

CANADA / JUDGMENT

Franklin v. The Queen

[1985] 1 SCR 293**COURT**

Supreme Court of Canada

DECIDED

4 April 1985

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Franklin v. The Queen Collection Supreme Court Judgments Date 1985-04-04 Report

[1985] 1 SCR 293 Case number 17484 Judges Dickson, Robert George Brian; Estey, Willard Zebedee; Chouinard, Julien; Lamer, Antonio; Wilson, Bertha; Le Dain, Gerald Eric; La Forest, Gérard V. On appeal from Ontario Subjects Criminal law Notes SCC Case Information: 17484 Decision Content Franklin v. The Queen, [1985] 1 S.C.R. 293 Ronald Arthur Franklin Appellant; and Her Majesty The Queen Respondent. File No.: 17484. 1985: March 14; 1985: April 4. Present: Dickson C.J. and Estey, Chouinard, Lamer, Wilson, Le Dain and La Forest JJ. on appeal from the court of appeal for ontario Criminal law -- Courts -- Jurisdiction -- Court of General Sessions of the Peace -- Trial not proceeding at sessions for which trial fixed -- Jurisdiction over indictment not lost. Cases Cited R. v. Krannenburg, [1980] 1 S.C.R. 1053, considered; R. v. Chabot, [1980] 2 S.C.R. 985, referred to. APPEAL from a judgment of the Ontario Court of Appeal (1982), 40 O.R. (2d) 647, 2 C.C.C. (3d) 232, allowing the Crown's appeal from a judgment of Hughes J. (1982), 37 O.R. (2d) 454, 67 C.C.C. (2d) 483, allowing the accused's application for prohibition. Appeal dismissed. John A. Howlett, for the appellant. Michael R. Dambrot, for the respondent. The following is the judgment delivered by

1. The Court--We are all of the view that this appeal should fail. The decision of this Court in R. v. Krannenburg, [1980] 1 S.C.R. 1053, is applicable for trials held by magistrates sitting under Parts XVI or XXIV of the Criminal Code .
2. We do not agree, however, with the Ontario Court of Appeal's characterization of the setting of trial dates as administrative in nature. As this Court noted in R. v. Chabot, [1980] 2 S.C.R. 985, reasonable procedural latitude is desirable in proceedings pursuant to indictment. There will be no loss of jurisdiction when a trial court, acting on an indictment, fails to proceed at the time set for trial, absent unconstitutional conduct.
3. The appeal is accordingly dismissed. Appeal dismissed. Solicitor for the appellant: John A. Howlett, Toronto. Solicitor for the respondent: R. Tassé, Ottawa.

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