

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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Le Bulletin rassemble les procédures devant la Cour dans la langue du dossier. Quand un arrêt est rendu, on peut se procurer les motifs de jugement en adressant sa demande au registraire, accompagnée de 10 \$ par exemplaire. Le paiement doit être fait à l'ordre du Receveur général du Canada.

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Her Majesty the Queen

Shelley Hallett
A.G. for Ontario - Crown Law Office

v. (29137)

Brendon McFadyen (Ont.)

Sean R. Fraser
Risen & Inch

FILING DATE 25.3.2002

Claude Landry

Dominique Neuman

c. (29169)

La Cour du Québec, et autre (Qué.)

DATE DE PRODUCTION 19.4.2002

**Commission de protection du territoire agricole du
Québec**

Michel Blais
Cardinal, Landry

c. (29178)

C.B.R. Laser Inc. et Claude Beauvillier (Qué.)

Jean-Guy Provencher
Massicotte, Carrier

DATE DE PRODUCTION 23.4.2002

The Continental Insurance Company of Canada

Richard B. Lindsay
Lindsay Kenney

v. (29179)

**International Nesmont Industrial Corporation,
et al. (B.C.)**

Leslie Muir
Holmes & King

FILING DATE 23.4.2002

Le procureur général du Québec

Gilles Laporte
P.G. du Québec

**DEMANDES D'AUTORISATION
D'APPEL DÉPOSÉES**

c. (29180)

Paul Brisebois, et autres (Qué.)

Réal Charbonneau

- et entre -

Commission des services juridiques

Jean-Marie Larivière
Meloche, Larivière

c. (29180)

Paul Brisebois, et autres (Qué.)

Réal Charbonneau

DATE DE PRODUCTION 26.4.2002

Frederick Whitmore, et al.

Albert E. King
King Sutton

v. (29182)

Bernie Proznick (B.C.)

Barry G. Bergh
Gregg Alfonso

FILING DATE 29.4.2002

Mizanur Rahaman

Pia Zambelli

v. (29183)

Minister of Citizenship and Immigration (F.C.)

Jocelyne Murphy
A.G. of Canada

FILING DATE 29.4.2002

Edperbrascan Corporation

R. Paul Steep
McCarthy Tétrault

v. (29184)

177373 Canada Limited, et al. (Ont.)

Neil Finkelstein
Blake, Cassels and Graydon

FILING DATE 29.4.2002

**APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE**

**DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION**

MAY 13, 2002 / LE 13 MAI 2002

**CORAM: Chief Justice McLachlin and Iacobucci and Arbour JJ. /
Le juge en chef McLachlin et les juges Iacobucci et Arbour**

Peter Randy Reifel

v. (28811)

John Halagan (B.C.)

NATURE OF THE CASE

Commercial law - Evidence - Escrow shares - Resulting trust - What are the substantive requirements to be met in order to rebut the presumption of resulting trust - Where no gift by the transferor can be established, whether the recipient of property can rebut the presumption of resulting trust by showing that the recipient provided "value" outside the context of a contract to transfer beneficial title to the recipient.

PROCEDURAL HISTORY

October 1, 1998
Supreme Court of British Columbia
(Satanove J.)

Respondent declared beneficial owner of 375,000 shares of Francisco Gold Corp.; Applicant's counterclaim dismissed

June 26, 2001
Court of Appeal for British Columbia
(Rowles, Prowse and Mackenzie JJ.A.)

Appeal dismissed

September 24, 2001
Supreme Court of Canada

Application for leave to appeal filed

AstraZeneca AB

v. (28972)

Novopharm Limited (F.C.A.)

AND BETWEEN:

Ciba-Geigy Canada Ltd.

v.

Apotex Inc. (F.C.A.)

AND BETWEEN:

Ciba-Geigy Canada Ltd.

v.

Novopharm Limited (F.C.A.)

NATURE OF THE CASE

Property law - Trade-marks - Pharmaceutical preparations - Application for trade-mark in colour applied to surface of tablet or capsule - Whether the lower courts correctly applied the standard of review - Whether the lower courts applied the correct test for distinctiveness.

PROCEDURAL HISTORY

September 17, 1997
Trade Marks Opposition Board
(M. Herzig)

Oppositions to Applicant Ciba-Geigy Canada Limited's application to register trade-marks dismissed

December 9, 1997
Trade Marks Opposition Board
(M. Herzig)

Opposition to Applicant Astra Aktiebolag's application to register trade-mark dismissed

April 14, 2000
Federal Court of Canada, Trial Division
(Rouleau J.)

In three separate decisions, Respondents' appeals allowed

October 18, 2001
Federal Court of Appeal
(Desjardins, Sexton and Sharlow JJ.A.)

Applicants' appeals dismissed

December 17, 2001
Supreme Court of Canada

Application for leave to appeal filed

Ontario Public Service Employees Union

v. (29135)

Attorney General for Ontario (Ont.)

NATURE OF THE CASE

Procedural law - Courts - Contempt of court - Labour law - Labour relations - Lawful strike - Picketing of courthouses during lawful strike - *Ex parte* injunction restraining Applicant's members from gathering, congregating or picketing within precincts of the courts granted on court's own motion - Whether the Court of Appeal decision unjustifiably limits the freedoms of expression, assembly and association of the Applicant's members contrary to subsection 2(b), (c) and (d) of the *Charter* - Whether the lower courts applied the wrong test - Whether the terms of the order are broader than necessary to safeguard the legitimate interest in preserving access to justice - Whether a "signalling effect" of picketing can be presumed - What evidence is necessary to raise a presumption of signalling - Whether the decision of the Court of Appeal and the decisions of this Court conflict on the intent required for the common law offence of criminal contempt.

PROCEDURAL HISTORY

March 13, 2002
Ontario Superior Court of Justice
(Sills J.)

Ex parte injunction restraining Applicant's members from gathering, congregating or picketing within precincts of the courts granted

March 14, 2002
Ontario Superior Court of Justice
(Sills J.)

Applicant's motion to vary dismissed

March 22, 2002
Court of Appeal for Ontario
(MacPherson, Sharpe and Simmons JJ.A.)

Appeal granted in part

April 4, 2002
Supreme Court of Canada

Application for leave to appeal filed

April 19, 2002
Supreme Court of Canada
(Arbour J.)

Motion to expedite application for leave dismissed

April 29, 2002
Supreme Court of Canada
(Arbour J.)

Respondent's motion to strike out affidavits of Eugene Roy Swimmer, dated April 4, 2002, and Pauline Tapping, dated April 3, 2002, dismissed

**CORAM: L'Heureux-Dubé, Bastarache and Binnie JJ. /
Les juges L'Heureux-Dubé, Bastarache et Binnie**

Jacques Laurendeau

c. (28965)

Sa Majesté la Reine (Crim.) (Qué.)

NATURE DE LA CAUSE

Procédure - Appel - Procédure civile - Preuve - Est-ce que le droit d'être entendu doit prévaloir sur le droit de l'irréfutabilité des jugements?

HISTORIQUE PROCÉDURAL

Le 26 novembre 1999
Cour du Québec (Chambre criminelle)
(Verdon j.p.c.q.)

Demandeur déclaré coupable d'avoir omis ou refusé de se conformer à l'une des conditions de l'ordonnance de probation contrairement à l'article 733.1 du *Code criminel*

Le 14 mars 2000
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 31 mai 2000
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 6 décembre 2000
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 26 février 2001
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 17 septembre 2001
Cour supérieure (Chambre criminelle)
(Tremblay j.c.s.)

Requête pour omission de se conformer à une ordonnance rejetée

Le 16 octobre 2001
Cour d'appel du Québec
(Gendreau j.c.a)

Demande d'autorisation d'appel et requête pour prorogation de délai rejetées

Le 12 décembre 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Giles Poirier

v. (29039)

Her Majesty the Queen (Crim.) (N.S.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Right to fair trial - Pre-trial Procedure - Stay of proceedings - Remedies - Costs - Allegations of wrongdoing on part of police and Crown prosecution - Whether “prejudice” necessary to granting a stay of proceedings on the basis of the “residual category” where there is a finding of continuing or ongoing harm to the integrity of the judicial process - Scope of “continuing or ongoing harm to the integrity of the judicial process” - Threshold to be met for a stay of proceedings on the basis of a finding of prosecutorial misconduct - Circumstances in which costs against the Crown an appropriate remedy in a finding of abuse of process - Whether Court of Appeal improperly substituted its own view of the trial judge’s findings of fact.

PROCEDURAL HISTORY

April 7, 2000
Supreme Court of Nova Scotia, Trial Division
(Boudreau J.)

Applicant’s application for stay of proceedings relating to charge of unlawfully conspiring to traffic in a narcotic contrary to s. 4(1) of the *Narcotic Control Act* and contrary to s. 465(1)(c) of the *Criminal Code* granted

January 4, 2001
Supreme Court of Nova Scotia, Trial Division
(Boudreau J.)

Applicant’s request for costs granted in part: Respondent ordered to pay Applicant \$35,000 for costs

November 27, 2001
Nova Scotia Court of Appeal
(Roscoe, Chipman and Flinn JJ.A.)

Respondent’s appeals allowed: stay of proceedings and order for costs set aside, new trial ordered

January 28, 2002
Supreme Court of Canada

Application for leave to appeal filed

Émile Dejardin

c. (29005)

Ville de Varennes (Qué.)

ET ENTRE :

Habitations Turgeon Inc., Luth Balane et Émile Dejardin

c.

Ville de Longueuil (Qué.)

ET ENTRE :

Émile Dejardin

c.

Ville de Longueuil (Qué.)

ET ENTRE :

Émile Dejardin

c.

Sa Majesté la Reine (Qué.)

ET ENTRE :

Émile Dejardin

c.

Ville de Longueuil et al. (Qué.)

NATURE DE LA CAUSE

Procédure - Tribunaux - Appel - La Cour d'appel a-t-elle erré en rejetant les requêtes en suspension d'exécution de jugement, en arrêt de procédures, en rejet d'action, en rétractation de jugement, en précision de jugement, en rectification de jugement, en permission d'appeler et en irrecevabilité au motif qu'elles étaient sans mérite quant au fond? - La Cour d'appel a-t-elle erré en concluant que les démarches du requérant constituent un usage abusif du système judiciaire? - Y a-t-il atteinte en l'espèce à un droit protégé par la *Charte canadienne des droits et libertés*?

HISTORIQUE PROCÉDURAL

Le 9 octobre 2001
Cour d'appel du Québec
(Baudouin, Chamberland et Biron [*ad hoc*] jj.c.a.)

Requêtes en suspension d'exécution de jugement, en arrêt de procédures, en rejet d'action, en rétractation de jugement, en précision de jugement, en rectification de jugement, en permission d'appeler et en irrecevabilité rejetées

Le 21 novembre 2001
Cour suprême du Canada

Requête en prorogation de délai, requête en sursis et requête pour la désignation d'un procureur déposées

Le 20 mars 2002
Cour suprême du Canada

Demande d'autorisation d'appel déposée

**CORAM: Gonthier, Major and LeBel JJ. /
Les juges Gonthier, Major et LeBel**

Her Majesty the Queen

v. (29015)

Peter Fraser (Crim.) (Ont.)

NATURE OF THE CASE

Criminal Law (Non Charter) - Jury charge - Post-offence conduct - Intent - Whether trial judge adequately instructed jury on proper use of post-offence flight - Whether trial judge erred in jury charge on relevance of evidence of intoxication to issue of intent.

PROCEDURAL HISTORY

February 22, 1997
Ontario Court (General Division)
(Killeen J.)

Applicant convicted of second degree murder, co-accused acquitted

February 28, 1997
Ontario Court (General Division)
(Killeen J.)

Applicant sentenced to life imprisonment with no parole eligibility for 15 years

November 7, 2001
Court of Appeal for Ontario
(Carthy, Weiler and Feldman JJ.A.)

Appeal from acquittals dismissed; Appeal against conviction allowed, conviction quashed, new trial ordered against applicant

January 4, 2002
Supreme Court of Canada

Application for leave to appeal with respect to granting appeal from conviction filed

Myra M. D. Simanek

v. (28932)

Her Majesty the Queen (Crim.) (Ont.)

NATURE OF THE CASE

Criminal law - Sentencing - Psychiatric assessment

PROCEDURAL HISTORY

December 7, 2000 Superior Court of Justice (Then J.)	Applicant's application relating to a psychiatric assessment ordered by Marshall J. dismissed; matter remitted to Marshall J. for sentencing
October 24, 2001 Court of Appeal for Ontario (Finlayson, Austin and Sharpe JJ.A.)	Appeal dismissed
December 24, 2001 Supreme Court of Canada	Application for leave to appeal filed
Supreme Court of Canada (Major J.)	Motion for a stay of execution dismissed

Workplace Health, Safety and Compensation Commission

v. (28941)

Terrence Burrige and Daniel Meehan (Nfld.)

NATURE OF THE CASE

Administrative law - Judicial review - Labour law - Workers' compensation - Statutes - Interpretation - Applicant Commission using net from net method of CPP offset in calculating overpayment of Respondents' workers' compensation for periods commencing January 1, 1993 - Review Division overturning Commission's decisions - Appropriate standard of review of a decision of the Review Division in a case where the Review Division interprets a particular provision of the *Workplace Health, Safety and Compensation Act* - Under the statutory direction in s. 81(4) of the Act, whether the Commission may alter the manner in which CPP benefits are taken into account in a case where the Commission had not previously determined the effect of CPP benefits prior to the transition date of January 1, 1993 - *Workplace Health, Safety and Compensation Act*, R.S.N. 1990, c. W-11, s. 81(4).

PROCEDURAL HISTORY

December 24, 1999 Supreme Court of Newfoundland, Trial Division (Orsborn J.)	Decisions of Review Commissioner and Chief Review Commissioner set aside
September 28, 2001 Court of Appeal of Newfoundland	Respondents' appeal allowed: decisions of the Review Commissioners restored

(O'Neill, Steele and Cameron J.J.A.)

November 27, 2001
Supreme Court of Canada

Application for leave to appeal filed

MAY 13, 2002 / LE 13 MAI 2002

CORAM: Le Juge en chef et les juges L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour et LeBel JJ.

Procureur général du Québec

Daniel Grégoire et Gilles Laporte pour le demandeur.

c. (28923)

R.C. (Crim.) (Qué.)

Pierre Gagnon pour l'intimé.

REVOYÉE À LA COUR D'APPEL / REMANDED TO THE COURT OF APPEAL

LE JUGE EN CHEF (oralement):

[TRANSLATION] THE CHIEF JUSTICE (orally):

La requête pour permission d'en appeler est renvoyée à la Cour d'appel du Québec pour qu'elle se prononce sur la demande d'autorisation de pourvoi des jugements rendus par la Cour supérieure sous l'autorité de l'article 676.1 du *Code criminel*. Motifs à suivre.

The motion for leave to appeal is referred to the Quebec Court of Appeal so that it may rule on the application for leave to appeal the judgments rendered by the Superior Court pursuant to s. 676.1 of the *Criminal Code*. Reasons to follow.

NATURE DE LA CAUSE

NATURE OF THE CASE

Charte canadienne des droits et libertés - Droit criminel - Procédure - Appel - Compétence - Droit à l'avocat - Art. 7 et 11d) de la *Charte* - La Cour supérieure a-t-elle erré en reconnaissant à l'intimé un droit constitutionnel à la représentation par avocat aux frais de l'État à l'étape de l'enquête pour remise en liberté? - La Cour supérieure pouvait-elle ordonner à l'État de fournir les services d'un avocat à l'intimé en s'attardant uniquement aux intérêts de celui-ci et en ne tenant aucunement compte des intérêts de la société, notamment des limites à la capacité de l'État de payer? - La Cour supérieure pouvait-elle dicter au Gouvernement les mécanismes de prestation des services? - La décision de la Cour supérieure peut-elle faire l'objet d'un appel à la Cour suprême?

Canadian Charter of Rights and Freedoms - Criminal Law - Procedural Law - Appeals - Jurisdiction - Right to legal counsel - Sections 7 and 11(d) of the *Charter* - Whether the Superior Court erred in holding that the Respondent has a constitutional right to representation by a publicly funded lawyer at stage of hearing for judicial interim release - Whether the Superior Court had the authority to order the state to provide the services of a lawyer to the Respondent by looking only at his interests and not taking into account the interests of society, notably, the ability of the state to pay - Whether the Superior Court had the authority to dictate to the government the mechanism for providing this benefit - Whether the decision of the Superior Court can be appealed to the Supreme Court of Canada.

CORAM: Le Juge en chef et les juges L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour et LeBel JJ.

Procureur général du Québec

c. (29121)

Sébastien Beauchamp et autres (Crim.) (Qué.)

Daniel Grégoire, Gilles Laporte, Patrice Peltier-Rivest et Sébastien Bergeron-Guyard pour le demandeur.

Christian Desrosiers et Alexandre Boucher pour les intimés.

RENOYÉE À LA COUR D'APPEL / REMANDED TO THE COURT OF APPEAL

LE JUGE EN CHEF (oralement):

[TRANSLATION] THE CHIEF JUSTICE (orally):

La requête pour permission d'en appeler est renvoyée à la Cour d'appel du Québec pour qu'elle se prononce sur la demande d'autorisation de pourvoi des jugements rendus par la Cour supérieure sous l'autorité de l'article 676.1 du *Code criminel*. Motifs à suivre.

The motion for leave to appeal is referred to the Quebec Court of Appeal so that it may rule on the application for leave to appeal the judgments rendered by the Superior Court pursuant to s. 676.1 of the *Criminal Code*. Reasons to follow.

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Procédure - Appel - Compétence - Droit à un procès équitable - Majoration du tarif d'aide juridique - Art. 7 et 11d) de la *Charte* - La décision de la Cour supérieure peut-elle faire l'objet d'un appel à la Cour suprême en vertu du par. 40(1) de la *Loi sur la Cour suprême du Canada*? - La Cour supérieure a-t-elle erré en concluant que les intimés avaient rencontré leur fardeau de démontrer une violation de leur droit à un procès équitable? - La Cour supérieure a-t-elle erré en omettant de tenir compte et de respecter les dispositions du régime québécois de l'aide juridique qui permettent aux personnes admissibles d'obtenir les services d'un avocat compétent? - La Cour supérieure a-t-elle erré en substituant un nouveau régime parallèle d'aide juridique à celui déjà prévu par le législateur québécois?

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Procedure - Appeal - Jurisdiction - Right to a fair trial - Increase in legal aid tariff - Sections 7 and 11(d) of the *Charter* - Whether Superior Court's decision can be appealed to the Supreme Court under s. 40(1) of the *Supreme Court of Canada Act* - Whether Superior Court erred in finding that the Respondents had met their onus of establishing an infringement of their right to a fair trial - Whether Superior Court erred in failing to take into account and comply with the provisions of the Quebec legal aid plan which allow eligible persons to obtain the services of a competent lawyer - Whether Superior Court erred in substituting a new legal aid system parallel to the one already provided for by the Quebec legislature.

MAY 16, 2002 / LE 16 MAI 2002

28826 Canadian Cable Television Association - v. - Barrie Public Utilities, Essex Public Utilities Commission, Guelph Hydro, Innisfil Hydro, Leamington Public Utilities Commission, Markham Hydro Electric Commission, Mississauga Hydro Electric Commission, Niagara-on-the-Lake Hydro Electric Commission, The Hydro Electric Commission of North Bay, Oakville Hydro, Orillia Water, Light and Power, Perth Public Utilities Commission, Richmond Hill Hydro Electric Commission, Shelburne Hydro, Stoney Creek Hydro-Electric Commission, Stratford Public Utility Commission, Toronto Hydro-Electric Commission (formerly Hydro Electric Commission of the City of North York and the Public Utilities Commission of the City of Scarborough), Waterloo North Hydro and Kitchener-Wilmot Hydro - and - Canadian Radio-Television and Telecommunications Commission, Saskatchewan Power Corporation, Attorney General of New Brunswick and Attorney General of Canada (FC) (Civil)

CORAM: The Chief Justice, L'Heureux-Dubé and Bastarache JJ.

