing is valid. PHOTO BY KEVIN MARTIN/POSTMEDIA

The country's highest court has concluded extreme intoxication can be used as a defence in assault cases, ruling in favour of a former Mount Royal University hockey player who attacked a professor while high on magic mushrooms.

In a decision released Friday, the Supreme Court of Canada reversed a July 2021 ruling by the Alberta Court of Appeal that struck down an acquittal of Matthew Brown, who attacked an MRU professor in her home while high on psilocybin in 2018.

The court unanimously concluded Section 33.1 of the Criminal Code is unconstitutional. That section, passed by Parliament in 1997, was specifically written to prevent extreme intoxication as a defence in

#### **NOTICE FOR THE POSTMEDIA NETWORK**

This website uses cookies to personalize your content (including ads), and allows us to analyze our traffic. Read more about [cookies here](#). By continuing to use our site, you agree to our [Terms of Service](#) and [Privacy Policy](#).

OK

“Convicting someone for how they conducted themselves while in a state of automatism violates principles of fundamental justice. Our criminal justice system is based on the notion of personal responsibility,” the court stated in a brief of the decision.

“In Canada, two elements of fundamental justice are required for a person to be found guilty of a crime. They are a guilty action; and a guilty mind. Neither element is present when a person is in a state of automatism.”

Even so, the court said Parliament could draft new legislation to hold defendants accountable in such cases.

The Supreme Court sided with Justice Michele Hollins, who found in 2020 that Brown was not in control of his actions when he broke into the home of professor Janet Hamnett and attacked her while he was high. She found that the magic mushrooms he consumed had caused Brown to be in a state of “extreme intoxication akin to non-insane automatism.”

That ruling came after a pre-trial judge had concluded limiting self-induced intoxication as a defence based on Section 33.1 of the Criminal Code is unconstitutional.

Brown’s trial heard he was attending a small drinking party where he also consumed psilocybin, a restricted substance that can have hallucinatory effects.

He stripped naked and broke into the nearby home of Hamnett, who was assaulted and suffered life-altering injuries to her hands.

Police found Brown in another home he’d broken into after that assault.

After his acquittal, the Alberta Court of Appeal ruled that the pre-trial judge should not have validated the automatism defence and overturned Brown’s acquittal.

In that decision, Justice Frans Slatter said those who consume hallucinatory drugs should know doing so can lead to severe consequences.

“It is demonstrably justifiable to hold persons like (Brown) accountable for their decisions to consume substances known to affect human behaviour,” reads Slatter’s decision.

---

#### **NOTICE FOR THE POSTMEDIA NETWORK**

This website uses cookies to personalize your content (including ads), and allows us to analyze our traffic. Read more about [cookies here](#). By continuing to use our site, you agree to our [Terms of Service](#) and [Privacy Policy](#).

OK



But the Supreme Court concluded Section 33.1 violates the Charter of Rights and Freedoms by leading society to believe a person's choice to become intoxicated is an intention to commit a violent offence, while freeing prosecutors from the need to prove the assault was voluntary.

On Friday, a "disappointed" Hamnett said in a statement she fears the Supreme Court decision will have negative repercussions for other victims and gives carte blanche to offenders.

"What is most important to consider is this negatively impacts victims of aggravated assault across Canada — some of whom are no longer with us because they died as a result of their attacks," she said.

"That is the shocking part — today the Supreme Court basically said it's allowable to attack, hurt and even kill someone, if the perpetrator is out of control due to drugs or alcohol that were most likely ingested intentionally and willingly."

In November 2019 testimony in Brown's trial, Hamnett said she awoke after hearing what sounded like an explosion in her Springbank Hill-area home on Jan. 13, 2018.

But before she even reached her bedroom door a male "presence" began striking her with a hard object as she fell to her knees and held her arms over her head to protect herself.

By the time her attacker had stopped and she was able to rush to a nearby bathroom, Hamnett said she was bleeding badly.

"There was blood everywhere," Hamnett told the Court of Queen's Bench trial.

