

SUPREME COURT OF CANADA -- JUDGMENTS IN APPEALS AND LEAVE APPLICATIONS

OTTAWA, 2/4/98. THE SUPREME COURT OF CANADA HAS TODAY DEPOSITED WITH THE REGISTRAR JUDGMENTS IN THE FOLLOWING APPEALS AND APPLICATIONS FOR LEAVE TO APPEAL.

FROM: SUPREME COURT OF CANADA (613)995-4330

COUR SUPRÊME DU CANADA -- JUGEMENTS DANS POURVOIS ET DEMANDES D'AUTORISATION

OTTAWA, 2/4/98. LA COUR SUPRÊME DU CANADA A DÉPOSÉ AUJOURD'HUI AUPRÈS DU REGISTRAIRE LES JUGEMENTS DANS LES APPELS ET LES DEMANDES D'AUTORISATION D'APPEL SUIVANTS.

SOURCE: COUR SUPRÊME DU CANADA (613)995-4330

APPEALS / APPELS:

25177 **JOHN DAVID LUCAS AND JOHANNA ERNA LUCAS v. HER MAJESTY THE QUEEN AND THE ATTORNEY GENERAL OF CANADA, THE ATTORNEY GENERAL FOR ONTARIO, THE ATTORNEY GENERAL OF MANITOBA AND THE CANADIAN CIVIL LIBERTIES ASSOCIATION** (Crim.)(Sask.)

CORAM: The Chief Justice and L'Heureux-Dubé, Sopinka,* Gonthier, Cory, McLachlin, Iacobucci, Major and Bastarache JJ.

The appeal of John David Lucas is dismissed. The appeal of Johanna Erna Lucas is dismissed, McLachlin and Major JJ. dissenting.

Le pourvoi de John David Lucas est rejeté. Le pourvoi de Johanna Erna Lucas est rejeté, les juges McLachlin et Major sont dissidents.

* Sopinka J. took no part in the judgment. / Le juge Sopinka n'a pas pris part au jugement.

25285 **DELWIN VRIEND AND GALA-GAY AND LESBIAN AWARENESS SOCIETY OF EDMONTON AND GAY AND LESBIAN COMMUNITY CENTRE OF EDMONTON SOCIETY AND DIGNITY CANADA DIGNITÉ FOR GAY CATHOLICS AND SUPPORTERS v. HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA AND HER MAJESTY'S ATTORNEY GENERAL IN AND FOR THE PROVINCE OF ALBERTA and THE ATTORNEY GENERAL OF CANADA, THE ATTORNEY GENERAL FOR ONTARIO, THE ALBERTA CIVIL LIBERTIES ASSOCIATION, EQUALITY FOR GAYS AND LESBIANS EVERYWHERE (EGALE), THE WOMEN'S LEGAL EDUCATION AND ACTION FUND (LEAF), THE FOUNDATION FOR EQUAL FAMILIES, THE CANADIAN HUMAN RIGHTS COMMISSION, THE CANADIAN LABOUR CONGRESS, THE CANADIAN BAR ASSOCIATION - ALBERTA BRANCH, THE CANADIAN ASSOCIATION OF STATUTORY HUMAN RIGHTS AGENCIES (CASHRA), THE CANADIAN AIDS SOCIETY, THE ALBERTA AND NORTHWEST CONFERENCE OF THE UNITED CHURCH OF CANADA, THE CANADIAN JEWISH CONGRESS, THE CHRISTIAN LEGAL FELLOWSHIP, THE ALBERTA FEDERATION OF WOMEN UNITED FOR FAMILIES, THE EVANGELICAL FELLOWSHIP OF CANADA AND FOCUS ON THE FAMILY (CANADA) ASSOCIATION** (Alta.)

CORAM: The Chief Justice and L'Heureux-Dubé, Sopinka*, Gonthier, Cory,

McLachlin, Iacobucci, Major and Bastarache JJ.

The appeal is allowed, the cross-appeal is dismissed, and the judgment of the Alberta Court of Appeal is set aside with party-and-party costs throughout, Major J. dissenting in part on the appeal.

The answers to the constitutional questions are as follows:

1. Do (a) decisions not to include sexual orientation or (b) the non-inclusion of sexual orientation, as a prohibited ground of discrimination in the preamble and ss. 2(1), 3, 4, 7(1), 8(1), 10 and 16(1) of the *Individual's Rights Protection Act*, R.S.A. 1980, c. I-2, as am., now called the *Human Rights, Citizenship and Multiculturalism Act*, R.S.A. 1980, c. H-11.7, infringe or deny the rights guaranteed by s. 15(1) of the *Canadian Charter of Rights and Freedoms*?

