

CANADA / JUDGMENT

HMTQ v. Skrivanek

2004 BCSC 1816

COURT

Supreme Court of British Columbia

DECIDED

5 October 2004

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2004 BCSC 1816 HMTQ v. Skrivanek Citation: HMTQ v. Skrivanek Date: 20041005 2004 BCSC 1816 Docket: 23133 23134 Registry: Vancouver IN THE SUPREME COURT OF BRITISH COLUMBIA Oral Reasons for Judgment The Honourable Associate Chief Justice Dohm October 5, 2004 BETWEEN: HER MAJESTY THE QUEEN RESPONDENT AND: MICHAEL HERMANN SKRIVANEK APPELLANT Counsel for Crown G. Parson Appearing on his own behalf M.H. Skrivanek Place and Date of Hearing: Vancouver, B.C. October 5, 2004

- [1] THE COURT: The issue in this case is whether the Crown should pay for the transcripts for your appeal in two traffic matters.
- [2] The first thing that has to be mentioned here is that it is a very extraordinary remedy, one that is exercised rarely by this court. It is not unknown but it is rare and it is rare for obvious reasons and before that power is exercised by the court some considerations of the following are made: (1) What are your chances of a successful appeal? (2) Is your liberty at stake?
- [3] The answer to both questions are vital to the question you pose here, namely: Should the Crown pay for the cost of the transcripts?
- [4] Firstly, I note that your liberty is not at stake regardless of the outcome of the appeals before or after. People do not go to jail for going through a red light, generally, unless a serious accident occurred; and secondly, the same thing applies with respect to speeding.
- [5] The chances of your success of an appeal on those sorts of traffic tickets, dated as they are, are exceedingly small. In all likelihood that issue alone would be insurmountable for you in gaining an appeal.
- [6] This court used to deal with all of these things until the jurisdiction was taken over by the Provincial Court but I have sat in this court since 1980 and prior to that in the County Court. It would be very rare that an appeal would be successful.

- [7] When those two issues, that is, the issue of your liberty, which is really not an issue and the one I just spoke of about the chances of success on those appeals, are measured, it seems to me that this would not be an occasion to exercise the rare authority which this court has, namely, to pay for the transcripts of your appeals.
- [8] Accordingly, Sir, your applications in both files are dismissed.
- [9] MR. SKRIVANEK: Can I appeal those?
- [10] THE COURT: You may be able to. I do not know. I have my doubts about that but it may be that the Court of Appeal will hear you.
- [11] MR. SKRIVANEK: Okay. That's all I need to know. THE COURT: Thank you. "P.D. Dohm, A.C.J." The Honourable Associate Chief Justice P.D. Dohm

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