She told court Brown was screaming incoherently during the assault and "sounded like an animal."

She suffered a broken right hand and other injuries to both of her arms.

Brown was charged with aggravated assault, break and enter, and mischief to property.

The Supreme Court noted he had no previous criminal past or history of mental illness.

---

#### **NOTICE FOR THE POSTMEDIA NETWORK**

This website uses cookies to personalize your content (including ads), and allows us to analyze our traffic. Read more about [cookies here](#). By continuing to use our site, you agree to our [Terms of Service](#) and [Privacy Policy](#).

OK

But the court in its ruling said it's urgent the federal government enact a new law protecting victims from unaccountable intoxicated offenders, "particularly in light of the equality and dignity interests of women and children who are vulnerable to intoxicated sexual and domestic acts — is a pressing and substantial social purpose."

The federal government enacted the existing law limiting intoxication as a defence in 1995 amid a backlash over a court ruling that recognized drunkenness could be raised as a defence against a sexual assault charge.

Justice Minister David Lametti said in a statement Friday that the government is carefully reviewing the top court's decision to assess its effect on victims as well as the criminal law.

Lametti noted that the decision does not apply to the "vast majority" of cases involving someone who commits a crime while intoxicated.

— with files from Dylan Short and CP

[BKaufmann@postmedia.com](mailto:BKaufmann@postmedia.com)

Twitter: [@BillKaufmannjrn](https://twitter.com/BillKaufmannjrn)



---

---

## LATEST NATIONAL



### NOTICE FOR THE POSTMEDIA NETWORK

This website uses cookies to personalize your content (including ads), and allows us to analyze our traffic. Read more about [cookies here](#). By continuing to use our site, you agree to our [Terms of Service](#) and [Privacy Policy](#).

OK

Email Address

youremail@email.com

Sign Up

By clicking on the sign up button you consent to receive the above newsletter from Postmedia Network Inc. You may unsubscribe any time by clicking on the unsubscribe link at the bottom of our emails. Postmedia Network Inc. | 365 Bloor Street East, Toronto, Ontario, M4W 3L4 | 416-383-2300

## TRENDING

- 1 **15 killed in elementary school shooting, shooter dead: Texas governor**
- 2 **'We're finally having our turn': Boom times are back in Alberta**
- 3 **Viral video shows fight between Calgary Stampeders player, United Airlines worker**
- 4 **Central Alberta man who abused 11 kids, including own daughter, has sentence upheld**
- 5 **Lucic on collision with Smith: 'I definitely wasn't trying to hit him'**

## THIS WEEK IN FLYERS

## COMMENTS

Postmedia is committed to maintaining a lively but civil forum for discussion and encourage all readers to share their views on our articles. Comments may take up to an hour for moderation before appearing on the site. We ask you to keep your comments relevant and respectful. We have enabled email notifications—you will now receive an email if you receive a reply to your comment, there is an update to a comment thread you follow or if a user you follow comments. Visit our [Community Guidelines](#) for more information and details on how to adjust your [email](#) settings.

### NOTICE FOR THE POSTMEDIA NETWORK

This website uses cookies to personalize your content (including ads), and allows us to analyze our traffic. Read more about [cookies here](#). By continuing to use our site, you agree to our [Terms of Service](#) and [Privacy Policy](#).

OK

---

Subscribe

Follow the Calgary Herald



NewsBusinessOpinion  
ArtsSportsLife  
RememberingE-Paper  
Subscribe

---

Advertise With UsDigital Ad RegistrySite MapContactPrivacy - UpdatedTerms of UseCopyright

365 Bloor Street East, Toronto, Ontario, M4W 3L4

© 2022 Calgary Herald, a division of Postmedia Network Inc. All rights reserved. Unauthorized distribution, transmission or republication strictly prohibited.

---

### NOTICE FOR THE POSTMEDIA NETWORK

This website uses cookies to personalize your content (including ads), and allows us to analyze our traffic. Read more about [cookies here](#). By continuing to use our site, you agree to our [Terms of Service](#) and [Privacy Policy](#).

OK