

CANADA / JUDGMENT

R. v. Flanagan

2005 BCCA 103

COURT

British Columbia Court of Appeal

DECIDED

21 February 2005

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2005 BCCA 103 R. v. Flanagan COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Flanagan, 2005 BCCA 103 Date: 20050221 Docket: CA031782; CA031823; CA032465; CA032466; CA032467; CA032468; CA032469; CA032470; CA032472; CA032473; CA032491 Docket: CA031782 Between: Regina Respondent And Thomas William Flanagan, also known as Miklos Jeno Gasztonyi Appellant

- and - Docket: CA031823; CA032465; CA032466; CA032467; CA032468; CA032469; CA032470; CA032472; CA032473; CA032491 Between: Regina Respondent And Miklos Jeno Gasztonyi, also known as Thomas William Flanagan Appellant Before: The Honourable Madam Justice Southin The Honourable Madam Justice Ryan The Honourable Mr. Justice Donald Oral Reasons for Judgment T.W. Flanagan, aka M.J. Gasztonyi Appearing in person W.J.S. Bell Counsel for the Respondent Place and Date: Vancouver, British Columbia 21 February 2005

- [1] SOUTHIN J.A.: There are before us today a number of applications under Rule 13(3).
- [2] The principal issues arise on appeals CA31782 and CA31823. The former is a conviction appeal, the conviction having been pronounced by Judge Antifaev in early 2004. In that matter we do have a transcript of the proceedings at sentencing. No transcript has been filed and no appeal book, and the time for doing so provided for in the Criminal Rules is long expired. As to that, Mr. Gasztonyi suggests that he indeed had ordered the transcript and somehow or another it has been lost. But there is no evidence as to that and at our request Mr. Bell made an inquiry of the persons in charge of transcribing proceedings and he was informed by someone of the name of Angela at the appropriate office that there was no record of an order.
- [3] I digress here to say that if as and when we ever need to know things like this again, it is in my view important that we should have the full name of the person who is providing the information. This whole business of people seeming to drop their surnames is not helpful. This is not Iceland where people only have one name. Sometimes it is important to identify people. It is not easy to do so with only a first name.

- [4] But in any event, the inquiry having been made and no proper material being before us from the applicant, the would be applicant, Mr. Gasztonyi, showing any action being taken by him within the Rules to bring this appeal forward, it is my view that it is appropriate that it should now be dismissed for want of prosecution.
- [5] The second matter is a purported appeal from a conviction before, I think, Mr. Justice Romilly in the Supreme Court on a conviction in 1996 also, as was the former, arising from impaired driving or driving over 0.08 or some one of those offences. There is before the Court now an application to extend the time but there again we have no transcript and nothing upon which we could come to any proper conclusion as to whether time should be extended. As Mr. Bell quite properly points out, there is no affidavit in support of that application.
- [6] Under those circumstances, the matter not having been proceeded with in accordance with the Rules, I am of the view that it would be appropriate that the application to extend the time should be dismissed which of course has the effect of bringing an end to the appeal.
- [7] For those reasons, I would dispose of both those appeals in that manner.
- [8] As to the other matters, they purport to be, as I understand it, an appeal from an order of Mr. Justice McEwan refusing to extend the time for appeals in a great many summary conviction matters, all of which were the convictions prior to 1996 of Mr. Gasztonyi for various driving offences. That appeal also has not been proceeded with, even assuming without deciding that this Court has some sort of jurisdiction to hear an appeal from a matter of that kind which is of itself doubtful.
- [9] So taking everything into account, I would dismiss all these proceedings that are pending in this Court brought by Mr. Gasztonyi.
- [10] RYAN J.A.: I agree.
- [11] DONALD J.A.: I agree. "The Honourable Madam Justice Southin"

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