

IN THE MATTER OF an Application Under Section 696.1 of the *Criminal Code*

B E T W E E N:

HER MAJESTY THE QUEEN

RESPONDENT

- and -

ROMEO PHILLION

APPLICANT

MEMORANDUM OF ARGUMENT

PART 1

INTRODUCTION

The deceased, Leopold Roy, was 48 years old at the time of his murder on Wednesday, August 9, 1967. He had been a fireman with the Ottawa Fire Department for twenty years. He was also the superintendent, and responsible for the maintenance, of the Churchill Court Apartments located at 275 Friel Street in Ottawa. In an investigation report, Detective McCombie, the original investigating officer, described the building as being “rented to mostly older people and single people who work.” Mr. Roy and his wife, Mildred Roy, lived in Apartment 1 in the basement of the four storey apartment building, and had resided there since 1956. The couple had no children. Mr. Roy was a francophone, but spoke English as well. He was 5 feet, 10 inches tall, and weighed 180 pounds. At the time of Mr. Phillion’s arrest in 1972, Mrs. Roy was working as a cleaner at the House of Commons.

Investigation Report of McCombie, Aug. 9/67, Record, Vol. 2, Tab 1, p. 3
Investigation Report of Huneault, Jan. 13/72, Record, Vol. 2, Tab 98, p. 1
Evidence of McCombie, Preliminary Hearing, Vol. 4, 338/30

On August 9, 1967, at approximately 2:45 p.m., Mildred Roy, who had been cleaning the apartment building, encountered a man in front of Apartment 14. He had his back to her. Mrs. Roy asked the man twice if she could help him. When the man turned toward her, Mrs. Roy, believing he could be a peddler or a prowler, called to her husband in the basement. The man ran past Mrs. Roy to the rear staircase of the building and headed downstairs. At the landing between the main and second floors, Mr. Roy caught up with the man and shoved him into a corner. After a brief scuffle, the man stabbed Mr. Roy once in the heart and fled the scene. Mr. Roy died within minutes of massive blood loss.

Leopold Roy was well-liked and respected by his colleagues at the No. 6 Fire Station. He was said to have approached his job with “hard-driving devotion.” According to Fire Chief Paul Larkin, Mr. Roy was a “fine fellow — quiet, well thought of by the men of the department.” He was an avid fisherman in his leisure time. Over 300 persons attended Mr. Roy’s funeral at the Sacred Heart Church in Ottawa on August 12, 1967. His casket was borne to the church on a black-draped fire truck with a full dress parade of honour.

Alan Holman, “Wife Saw Killer,” *Ottawa Citizen*, August 10, 1967, Record, Vol. 7, Tab 18, p. 2.

Mike Bryan, “Prowler Murders Ottawa Fireman,” *Ottawa Journal*, August 10, 1967, Record, Vol. 7, Tab 1, p. 4.

“Firemen Honor Slain Comrade” *Ottawa Journal*, August 14, 1967, Record, Vol. 7, Tab 7, p. 3

An intensive police investigation under the command of the investigating officer, Detective John McCombie, which the *Ottawa Journal* described as “a province-wide dragnet,” ensued as a result of Mr. Roy’s murder. The Ottawa Police were looking for a suspect whom they described as being “30 to 35 years old, about five feet two inches tall, with black curly hair and wearing a dark suit.” Mrs. Roy told the

police that the intruder looked like someone she knew, a man named Fernand Kirouac. Mr. Kirouac allowed the police to take his photograph. P.C. Cederberg of the RCMP, a police artist, then sat with Mrs. Roy and made modifications to the photograph to make the man look younger than Mr. Kirouac. On August 10, this composite picture of the suspect was released to the media.¹ Twenty officers searched the area of 275 Friel Street for evidence but did not find the murder weapon. Squads of detectives worked around the clock on the case. More than a dozen men, including Romeo Phillion, were questioned in the days and months following the murder. Mr. Phillion himself was arrested by Detective McCombie in New Liskeard on August 13, 1967, returned to Ottawa for investigation and released on August 15, 1967. Photo lineups and at least three identification parades (Mr. Phillion was in one of them) were conducted. It is now known that, in this time frame, Mr. Phillion's whereabouts at the time of the murder were established by Detective McCombie (he was in Trenton, some 240 kilometres from Ottawa), and he was cleared as a suspect..

Mike Bryan, "Prowler Murder's Ottawa Fireman," *Ottawa Journal*, August 10, 1967, **Record, Vol. 7, Tab 1**, pp. 1-2.

"Scour city for killer: Intruder stabs man in building," *Ottawa Citizen*, August 10, 1967, **Record, Vol. 7, Tab 2**, p. 1.

Investigation Report of McCombie, Aug. 10/67, Record, Vol. 2, Tab 14

Evidence of P.C. Kearney, Preliminary Hearing, Vol. 5, 440/10 to 454/40

Evidence of P.C. Cederberg, Preliminary Hearing, Vol. 5, 432/20 to 444/10

An Inquest was held into Mr. Roy's murder on November 6, 1967 at the Ottawa Police Station.

A number of witnesses were called, including Mrs. Roy, Dr. Tolnai, Mrs. Robitaille and Detective McCombie. The jury recommended a reward be offered for information leading to the apprehension and

¹ This evidence was not led before the jury, and the composite was not shown to the jury.

conviction of the assailant. As a result, a Notice of Reward was issued:

