

CANADA / JUDGMENT

Byle v. Carr-Harris

2007 BCSC 1136

COURT

Supreme Court of British Columbia

DECIDED

11 June 2007

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2007 BCSC 1136 Byle v. Carr-Harris IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Byle v. Carr-Harris, 2007 BCSC 1136 Date: 20070611 Docket: S065699 Registry: Vancouver Between: James Richard Byle and Teresa Byle Petitioners And: Eleanor Ruth Carr-Harris Administratrix De Bonis Non of the Estate of Marion Lucille Byle, Eleanor Ruth Carr-Harris Executrix of the Estate of Cornelius Byle, Daniel Charles Byle, David Byle, Anne Margaretha Claussen, John Gomes, Carol Lynn Ballard, Amanda Sue Byle, Bonnie Lou Byle, Daniel Trent Byle, David Byle, Jason Douglas Byle, Julie Ann Byle, Lyndsay Denise Byle, Ronald Stacy Byle, Sidney Jay Byle, Tania Dawn Byle, Tracy Leigh Byle, Warren Mitchell Byle, Donna June Code, Charlotte Ann Kramer, Patricia Lynn Kramer, Carma Jean Pimento, Spanish American Outreach Inc., Continental Missionary Crusade, Trans World Ministries, Mustard Seed Mission, Kenneth Hagin Ministries, Sunday Line Communications, 100 Huntley Street, Moody Bible Institute, Haven Ministries Canada, and Dr. Vernon McGee (Deceased) Respondents Before: The Honourable Madam Justice Loo Oral Reasons for Judgment In Chambers June 11, 2007 Counsel for Petitioners: K. Friesen Counsel for Eleanor Ruth Carr-Harris: H. McLellan Counsel for Patricia Lynn Kramer: C. Millar Place of Hearing: Vancouver, B.C.

- [1] THE COURT: The respondent Patricia Lynn Kramer applies pursuant to Rules 19(24)(b), (c) and (d) for an order that various allegations be struck from the affidavit of Donna June Code sworn December 1, 2006, and that paragraphs 11 and 12 be struck from the affidavit of James Richard Byle sworn December 1, 2006.
- [2] The background to this unfortunate litigation is as follows.
- [3] The petitioners by their petition seek an order that Eleanor Ruth Carr-Harris be removed as administrator of the estate of her deceased mother and as executrix and trustee of the estate of her deceased father. The petitioners seek an appointment of a new personal representative and trustee. They also seek an accounting and a tracing of all of the funds, monies, property and income derived from the estate.

- [4] They allege in their facts upon which the petition is based that the estates have been diminished as a result of the actions of Ms. Carr-Harris. They allege that she has not provided a proper accounting and has failed to pursue her responsibilities appropriately, reasonably, and diligently as an executrix thereby causing the estate damage and loss. They also allege that she is in a conflict of interest.
- [5] On November 16, 2006, Mr. Justice Nathan Smith ordered that Ms. Carr-Harris prepare and pass her accounts within six months of the date of the order. He further ordered that if she was not able to complete the accounts within six months, she could apply for an extension of time. He further ordered that the petitioners be at liberty to renew their application after the accounts have been produced or if the respondent fails to produce the accounts.
- [6] Since that order was made, the petitioners have filed affidavit #4 of the petitioner James Richard Byle sworn December 1, 2006, and an affidavit of Donna Code sworn December 1, 2006. Donna Code and Patricia Kramer are grandchildren of the deceased and beneficiaries under the estate. Donna Code and Patricia Kramer are therefore cousins.
- [7] In a nutshell, James Richard Byle and Donna Code allege that Eleanor Ruth Carr-Harris used the former family home on 128th Street, which has now been sold, for a marijuana grow operation. They also allege that Ms. Carr-Harris advanced funds belonging to the estate to her daughter, Patricia Kramer, who along with Darryl Crimini purchased a house on Delair Road in Abbotsford and used the house for a grow-op.
- [8] Mr. Friesen for the petitioners says that the petitioners did not want to bring up the issue of the grow-ops because it is a stain on the family. The petitioners also allege that Mr. Crimini purchased the home on 128th Street that was part of the estate, flipped it, and used the proceeds of the flip to purchase the house on Delair Road.
- [9] When I review the allegations in Donna Code's affidavit and the allegations starting at the last sentence of paragraph 10, up to and including paragraph 13 of the affidavit of James Richard Byle sworn December 1, 2006, I cannot help but find that the issue of whether that home, or other homes, or whether Ms. Kramer, Mr. Crimini and Mr. Hudson were involved in a grow operation is unnecessary and will likely prejudice, embarrass and or delay the fair hearing of this proceeding. It will involve the parties in useless expense by involving them in issues that are irrelevant. Moreover, whether or not there was or was not a grow-op does not go to establishing the petitioners' claim.
- [10] I order that all of Donna Code's affidavit be struck.
- [11] As to the affidavit of James Richard Byle sworn December 1, 2006, I order that the portions to be struck are paragraph 10 starting with the last sentence, up to and including paragraph 13. I have gone further than what Mr. Millar seeks. He sought specifically to strike out those portions of the affidavits that relate to his client. But I find that whether Eleanor Ruth Carr-Harris was operating a grow operation not relevant, particularly at this stage of the proceedings.

[12] Mr. Millar for Ms. Kramer was successful on this application. He is entitled to the costs of this application in any event of the cause. Loo, J.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/07/11/2007bcsc1136.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/byle-v-carr-harris-2007>

Prepared on 27 October 2026 · Esheria