Answer: Yes. Major J. would answer “yes” with respect to ss. 7(1), 8(1) and 10 only and finds it unnecessary to answer the question with respect to the other provisions.

2. If the answer to Question 1 is “yes”, is the infringement or denial demonstrably justified as a reasonable limit pursuant to s. 1 of the *Canadian Charter of Rights and Freedoms*?

Answer: No.

Le pourvoi principal est accueilli, le pourvoi incident est rejeté et le jugement de la Cour d’appel de l’Alberta est annulé avec dépens sur la base de frais entre parties devant toutes les cours. Le juge Major est dissident en partie quant au pourvoi principal.

Les questions constitutionnelles reçoivent les réponses suivantes:

1. Est-ce que a) soit la décision de ne pas inclure l’orientation sexuelle, b) soit la non-inclusion de l’orientation sexuelle, en tant que motif de discrimination illicite dans le préambule et dans les art. 2(1), 3, 4, 7(1), 8(1), 10 et 16(1) de l’*Individual’s Rights Protection Act*, R.S.A. 1980, ch. I-2, modifiée, intitulée maintenant *Human Rights, Citizenship and Multiculturalism Act*, R.S.A. 1980, ch. H-11.7, a pour effet de nier les droits garantis par le par. 15(1) de la *Charte canadienne des droits et libertés*, ou d’y porter atteinte?

Réponse: Oui. Le juge Major répondrait «oui», mais uniquement à l’égard des art. 7(1), 8(1) et 10, et il estime inutile de répondre à la question dans le cas des autres dispositions.

2. Si la réponse à la question 1 est «oui», est-ce que la négation ou l’atteinte peut être justifiée en tant que limite raisonnable au sens de l’article premier de la *Charte canadienne des droits et libertés*?

Réponse: Non.

* Sopinka J. took no part in the judgment. / Le juge Sopinka n’a pas pris part au jugement.

APPLICATIONS FOR LEAVE / LES DEMANDES D'AUTORISATION:

26369 **ADBUSTERS MEDIA FOUNDATION - v. - CANADIAN BROADCASTING CORPORATION**
(B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

26311 **PAUL ARSENAULT - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

26429 **IN THE MATTER OF THE APPEAL OF 412316 ALBERTA LTD. - v. - ERNST & YOUNG INC. TRUSTEE IN BANKRUPTCY FOR THE ESTATE OF RANDY MILES KLAPSTEIN**
(Alta.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for a stay of proceedings and the application for leave to appeal are dismissed with costs.

La demande d'arrêt des procédures et la demande d'autorisation d'appel sont rejetées avec dépens.

26128 **PAUL MACCIOCCHI - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

26327 **YAK WAH CHEUNG - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

26411 **WILLIAM D. DOHERTY, THOMAS DOHERTY JR., KATHERINE JOAN DOHERTY AND MARY-ANNE DOHERTY-GLOVER - v. - SHIRLEY JEAN DOHERTY AND PHILIP E. DOHERTY** (N.B.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.

26383 **A.M.G. - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

26121 **AYTEL PROPERTY MANAGEMENT INC. - v. - REGIONAL ASSESSMENT COMMISSIONER, REGION NO. 23 AND THE CORPORATION OF THE CITY OF LONDON - and between - 705076 ONTARIO LIMITED - v. - REGIONAL ASSESSMENT COMMISSIONER, REGION NO. 23 AND THE CORPORATION OF THE CITY OF LONDON** (Ont.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée.

26338 **JACK MARKS, CHIEF OF POLICE OF THE MUNICIPALITY OF METROPOLITAN TORONTO POLICE FORCE, ET AL v. MICHAEL ONIEL** (Ont.)

CORAM: Cory, Major and Binnie JJ.

The motion for extension of time is granted and the application for leave to appeal is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.

26381 **RITA D. CAPLAN v. THE MINISTER OF HUMAN RESOURCES DEVELOPMENT** (F.C.A.)(N.S.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

26328 **ALEXANDER RINGER v. ALEX CENTURAMI ET AL** (Ont.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

26363 **CANADIAN PACIFIC LIMITED v. MATSQUI INDIAN BAND ET AL** (F.C.A.)(B.C.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

26375 **DARA WILDER v. HERSH WOLCH** (Man.)

CORAM: Cory, Major and Binnie JJ.

The motion for extension of time is granted, the motion to adduce new evidence is dismissed and the application for leave to appeal is dismissed with costs.

La demande de prorogation de délai est accordée, la requête pour déposer d'autres éléments de preuve est rejetée et la demande d'autorisation d'appel est rejetée avec dépens.

26385 **CITIZENS' LEGAL CHALLENGE INC. ET AL v. ATTORNEY GENERAL OF ONTARIO** (Ont.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.
