

CANADA / JUDGMENT

Knowlton v. R.

[1974] SCR 443**COURT**

Supreme Court of Canada

DECIDED

2 April 1973

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Knowlton v. R. Collection Supreme Court Judgments Date 1973-04-02 Report

[1974] SCR 443 Judges Fauteux, Joseph Honoré G  rald; Abbott, Douglas Charles; Martland, Ronald; Judson, Wilfred; Ritchie, Roland Almon; Hall, Emmett Matthew; Spence, Wishart Flett; Pigeon, Louis-Philippe; Laskin, Bora On appeal from Alberta Subjects Criminal law Decision Content Supreme Court of Canada Knowlton v. R., [1974] S.C.R. 443 Date: 1973-04-02 E.J.N. Knowlton Appellant; and Her Majesty The Queen Respondent. 1972: December 6; 1973: April 2. Present: Fauteux C.J. and Abbott, Martland, Judson Ritchie, Hall, Spence, Pigeon and Laskin JJ. ON APPEAL FROM THE SUPREME COURT OF ALBERTA, APPELLATE DIVISION Criminal law—Obstructing a peace officer—Security measures for visit of foreign dignitary—Whether police acting in execution of their duty—Criminal Code, s. 118(a)—Police Act, 1971 (Alta.), c. 85. The appellant was charged with having unlawfully and willfully obstructed a peace officer in the execution of his duty. The police had cordoned off an area in front of the entrance of a hotel where Premier Kosygin of the U.S.S.R. was to make a short stop. The appellant indicated to two constables that he wanted to take pictures and stated that he wished to proceed along that part of the sidewalk which was in the cordoned off area. Because of the appellant's forceful insistence on his right to enter that area, he was warned that if he did, he would be arrested. He refused to take heed of this warning and pushed his way between two constables. He was then arrested. The trial judge dismissed the charge on the ground that the police, at the relevant time, were not enforcing any provisions of the Criminal Code, or any by-law or other law. On appeal by the Crown, the Court of Appeal convicted the accused. That Court held that the trial judge should have taken judicial notice that the Premier was a visiting dignitary from another country who had already been assaulted in the City of Ottawa not long before and that it was necessary to ensure that he be not again assaulted or be exposed to other indignities. The accused appealed to this Court. Held: The appeal should be dismissed. The authorities were not only entitled, but in duty bound, as peace officers, to prevent a renewal of a like criminal assault on the person of the Premier. In this respect they had a specific and binding obligation to take proper and reasonable steps. The conduct of the police clearly fell within the general scope of the duties imposed upon them. There is in the record no evidence showing that the police officers resorted, on the

occasion, to any unjustifiable use of the powers associated with the duty imposed upon them. APPEAL from a judgment of the Supreme Court of Alberta, Appellate Division, setting aside the acquittal of the appellant. Appeal dismissed. B.M. Barker, for the appellant. J.W. Shortreed, for the respondent. The judgment of the Court was delivered by THE CHIEF JUSTICE—Appellant was charged with having on or about October 24, 1971, at the City of Edmonton, in the Province of Alberta, unlawfully and wilfully obstructed Sergeant Grandish, a peace officer, in the execution of his duty, committing thereby the offence then described as follows in s. 118(a) of the Criminal Code:

118. Every one who

- (a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer,
- (b) ...
- (c) ... is guilty of an indictable offence and is liable to imprisonment for two years. Knowlton was tried and acquitted by Provincial Judge J. Rennie. Pursuant to s. 605(1)(a), the Crown appealed against this judgment of acquittal. In a unanimous judgment delivered for the Court by Mr. Justice Cairns, the appeal was allowed, the respondent was convicted as charged and the case was remitted to the Provincial Judge for sentence. Hence the appeal to this Court pursuant to s. 618(2)(a) of the Criminal Code. The charge arose out of relatively simple facts. On Sunday, October 24, 1971, Premier Kosygin of the U.S.S.R., was to visit the City of Edmonton as part of his official visit to Canada and, on the occasion, was to make a short stop at the Chateau Lacombe Hotel. Police Sergeant Grandish, a member of the Edmonton City Police Force, had been assigned to security duties in the area surrounding the entrance to the hotel. For this purpose and with the assistance of 25 Police Officers, he cordoned off, as instructed by his superiors, an area in front of the entrance of the hotel, which included part of the sidewalk on the south side of Macdonald Drive. At one point, prior to the impending arrival of Premier Kosygin, Sergeant Grandish was called by two constables posted on the south side of the sidewalk. There he met the appellant who had indicated to the two constables that he wanted to take pictures and stated that, to that end, he wished to go down Bellamy Hill, proceeding along that part of the sidewalk which was in the cordoned off area. Sergeant Grandish informed the appellant that he could not enter that area and, because of the latter's forceful insistence on his right to do so, warned him that if he did, he would be arrested. Knowlton refused to take heed of this warning. He began to proceed into the restricted area, pushing his way through two constables. He was then arrested and charged under s. 118(a) Cr. C. This incident took place at 11.45 a.m., which, according to prior official arrangements, was about the time at which Premier Kosygin was expected to arrive at the Chateau Lacombe. On these facts, the trial judge concluded his reasons for judgment by saying: ... the police at the relevant time were not enforcing any provisions of the Criminal Code, or any by-law or other law and that therefore they were not acting in the execution of their duty and that therefore the accused could not have been obstructing them and therefore not guilty of the offence of obstruction. Finding as I do there

was not any law being enforced the accused could not have been found committing an offence so as to justify an arrest without a warrant and therefore the charge is dismissed. In the Court of Appeal, Mr. Justice Cairns, speaking for all the members of the Court, said: There was the evidence of Sergeant Grandish that the area had been cordoned off by the police because of the impending arrival of Premier Kosygin of the U.S.S.R. With this information the learned Provincial Judge should have taken judicial notice that Premier Kosygin was a visiting dignitary from another country who had already been assaulted in the City of Ottawa not long before and that it was necessary to ensure that he be not again assaulted or be exposed to other indignities. Had this been taken into account, the learned Provincial Judge should have been satisfied the police officers were acting in the execution of their duties and the acts of the accused in this case amounted to an obstruction of the execution of these duties. Police duty and the use of powers associated with such duty are the sole matters in issue in this appeal. The police having interfered with the liberty of the appellant, or more precisely, with his right to circulate freely on a public street, the questions to be determined are, as formulated by the Court of Criminal Appeals in *Regina v. Waterfield and Another*[1].

- (i) whether such conduct of the police falls within the general scope of any duty imposed by statute or recognized at common law and (ii) whether such conduct, albeit within the general scope of such a duty, involved an unjustifiable use of powers associated with the duty. As to the first question:—Section 26(1) of the Alberta Police Act (1971), c. 85, assigns to a member of a municipal police force, within the limits of the municipality, all the powers and duties of a member of the Provincial Police Force under Part I of the Statute. Section 2(1) of Part I provides for the establishment of a Provincial Police Force “... for the preservation of peace, order and public safety, the enforcement of law and the prevention of crime ...”. And section 3(1) of Part I states, in part, that:
 - 3. (1) Every member of the Alberta Provincial Police has the power and it shall be his duty to
 - (a) perform all duties that are assigned to police officers in relation to
 - (i) the preservation of peace, (ii) the prevention of crime and of offences against the laws in force in Alberta, and (iii) the apprehension of criminals and offenders and others who may lawfully be taken into custody. It is notorious and of common knowledge that the official visit of the head of state or high rank dignitary of a foreign country, friendly as either may be, is an event that frequently engenders a real or apprehended threat to the preservation of peace and that calls, therefore, for the adoption of proper and reasonable security measures in and by the host country. Demonstration of this assertion can hardly be here more to the point than by merely referring to the criminal assault actually committed on the person of Premier Kosygin, in the City of Ottawa, a few days only before his visit to the City of Edmonton. This assault was instantly publicized throughout Canada and was, indeed, while being committed, witnessed on television by a very great number of persons in the country including, admittedly, the appellant himself. From these facts, it is only natural to draw the inference that Canadian officials specially involved in the preservation and maintenance of

peace, order, public safety and of the security of our visiting dignitary, gained immediate knowledge of this event of regrettable import. According to the principles which, for the preservation of peace and prevention of crime, underlie the provisions of s. 30, amongst others, of the Criminal Code, these official authorities were not only entitled but in duty bound, as peace officers, to prevent a renewal of a like criminal assault on the person of Premier Kosygin during his official visit in Canada. In this respect, they had a specific and binding obligation to take proper and reasonable steps. The restriction of the right of free access of the public to public streets, at the strategic point mentioned above, was one of the steps—not an unusual one—which police authorities considered and adopted as necessary for the attainment of the purpose aforesaid. In my opinion, such conduct of the police was clearly falling within the general scope of the duties imposed upon them. As to the second question:—We are not concerned here with a case of false arrest, but with a case of wilful obstruction of a police officer in the execution of his duty. Thus, even if founded, appellant's grievances other than those he relates to circumstances which preceded and led to his arrest, are irrelevant. As to the latter grievances, his main, if not only complaint, is that, notwithstanding his request, the police did not inform him of any legal justification for their interference with his right of free access to public streets. It is not too much to assume that all persons present on the occasion, including appellant himself, who, as above mentioned, had witnessed on television the criminal assault suffered in Ottawa, only a few days before, by Premier Kosygin, were fully conscious of the situation with respect to security. In law, appellant cannot, any more than in fact, plead ignorance of the legal duty then performed by the police. Upon request of the police, he produced an identification card which was found to be inadequate. He might possibly have obtained the privilege extended to members of the press and others to access to the restricted area had he applied for a pass at the proper time, at the proper place and from the proper authorities. He did not. I cannot find in the record any evidence showing that Sergeant Grandish or other police officers resorted, on the occasion, to any unjustifiable use of the powers associated with the duty imposed upon them. I would dismiss the appeal. Appeal dismissed. Solicitors for the appellant: Langlois & Lennie, Edmonton. Solicitor for the respondent: The Attorney General of Alberta.

[1] [1964] 1 Q.B. 164 at 170.

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