The application for leave to appeal is granted with costs to the applicant in any event of the cause.

La demande d'autorisation d'appel est accordée avec dépens en faveur de la demanderesse quelle que soit l'issue de l'appel.

NATURE OF THE CASE

Constitutional law - Division of powers - Statutes - Interpretation - Administrative law - Judicial review - CRTC order granting television cable companies access to poles owned by provincial utility companies at fixed rate - Does ss. 43(5) of the *Telecommunications Act*, S.C. 1993, c. 38, confer authority on the CRTC to regulate access by cable companies and telecommunications carriers to power utility support structures - Does Parliament have constitutional authority to regulate access by federal communications undertakings to electric power utility support structures - Appropriate standard of review of CRTC decision.

PROCEDURAL HISTORY

September 28, 1999
Canadian Radio-television and Telecommunications
Commission (CRTC)

Order granting access to Respondents' poles

July 13, 2001
Federal Court of Appeal
(Desjardins, Rothstein and Sharlow JJ.A.)

Appeal allowed; decision set aside; Applicant's application
before CRTC dismissed

September 28, 2001
Supreme Court of Canada

Application for leave to appeal filed

28964 **Léo-René Maranda - c. - Caporal Normand Leblanc, ès qualités de dénonciateur** (Qué.)
(Criminelle)

CORAM: Le Juge en chef et les juges Iacobucci et Arbour

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Droit Criminel - Preuve - Privilège des communications entre avocat et client - Procédure - Saisie - Perquisition et saisie dans un cabinet d'avocat - Le montant des honoraires versés à un avocat par un client pour assurer sa défense à une accusation criminelle est-il un renseignement protégé par le privilège du secret professionnel de l'avocat? - Le fait qu'une personne a payé des honoraires professionnels à un avocat pour se défendre d'une accusation criminelle peut-il être utilisé en preuve par la poursuite pour établir une accusation de recel des produits de la criminalité sans violer la *Charte canadienne des droits et libertés*? - Le juge de paix excède-t-il sa compétence s'il émet un mandat visant un cabinet d'avocat en l'absence d'une preuve qu'il n'existe pas d'alternative à la perquisition? - Le juge de paix excède-t-il sa compétence s'il ne fixe pas comme condition de l'exécution du mandat qu'une occasion raisonnable soit offerte à l'avocat d'être présent lors de l'exécution du mandat? - La Cour d'appel a-t-elle commis une erreur en décidant que l'exception de crime s'appliquait?

HISTORIQUE PROCÉDURAL

Le 2 décembre 1997
Cour supérieure du Québec
(Béliveau j.c.s.)

Requête du demandeur en *certiorari* accueillie; mandat de perquisition ainsi que la perquisition et saisie déclarés nuls et abusifs

Le 12 octobre 2001
Cour d'appel du Québec
(Rothman, Proulx et Biron [*ad hoc*] jj.c.a.)

Appel accueilli

Le 10 décembre 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

29083 **Her Majesty the Queen - v. - Steven Keith Mitchell** (B.C.) (Criminal)

CORAM: The Chief Justice, Iacobucci and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Sentencing - Dangerous offender - Long term offender - Retrospectivity - Whether the court of appeal for British Columbia erred by narrowing the definition of dangerous offender? - Whether the court of appeal erred in holding that only offenders for whom there is no reasonable possibility of cure or control within the length of a determinate or long-term offender sentence are to be designated dangerous offenders? - Whether the majority of the court of appeal erred in holding that the long-term offender provisions constitute a lesser punishment?

PROCEDURAL HISTORY

August 27, 1998 Supreme Court of British Columbia (Quijano J.)	Respondent declared a dangerous offender; Respondent sentenced to an indeterminate period of imprisonment.
January 25, 2002 Court of Appeal of British Columbia (Prowse , Saunders and Low JJ.A.)	Appeal allowed; new hearing ordered.
February 25, 2002 Supreme Court of Canada	Application for leave to appeal filed.

29140 **Her Majesty the Queen - v. - Michael Edward Kelly** (B.C.) (Criminal)

CORAM: The Chief Justice, Iacobucci and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Sentencing - Dangerous offender - Long term offender - Whether the court of appeal for British Columbia erred by narrowing the definition of dangerous offender? - Whether the court of appeal erred in holding that only offenders for whom there is no reasonable possibility of cure or control within the length of a determinate or long-term offender sentence are to be designated dangerous offenders? - Whether the majority of the court of appeal erred in ordering a new hearing without considering whether, on the evidence, the result would necessarily have been the same if the long-term offender provisions had been applied?

PROCEDURAL HISTORY

May 3, 2000 Provincial Court of British Columbia (Rodgers J.)	Respondent declared a dangerous offender and sentenced to an indeterminate period of incarceration.
February 14, 2002 Court of Appeal of British Columbia (Finch C.J.B.C., Hollinrake and Thackray JJ.A.)	Appeal allowed; dangerous offender designation and indeterminate sentence set aside; new hearing ordered.
March 26, 2002 Supreme Court of Canada	Application for leave to appeal filed.

