



SUPREME COURT OF CANADA

CITATION: R. v. Landry, 2024 SCC 2

APPEAL HEARD: January 17, 2024
JUDGMENT RENDERED: January 17,
2024
DOCKET: 40394

BETWEEN:

Nicolas Landry
Appellant

and

His Majesty The King
Respondent

OFFICIAL ENGLISH TRANSLATION

CORAM: Karakatsanis, Côté, Kasirer, O’Bonsawin and Moreau JJ.

JUDGMENT READ Karakatsanis J.

BY:
(paras. 1 to 4)

MAJORITY: Karakatsanis, Kasirer, O’Bonsawin and Moreau JJ.

DISSENT: Côté J.

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Nicolas Landry

Appellant

v.

His Majesty The King

Respondent

Indexed as: R. v. Landry

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Present: Karakatsanis, Côté, Kasirer, O’Bonsawin and Moreau JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR QUEBEC

Criminal law — Fraud — Elements of offence — Deprivation — Causal connection — Police officer convicted of defrauding his employer of sum of money exceeding five thousand dollars — Trial judge finding that accused lied and wilfully failed to provide certain information during assessment by physician-arbitrator responsible for final decision on his diagnosis of

disability, with underhanded design which had effect of or engendered risk of depriving employer of what belonged to it, and that, by reason of sufficient causal connection, accused had subjective knowledge that his dishonest acts would lead to deprivation of employer — Majority of Court of Appeal upholding conviction — Dissenting judge of opinion that trial judge erred in finding deprivation and that accused should be convicted of attempted fraud — Conviction upheld.

Criminal law — Appeals — Appeals to Supreme Court of Canada — Appeal as of right — Dissent on question of law — Trial judge convicting accused of fraud and majority of Court of Appeal upholding conviction — Dissenting Court of Appeal judge of opinion that attempted fraud conviction should be substituted for fraud conviction — Since dissenting judge's opinion was disagreement that affected result, appeal is appeal as of right from judgment that was subject of dissent on question of law.

Cases Cited

Referred to: *R. v. D'Amico*, 2019 SCC 23, [2019] 2 S.C.R. 394.

APPEAL from a judgment of the Quebec Court of Appeal (Hogue, Cotnam and Cournoyer JJ.A.), **2022 QCCA 1186**, [2022] AZ-51877852, [2022] J.Q. n° 8674 (Lexis), 2022 CarswellQue 13194 (WL), affirming the conviction of the accused for fraud. Appeal dismissed, Côté J. dissenting.

Ariane Gagnon-Rocque and Maude Cloutier, for the appellant.

Patrick Cardinal and Nicolas Abran, for the respondent.

English version of the judgment of the Court delivered orally by

[1] KARAKATSANIS J. — This is an appeal as of right from a judgment that was the subject of dissent on a question of law. In this case, the majority of the Quebec Court of Appeal upheld the fraud conviction and the dissenting judge would have substituted a verdict of attempted fraud for that verdict. There is therefore a “disagreement which affects the result” within the meaning of *R. v. D’Amico*, 2019 SCC 23, [2019] 2 S.C.R. 394, at para. 3.

[2] The majority of the Court is of the view that the appeal should be dismissed, substantially for the reasons of the majority of the Court of Appeal.

[3] Côté J., for her part, would have allowed the appeal in part to substitute an attempted fraud conviction for the fraud conviction, substantially for the reasons of Cotnam J.A., and would have remitted the matter to the trial court for sentencing.

[4] Therefore, the appeal is dismissed.

Judgment accordingly.

Solicitors for the appellant: Roy & Charbonneau, Québec.

*Solicitor for the respondent: Director of Criminal and Penal Prosecutions,
Salaberry-de-Valleyfield, Que.*