

Man who killed bartender granted leave to appeal murder charge

BY DARYL SLADE, CALGARY HERALD JULY 2, 2011

Presented By:



The man who fatally shot a Calgary bar owner more than seven years ago has been granted leave to appeal his second-degree murder conviction to the Supreme Court of Canada.

[REDACTED], who was initially convicted of manslaughter in the Jan. 7, 2004, death of Jeffery Shuckburgh, 29, was later ordered to face a second trial on a Crown appeal.

He was subsequently convicted of second-degree murder in November 2008 and it was upheld by the Alberta Court of Appeal last December.

Now, if successful at the country's highest court, **[REDACTED]** could have the conviction reduced to manslaughter again or be granted a third trial.

"The leave application deals with only the narrow issue whether or not, given Mr. **[REDACTED]**'s mental status, he had the requisite intent for murder," said Karen Molle, **[REDACTED]**'s lawyer.

"Given he suffered from Asperger's (syndrome) and, paired with alcohol consumption, the question is whether there was an error in the trial judge's failure to consider those factors."

Molle said the case probably won't be heard until early next year. She and fellow Calgary lawyer Jennifer Ruttan will present the case.

Molle had argued unsuccessfully before the court of appeal last year that her client should be convicted of manslaughter, as he was in the first trial.

However, in a written decision last year, Justices Clifton O'Brien, Myra Bielby and Allen Sulatycky of the province's top court rejected all of the defence arguments made by Molle in October.

Molle argued the trial judge failed to take into consideration that **[REDACTED]** was developmentally delayed and in an agitated state when the rifle he was carrying discharged and killed Shuckburgh.

She said even though **[REDACTED]** had his finger on the trigger, the gun still could have been unintentionally discharged, because there was no connection between his brain and finger, removing intent required for murder.

"You have a young man who has been consuming alcohol, was distraught and agitated," Molle told the three-judge panel at the time.