28829 **Geoffrey Saldanha and Leueen Saldanha - v. - Frederick H. Beals III and Patricia Beals - and between - Dominic Thivy - v. - Patricia Beals and Frederick H. Beals III** (Ont.) (Civil)

CORAM: L'Heureux-Dubé, Bastarache and Binnie JJ.

The applications for leave to appeal are granted.

Les demandes d'autorisation d'appel sont accordées.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - International law - Conflict of laws - Commercial law - Fraud - Procedural law - Default judgment - Public policy and natural justice - *Morguard Investments Ltd. v. De Savoye* (1991), 76 D.L.R. (4TH) 256 (S.C.C.) - Whether the ability of foreign courts to take jurisdiction over Canadian residents under the "real and substantial" test in *Morguard* should be re-examined, in a situation where the possibility exists of fraud regarding the process by which the judgment was obtained - Whether Canadian courts should give a broader interpretation to the defences of public policy and natural justice, as raised in the *Morguard* judgment, which referred to "fairness to the defendant through fair process" and remedies being available to foreign default judgments in certain cases where public policy issues are raised - Whether the failure of the defendants to appear in foreign proceedings estops them from seeking redress for failings in the processes of the foreign court, which ultimately results in a denial of fundamental justice

PROCEDURAL HISTORY

November 6, 1998 Ontario Court of Justice (Jennings J.)	Respondents' action seeking to enforce, in Ontario, a judgment obtained in Florida dismissed
June 29, 2001 Court of Appeal for Ontario (Catzman, Doherty and Weiler JJ.A.)	Appeal allowed; judgment for Respondents in the amount of \$556,185. (U.S. funds)
September 27, 2001 Supreme Court of Canada	First application for leave to appeal filed
September 28, 2001 Supreme Court of Canada	Second application for leave to appeal filed

29058 **Mansour Ahani - v. - The Minister of Citizenship & Immigration** (Ont.) (Civil)

CORAM: L'Heureux-Dubé, Bastarache and Binnie JJ.

The application for leave to appeal is dismissed, L'Heureux-Dubé J. dissenting.

La demande d'autorisation d'appel est rejetée. Le juge L'Heureux-Dubé est dissidente.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Immigration law - Deportation - Stay of deportation order sought - Petition to the United Nations Human Rights Committee under the Optional Protocol to the *International Covenant on Civil and Political Rights* - Human Rights Committee interim request that deportation be stayed - Whether as a matter of fairness,

under s. 7 of the *Charter*, an individual is entitled to exhaust an international remedy - Whether the principle of legitimate expectation extends to international remedies.

PROCEDURAL HISTORY

January 15, 2002
Superior Court of Justice
(Dambrot J.)

Applicant's application for an injunction restraining his deportation pending the United Nations Human Rights Committee's decision, dismissed

January 17, 2002
Court of Appeal for Ontario
(Feldman J.A.)

Applicant's deportation order stayed pending the hearing of the appeal

February 8, 2002
Court of Appeal for Ontario
(Laskin, Charron and Rosenberg JJ.A.)

Appeal dismissed; cross-appeal dismissed; Applicant's request for a stay pending the application for leave to appeal to the Supreme Court of Canada granted

March 4, 2002
Supreme Court of Canada

Application for leave to appeal filed

March 7, 2002
Supreme Court of Canada
(Bastarache J.)

Motion for a stay of execution granted

7.5.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the applicant's reply

Requête en prorogation du délai imparti pour signifier et déposer la réplique du demandeur

Kevin Shapwaykeesic

v. (29141)

Her Majesty the Queen (Crim.) (Ont.)

GRANTED / ACCORDÉE Time extended to May 6, 2002.

8.5.2002

Before / Devant: THE REGISTRAR

Miscellaneous motion

Autre requête

R.R.

v. (28933)

Her Majesty the Queen (Crim.) (Ont.)

GRANTED / ACCORDÉE The motion for an order permitting the appellant to file his record without being bound by cerlox binding, with the pages numbered and devoid of heading and tabs and to reduce the number of copies to 14, is granted.

8.5.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intimée

Warren James Jarvis

v. (28378)

Her Majesty the Queen (Crim.) (Alta.)

GRANTED / ACCORDÉE Time extended to April 22, 2002.

8.5.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intimée

Chee K. Ling

v. (28315)

Her Majesty the Queen (B.C.)

GRANTED / ACCORDÉE Time extended to April 22, 2002.

9.5.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondents' record, factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et recueil de jurisprudence et de doctrine des intimés

The Corporation of the City of Ottawa

v. (28469)

Ken Goudie, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to April 26, 2002.

9.5.2002

Before / Devant: The REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener the Attorney General of Ontario

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intervenant le procureur général de l'Ontario

David Albert Siemens, et al.

v. (28416)

The Attorney General of Manitoba, et al. (Man.)

GRANTED / ACCORDÉE Time extended to May 31, 2002.

9.5.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's record and factum

Requête en prorogation du délai imparti pour signifier et déposer les dossier et mémoire de l'appelante

Bell Canada

v. (28743)

Canadian Telephone Employees Association, et al.
(F.C.)

GRANTED / ACCORDÉE Time extended to 21 days following the decision on the motion to state constitutional questions.

