

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v*. Beaudry, 2019 SCC 2, [2019] 1 S.C.R. 95 | **Appeal Heard:** January 14, 2019  **Judgment Rendered:** January 14, 2019  **Docket:** 38308 |

Between:

**Her Majesty The Queen**

Applicant

and

Corporal R.P. Beaudry

Respondent

**Coram:** Gascon, Côté, Brown, Rowe and Martin JJ.

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| **Reasons for Judgment:**  (paras. 1 to 3) | Gascon J. (Côté, Brown, Rowe and Martin JJ. concurring) |

R. *v.* Beaudry, 2019 SCC 2, [2019] 1 S.C.R. 95

Her Majesty The Queen Applicant

v.

Corporal R.P. Beaudry Respondent

**Indexed as: R. *v.*** Beaudry

2019 SCC 2

File No.: 38308.

2019: January 14.

Present: Gascon, Côté, Brown, Rowe and Martin JJ.

motion for a stay of a declaration of invalidity

*Judgments and orders — Stay of execution — Declaration of invalidity — Court Martial Appeal Court of Canada declaring s. 130(1)(a) of the National Defence Act of no force or effect in its application to any civil offence for which maximum sentence is imprisonment for five years of more — Applicant appealing Court Martial Appeal Court’s judgment and bringing motion to stay declaration of invalidity until final disposition of appeal — Balance of convenience does not favour granting stay — Stay denied — National Defence Act, R.S.C. 1985, c. N-5, s. 130(1)(a).*

**Cases Cited**

**Referred to:** *Manitoba (Attorney General) v. Metropolitan Stores Ltd.*, [1987] 1 S.C.R. 110; *RJR — MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311.

MOTION to stay the declaration of invalidity issued by the Court Martial Appeal Court of Canada (Bell C.J. and Gagné and Ouellette JJ.A.), 2018 CMAC 4, [2018] C.M.A.J. No. 4 (QL), 2018 CarswellNat 5345 (WL Can.). Motion dismissed.

Anthony M. Tamburro, Bruce MacGregor and R. Dylan Kerr, for the applicant.

Mark Létourneau and Jean-Bruno Cloutier, for the respondent.

The order of the Court was delivered orally by

1. Gascon J. — We are all of the view that the Crown’s motion to stay the declaration of invalidity in the Court Martial Appeal Court judgment of September 19, 2018, should be dismissed.
2. The applicable criteria set out in *Manitoba (Attorney General) v. Metropolitan Stores Ltd.*, [1987] 1 S.C.R. 110, and *RJR — MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, are not in dispute. The Crown has failed in our view to establish that the balance of convenience favours granting the stay sought.
3. The motion is therefore dismissed.

*Order accordingly.*

Solicitor for the applicant: Canadian Military Prosecution Service, Ottawa.

Solicitor for the respondent: Defence Counsel Services, Gatineau.