

SCC grants stay to abused Nova Scotia woman who tried to hire hit man

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OTTAWA – A Nova Scotia woman who tried to hire a hit man to kill her abusive husband is free after the Supreme Court of Canada ordered a stay of proceedings in her emotional case.

The high court also raised serious questions about the conduct of the RCMP and Nova Scotia prosecutors, saying it is “disquieting” that the Mounties chose to mount a sting operation to arrest Nicole Ryan rather than respond to her husband’s “reign of terror” over her.

Ryan was originally acquitted of counselling to commit murder in 2010, a decision that was upheld by Nova Scotia’s appeal court. She was arrested in 2008 when she tried to hire an undercover RCMP officer to kill Michael Ryan – who had threatened to kill her and her daughter and burn their house down.

Technically, the Supreme Court granted the Crown appeal and overturned the acquittal, saying her defence of duress wasn’t valid.

But they shut down any attempt by Nova Scotia prosecutors to re-try her.

By an 8-1 margin they said it would be unfair to subject her to a new trial and instituted a stay of proceedings.

The court also highlighted the fact that the RCMP did not adequately respond to Ryan’s numerous calls for help, which forced her to resort to attempting to hire a killer.

“The abuse which she suffered at the hands of Mr. Ryan took an enormous toll on her, as, no doubt, have these protracted proceedings, extending over nearly five years, in which she was acquitted at trial and successfully resisted a Crown appeal in the Court of Appeal,” justices Louis LeBel and Thomas Cromwell wrote in the ruling.

“There is also the disquieting fact that, on the record before us, it seems that the authorities were much quicker to intervene to protect Mr. Ryan than they had been to respond to her request for help in dealing with his reign of terror over her.”

The judgment avoided any comment on its precedent-setting 1990 battered woman’s ruling, which allows abuse victims accused of killing to plead self-defence.

“The Supreme Court has managed to navigate between delivering a decision which makes sense in law, while preventing against an unjust result which would have been universally unpopular,” Toronto criminal lawyer [Jacob Stilman](#) tells AdvocateDaily.com.

“The decision to judicially stay the charges demonstrates a level of compassion and common sense that it too often lacking in the criminal justice system.”

In an interview with AdvocateDaily.com, Stilman says, “Clearly the system failed Ms. Ryan by not addressing her legitimate safety concerns in the face of ongoing spousal abuse. By staying the charge, the Supreme Court demonstrated the discretion that should have been exercised by the prosecuting authorities to begin with.”

Stilman says had the duress, or "battered wife syndrome" defence been endorsed, "it would have provided judicial sanction to the defence that colloquially is known as 'the victim needed killing' approach. It is easy to envision how such an expansion of the law would have led to confusion for law enforcement, the courts and the public."

Friday's ruling represents a legal victory for Ryan but it does not give her what she was originally seeking when she tried to hire a hit man – protection for her daughter.

Her lawyer Joel Pink has told The Canadian Press that Michael Ryan and his girlfriend "took off with the daughter after the trial and before the decision" and "we have not heard from her since."

In their ruling the justices summarized the plight of the 115-pound Ryan during her marriage to the 230-pound ex-soldier.

LeBel and Cromwell noted that the trial judge accepted that Ryan's testimony about the abusive behaviour of her husband was, in fact, true.

"For example, Mr. Ryan's violent and threatening behaviour included outbursts at least once a week, where he would throw things at the respondent's head, physically assault her and threaten to kill her," the justices wrote.

"The respondent testified that Mr. Ryan often told her that he would kill her and their daughter if she ever tried to leave him."

On another occasion, Michael Ryan took his wife and daughter to a remote, forested spot and told them this was where he planned to bury their bodies.

Ryan's lawyer argued that his client called police at least nine times seeking protection from her husband.

Instead, the RCMP eventually arrested her in March 2008 after they sent an undercover officer to pose as the hit man that she was trying to hire to kill her husband.

The couple had separated and moved apart, but Ryan became terrified for her daughter's safety when her father began showing up at her school.

"While she had engaged the police and other agencies in an effort to assist her in the past, the evidence was that her problems were viewed as a 'civil matter,'" the justices said.

"She felt so vulnerable that the phone call of the undercover police officer appeared to her as the solution to all her problems. On the basis of these findings, the trial judge found that the common law defence of duress applied and acquitted the accused."

In their ruling, the nine justices unanimously agreed that the duress defence was improperly applied at trial.

But rather than subject Ryan to a new trial, they ordered a stay of proceedings instead. One that point, one justice dissented.

Justice Morris Fish said a stay was not a proper legal remedy and that a new trial should have been ordered.

-With files from AdvocateDaily.com