9.5.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's record and factum

Requête en prorogation du délai imparti pour signifier et déposer les dossier et mémoire de l'appelant

Government of the Northwest Territories

v. (28737)

Public Service Alliance of Canada, et al. (F.C.)

GRANTED / ACCORDÉE Time extended to 10 days following the decision on the motion to state constitutional questions.

10.5.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellants' factum

Requête en prorogation du délai imparti pour signifier et déposer le mémoire des appelants

K.L.B., et al.

v. (28612)

Her Majesty the Queen in Right of the Province of British Columbia (B.C.)

GRANTED / ACCORDÉE Time extended to May 21, 2002.

10.5.2002

Before / Devant: IACOBUCCI J.

Motion by the respondent for an order to permit filing of supplementary materials and for additional time to present oral argument

Requête de l'intimé en obtention d'une ordonnance autorisant le dépôt des documents supplémentaires et en prorogation du temps alloué pour les plaidoiries

The Commissioner of Patents

v. (28155)

The President and Fellows of Harvard College (F.C.)

GRANTED IN PART / ACCORDÉE EN PARTIE

UPON APPLICATION by the respondent The President and Fellows of Harvard College for leave to file a supplementary factum and book of authorities, and for 30 minutes of additional time for oral argument in the above appeal;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

1. The application for leave to file a supplementary factum of 22 pages in response to the submissions made in the facta filed by the four groups of public interest interveners is granted;
2. The application for leave to file a supplementary book of authorities, containing only those additional authorities or excerpts of authorities not contained in the books of authorities already filed by the appellant, respondent and interveners is granted.
3. The application for an additional 30 minutes of time to make oral argument is dismissed.

10.5.2002

Before / Devant: IACOBUCCI J.

Motion to extend the time in which to serve and file the application for leave

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

Noël Ayangma

v. (29168)

The P.E.I. Human Rights Commission, et al. (P.E.I.)

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS

UPON APPLICATION by the applicant Noël Ayangma for an extension of time to serve and file an application for leave to appeal within 60 days from the date of the decision of the Board of Inquiry established by the P.E.I. Human Rights Commission as ordered by the P.E.I. Court of Appeal judgment of March 4, 2002,

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The application for an extension of time to serve and file an application for leave to appeal is dismissed with costs.

2.5.2002

Servier Canada Inc.

c. (29115)

Yolande Hotte (Qué.)

3.5.2002

Léonard Speer

c. (28848)

Richard Corriveau (Qué.)

8.5.2002

Fellowes, McNeil

v. (28199)

**Kansa General International Insurance Company, et
al. (Ont.)**

(appeal)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

**APPELS ENTENDUS DEPUIS LA
DERNIÈRE PARUTION ET
RÉSULTAT**

14.5.2002

CORAM: Chief Justice McLachlin and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

B., et al.

v. (28383)

A., et al. (Ont.) (Civil) (By Leave)

Edward A. Canning and Sean T. Jackson for the appellants.

Naomi Overend and Joanne Rosen for the respondent Ontario Human Rights Commission.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Civil rights - Discrimination - Family status and marital status - Employee fired after his daughter, supported by her mother, made allegations of sexual abuse by the employer - Employer is the brother of the wife and uncle to the daughter - Whether the term "marital status" and "family status" as defined in Ontario's *Human Rights Code* is broad enough to include the particular identity of one's spouse and child - Whether Court of Appeal erred in concluding that "discrimination" within the meaning of the *Ontario Human Rights Code* had been proved.

Nature de la cause:

Libertés publiques - Discrimination - État familial et état matrimonial - Un employé a été congédié après que sa fille, appuyée par sa mère, eut allégué avoir été agressée sexuellement par l'employeur - L'employeur est le frère de l'épouse de l'employé et l'oncle de sa fille - Les termes « état matrimonial » et « état familial » définis dans le *Code des droits de la personne* de l'Ontario sont-ils suffisamment larges pour inclure l'identité particulière du conjoint et de l'enfant d'une personne? - La Cour d'appel a-t-elle commis une erreur lorsqu'elle a conclu qu'on avait prouvé qu'il y avait eu « discrimination » au sens du *Code des droits de la personne* de l'Ontario?

14.5.2002

CORAM: Le Juge en chef et les juges L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour et LeBel JJ.

Camille Noël

c. (28734)

**Sa Majesté la Reine (Qué.) (Criminelle)
(De plein droit)**

Josée Ferrari pour l'appelant.

Henri-Pierre Labrie et Michel Breton pour l'intimée.

EN DÉLIBÉRÉ / RESERVED

Nature de la cause:

Droit criminel - Preuve - Exposé au jury - Fardeau de preuve - Doute raisonnable - Témoins experts - Contre-interrogatoire - Le juge de procès a-t-il commis une erreur dans ses directives au jury concernant le fardeau de preuve et la notion de doute raisonnable? - Le juge de procès a-t-il commis une erreur en donnant des directives insuffisantes quant à la preuve de témoins experts? - La majorité de la Cour d'appel a-t-elle erré en concluant que le contre-interrogatoire de l'accusé n'était pas irrégulier, en ce qui a trait à l'application de l'art. 13 de la *Charte canadienne des droits et libertés* et de l'art. 5 de la *Loi sur la preuve au Canada*?

