

SUPREME COURT OF CANADA -- JUDGMENTS IN APPEALS

OTTAWA, 2008-02-29. THE SUPREME COURT OF CANADA HAS TODAY DEPOSITED WITH THE REGISTRAR JUDGMENT IN THE FOLLOWING APPEALS.
FROM: SUPREME COURT OF CANADA (613) 995-4330

COUR SUPRÈME DU CANADA -- JUGEMENTS SUR APPELS

OTTAWA, 2008-02-29. LA COUR SUPRÈME DU CANADA A DÉPOSÉ AUJOURD'HUI AUPRÈS DE LA REGISTRAIRE LES JUGEMENTS DANS LES APPELS SUIVANTS.
SOURCE: COUR SUPRÈME DU CANADA (613) 995-4330

COMMENTS/COMMENTAIRES: comments@scc-csc.gc.ca

(Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:

<http://scc.lexum.umontreal.ca/en/2008/2008scc6/2008scc6.html>

<http://scc.lexum.umontreal.ca/fr/2008/2008csc6/2008csc6.html>

31692 Michael Esty Ferguson v. Her Majesty the Queen - and - Attorney General of Canada, Attorney General of Ontario, Attorney General of Quebec and Canadian Civil Liberties Association (Alta.)
2008 SCC 6 / 2008 CSC 6

Coram: McLachlin C.J. and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

The appeal from the judgment of the Court of Appeal of Alberta (Calgary), Number 0501-0001-A, 2006 ABCA 261, dated September 25, 2006, heard on November 13, 2007, is dismissed.

The constitutional questions are answered as follows:

1. Does the mandatory minimum sentence prescribed by s. 236(a) of the *Criminal Code*, R.S.C. 1985, c. C-46, constitute cruel and unusual punishment in the appellant's case, in violation of s. 12 of the *Canadian Charter of Rights and Freedoms*?

Answer: No.

2. If so, is the infringement a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society under s. 1 of the *Canadian Charter of Rights and Freedoms*?

Answer: It is not necessary to answer the question.

3. If the answer to Question 2 is "no", does Canadian law recognize the availability of a constitutional exemption on a case-by-case basis from the statutory mandatory minimum sentence set out in s. 236(a) of the *Criminal Code*, R.S.C. 1985, c. C-46?

Answer: No.

L'appel interjeté contre l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéro 0501-0001-A, 2006 ABCA 261, en date du 25 septembre 2006, entendu le 13 novembre 2007, est rejeté.

Les questions constitutionnelles reçoivent les réponses suivantes :

1. Infliger à l'appelant la peine minimale prévue à l'al. 236a) du *Code criminel*, L.R.C. 1985, ch. C-46, équivaut-il à lui infliger une peine cruelle et inusitée contrairement à l'art. 12 de la *Charte canadienne des droits et libertés*?

Réponse: Non.

2. Dans l'affirmative, cette atteinte constitue-t-elle une restriction raisonnable prescrite par une règle de droit dont la justification peut se démontrer dans une société libre et démocratique au regard de l'article premier de la *Charte canadienne des droits et libertés*?

Réponse: Il n'est pas nécessaire de répondre à cette question.

3. Si la réponse à la deuxième question est négative, le droit canadien permet-il d'écartier, dans un cas donné, sur le fondement de la Constitution, la peine minimale prévue à l'al. 236a) du *Code criminel*, L.R.C. 1985, ch. C-46?

Réponse: Non.

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<http://scc.lexum.umontreal.ca/fr/2008/2008csc7/2008csc7.html>

31661 620 Connaught Ltd., operating as Downstream Bar, 263053 Alberta Ltd., operating as Miss Italia Ristorante, 313769 Alberta Ltd., operating as Jasper House Bungalows, 659510 Alberta Ltd., operating as Buckles Restaurant and Saloon, Alex Holdings Ltd., operating as Something Else Restaurant, Alpine Grill Ltd., operating as Alpine Grill Restaurant, Athabasca Motor Hotel (1972) Ltd., operating as Athabasca Hotel, Lina and Claudio Holdings Ltd., operating as Beckers Gourmet Restaurant, Cantonese Restaurant Ltd., Earls Restaurant (Jasper) Ltd., Fiddle River Seafood Company Ltd., George Andrew & Sons Ltd., operating as Astoria Hotel Company Limited, Glacier International Ltd., operating as Whistlers Inn, Husereau Restaurant Holdings Inc., operating as Tekarra Restaurant, Jasper Inn Investments Ltd., operating as The Inn Restaurant, Kabos Holding Ltd., operating as Karouzos Steakhouse, Kontos Investments Ltd., operating as Kontos Restaurant, L & W Vlahos Holdings Ltd., operating as L & W Restaurant, La Fiesta Restaurant Ltd., Larry Holdings Ltd., operating as Mount Robson Restaurant, Maligne Tours Ltd., Sawridge Enterprises Inc., operating as Sawridge Inn & Conference Center, T.C. Restaurants Ltd., operating as Villa Caruso Steak House & Bar and Tonquin Prime Rib Village Ltd. v. Attorney General of Canada, Minister of Environment, Superintendent of Jasper National Park and Parks Canada Agency - and - Attorney General of Ontario (F.C.) 2008 SCC 7 / 2008 CSC 7

Coram: McLachlin C.J. and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

The appeal from the judgment of the Federal Court of Appeal, Number A-400-05, 2006 FCA 252, dated July 6, 2006, heard on November 16, 2007, is dismissed with costs.

L'appel interjeté contre larrêt de la Cour d'appel fédérale, numéro A-400-05, 2006 CAF 252, en date du 6 juillet 2006, entendu le 16 novembre 2007, est rejeté avec dépens.