

CANADA / JUDGMENT

R. v. Dufresne

[1988] 1 SCR 1095

COURT

Supreme Court of Canada

DECIDED

21 June 1988

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R. v. Dufresne Collection Supreme Court Judgments Date 1988-06-21 Report

[1988] 1 SCR 1095 Case number 20687 Judges Beetz, Jean; Lamer, Antonio; Wilson, Bertha; Le Dain, Gerald Eric; La Forest, Gérard V. On appeal from Quebec Subjects Criminal law Notes SCC Case Information: 20687 Decision Content

- r. v. dufresne, [1988] 1 S.C.R. 1095 Gilles Dufresne Appellant v. Her Majesty The Queen Respondent indexed as: r. v. dufresne File No.: 20687. 1988: June 21. Present: Beetz, Lamer, Wilson, Le Dain and La Forest JJ. on appeal from the court of appeal for quebec Criminal law -- Trial -- Accused convicted of first degree murder -- Serious doubt as to the integrity of the conduct of the Crown and the police at trial -- New trial ordered. Statutes and Regulations Cited Criminal Code, R.S.C. 1970, c. C-34, s. 613(1)(b)(iii). APPEAL from a judgment of the Quebec Court of Appeal, [1988] R.J.Q. 38, 11 Q.A.C. 20, dismissing the accused's appeal from his conviction on a charge of first degree murder. Appeal allowed. Guy Bertrand, for the appellant. Richard Shadley and Josef Muskatel, for the respondent. English version of the judgment of the Court delivered orally by
1. Beetz J.--I invite our brother, Justice Lamer, to deliver the judgment of the Court.
 2. Lamer J.--There are, in the case at bar, grave allegations and evidence to support them which, although not conclusive, nonetheless cast serious doubt on the integrity of the conduct of the Crown and the police in this matter. The allegations include an allegation that one or more police officers and/or the Crown did not reveal to the court the fact that a Crown witness had perjured himself and misled the court by denying the existence of promises of a pardon which they had indeed made to him; and an allegation that, notwithstanding an order excluding the witnesses, a police officer recorded the testimony and gave the cassettes to this witness-accomplice from day to day. The Court of Appeal should not, with respect, in view of these special circumstances, have refused to allow appellant to complete his evidence in support thereof. The Court of Appeal also erred afterward in applying s. 613(1) (b)(iii) of the Criminal Code .

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3. For these reasons, the appeal is allowed, the judgment of the Court of Appeal is set aside and a new trial is ordered. With respect to the application for a stay of proceedings and exemplary damages, it would be preferable for it to be made to the trial judge or a judge of the same court, where the necessary evidence in support of these applications can be adduced. Judgment accordingly. Solicitors for the appellant: Tremblay, Bertrand, Bois, Mignault, Duperrey & Lemay, Ste-Foy. Solicitors for the respondent: Shadley, Melançon, Boro & Muskatel, Montréal.
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