Nature of the case:

Criminal law - Evidence - Charge to jury - Onus of proof - Reasonable doubt - Expert witnesses - Cross-examination - Did the trial judge err in the charge to the jury concerning the onus of proof and the concept of reasonable doubt? - Did the trial judge err by giving inadequate instructions concerning the evidence of expert witnesses? - Did the majority in the Court of Appeal err in finding that the accused's cross-examination was not irregular with respect to the application of s. 13 of the *Canadian Charter of Rights and Freedoms* and s. 5 of the *Canada Evidence Act*?

MAY 14, 2002 / LE 14 MAI 2002

27427 Janine Bailey - v. - Her Majesty the Queen in Right of Canada, The Public Service Commission - and between - Elisabeth Lavoie, Jeanne To-Thanh-Hien - v. - Her Majesty the Queen in Right of Canada, The Public Service Commission - and - Center for Research-Action on Race Relations ["CRARR"] (FC) (Civil)

CORAM: The Chief Justice and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

The application for a rehearing is dismissed with costs.

La demande de nouvelle audition est rejetée avec dépens.

26980 Robert William Latimer - v. - Her Majesty the Queen - and - Canadian AIDS Society, The Evangelical Fellowship of Canada, Christian Medical Dental Society, Physicians for life, Canadian Civil Liberties Association, Council of Canadians with disabilities, Saskatchewan voice of people with disabilities, Canadian Association for Community Living, People in Equal Participation Inc., DAWN Canada: Disabled Women's Network Canada and People First of Canada, Catholic Group for Health, Justice and Life, Attorney General of Canada and Attorney General for Ontario (Sask.) (Criminal)

CORAM: The Chief Justice and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Binnie and Arbour JJ.

The application for an extension of time is granted. The application for a rehearing is dismissed.

La demande de prorogation de délai est accordée. La demande de nouvelle audition est rejetée.

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

Pursuant to Rule 23.1 of the *Rules of the Supreme Court of Canada*, the following deadlines must be met before a motion before the Court can be heard:

Motion day : June 10, 2002

Service : May 17, 2002

Filing : May 24, 2002

Respondent : May 31, 2002

DEVANT LA COUR:

Conformément à l'article 23.1 des *Règles de la Cour suprême du Canada*, les délais suivants doivent être respectés pour qu'une requête soit entendue par la Cour :

Audience du : 10 juin 2002

Signification : 17 mai 2002

Dépôt : 24 mai 2002

Intimé : 31 mai 2002

DEADLINES: APPEALS

DÉLAIS: APPELS

Pursuant to the *Supreme Court Act* and *Rules*, the following requirements for filing must be complied with before an appeal can be inscribed for hearing:

Appellant's record; appellant's factum; and appellant's book(s) of authorities must be filed within four months of the filing of the notice of appeal.

Respondent's record (if any); respondent's factum; and respondent's book(s) of authorities must be filed within eight weeks of the date of service of the appellant's factum.

Intervener's factum and intervener's book(s) of authorities, if any, must be filed within four weeks of the date of service of the respondent's factum, unless otherwise ordered.

Parties' condensed book, if required, must be filed on or before the day of hearing of the appeal.

The Supreme Court of Canada has enacted new rules that will come into force on June 28, 2002.

Please consult the Notice to the Profession of April 2002 for further information.

The Registrar shall inscribe the appeal for hearing upon the filing of the respondent's factum or after the expiry of the time for filing the respondent's factum.

Conformément à la *Loi sur la Cour suprême* et aux *Règles*, il faut se conformer aux exigences suivantes avant qu'un appel puisse être inscrit pour audition:

Le dossier de l'appellant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois du dépôt de l'avis d'appel.

Le dossier de l'intimé (le cas échéant), son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les huit semaines suivant la signification du mémoire de l'appellant.

Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine, le cas échéant, doivent être déposés dans les quatre semaines suivant la signification du mémoire de l'intimé, sauf ordonnance contraire.

Le recueil condensé des parties, le cas échéant, doivent être déposés au plus tard le jour de l'audition de l'appel.

La Cour suprême du Canada a adopté de nouvelles règles qui entreront en vigueur le 28 juin 2002.

Veillez consulter l'avis aux avocats du mois d'avril 2002 pour plus de renseignements.

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai pour le dépôt du mémoire de l'intimé.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2001 -

OCTOBER - OCTOBRE						
S D	M L	T M	W M	T J	F V	S S
	M 1	2	3	4	5	6
7	H 8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

NOVEMBER - NOVEMBRE						
S D	M L	T M	W M	T J	F V	S S
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18	19	20	21	22	23	24
25	26	27	28	29	30	

DECEMBER - DECEMBRE						
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30	31					

- 2002 -

JANUARY - JANVIER						
S D	M L	T M	W M	T J	F V	S S
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FEBRUARY - FÉVRIER						
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MARCH - MARS						
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APRIL - AVRIL						
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MAY - MAI						
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JUNE - JUIN						
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9	M 10	11	12	13	14	15
16	17	18	19	20	21	22
23 30	24	25	26	27	28	29

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour

79 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

2 holidays during sitting days / jours fériés durant les sessions