

BACKGROUNDER: An Overview of *R v Wilson* and the Good Samaritan provision of the *Controlled Drugs and Substances Act*

On the morning of September 10, 2020, in a small town in rural Saskatchewan, a woman named Cheryl Delorme overdosed on fentanyl. She lost consciousness and stopped breathing. Fortunately, the people she was with, [including] Paul Wilson, took immediate action. One person performed CPR on Ms. Delorme. Another called emergency services. That's what Parliament wanted people to do in response to an overdose emergency.

Factum filed on behalf of Mr. Wilson

The *Good Samaritan Drug Overdose Act* [GSDOA] was enacted in 2017 as part of Canada's public health approach to substance use.¹ The GSDOA created s. 4.1 of the *Controlled Drugs and Substances Act*, which provides immunity from prosecution for drug possession and some other offences for people at the scene of a drug-related medical emergency (the "Good Samaritan" provision). It is intended to encourage people to stay at the scene of a drug-related medical emergency, provide first aid, and ultimately, save lives and prevent injuries.

On September 10, 2020, while Ms. Delorme was recovering in an ambulance, police arrived and decided to arrest Ms. Delorme, Mr. Wilson and two other people at the scene for drug possession. Using the arrest as a basis to search Mr. Wilson and his vehicle, police then arrested Mr. Wilson and the two other bystanders for drug trafficking and other alleged criminal offences.

At trial and on appeal, Crown attorneys argued that even if he couldn't be *convicted* of drug possession, the Good Samaritan provision ought not stop police from *arresting* Mr. Wilson for drug possession and using that arrest as a basis to search him and his vehicle. Mr. Wilson argued that arresting someone for an alleged crime he cannot be convicted of both runs contrary to the purpose for which police are given the power to arrest and drains the Good Samaritan provision of its meaning and efficacy.

On January 14, 2025, the Supreme Court of Canada will be asked to consider:

Does the Criminal Code authorize the arrest of an individual at the scene of a "drug overdose" for the offence of simple drug possession even if the individual may ultimately be immune from being charged or convicted for that offence?

In deciding this case, the Supreme Court of Canada will have to consider what Parliament intended in enacting the Good Samaritan provision and how best to uphold that intention. This requires consideration of how to ensure the provision encourages people to stay at the scene and call 911, how to uphold the public health purpose of the GSDOA, and how to interpret "public safety" when responding to a medical emergency amid a public health crisis.

For more information, see:

- [All arguments \(appellant, respondent, intervener\) that will be made to the Supreme Court of Canada;](#)
- [Reasons for judgement of the Saskatchewan Court of Appeal](#) - Sept. 8, 2023.

¹ <https://www.canada.ca/en/health-canada/services/opioids/about-good-samaritan-drug-overdose-act.html>