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McWILLIAMS' CANADIAN CRIMINAL EVIDENCE Fifth Edition

Hon. S. Casey Hill, David M. Tanovich and Louis P. Strezos
Release No. 2, June 2024

McWilliams' Canadian Criminal Evidence, Fifth Edition, is the most comprehensive source in Canada for the law of criminal evidence. The authors trace the developments of the law of criminal evidence and identify the key elements of a modern principled approach. The work features analyses from judicial, academic and practitioner's perspectives and includes contributions from both Canadian and international experts.

The release features substantial updates to Chapters 7, "Hearsay Rule", 12, "Opinion Evidence", and 21, "Presentation of Witnesses".

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Highlights:

- **Circumstantial Evidence: Drawing Reasonable Inferences—Appeals—Generally**—In reasons for judgment, a trial judge’s failure to refer to *Villaroman* is not reversible error: *R. v. SW*, 2024 ONCA 125, at para. 54 (while court did not cite *R. v. Villaroman*, [2016] 1 S.C.R. 1000, “she is presumed to have known and applied the law”). As a general rule, “it is incumbent upon a trial judge to explore other reasonable inferences or plausible theories which are inconsistent with guilt, weigh them, and provide a rational explanation why they were rejected”: *R. v. Morrison*, 2024 NBCA 35, at paras. 58, 63 and 72.
- **The Hearsay Rule—The Categorical Exceptions—Statements by Accused (Admissions)—Adoption of Statements by Others**—Adoptive admissions have carried over to digital conversations. The Court of Appeal for Ontario has held that a text message conversation between an accused person and a third party can be admitted as an adoptive admission: *R. v. N.G.*, 2024 ONCA 20, at para. 56.
- **Opinion Evidence—Expert Opinion Evidence—Jury Instructions—Weighing Expert Evidence**—In some instances, consideration of the testimonial demeanour of an expert witness may relate to the content of their evidence as opposed to its veracity: *Haynes v. R.*, [2024] NSWCCA 12, at para. 73 (degree to which witness considered a different explanation to be “very unlikely”).

ProView Developments

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