

CANADA / JUDGMENT

R. v. Goleski

2015 SCC 6

COURT

Supreme Court of Canada

DECIDED

12 February 2015

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R. v. Goleski Collection Supreme Court Judgments Date 2015-02-12 Neutral citation 2015 SCC 6 Report

- [2015] 1 SCR 399 Case number 35862 Judges Abella, Rosalie Silberman; Rothstein, Marshall; Cromwell, Thomas Albert; Moldaver, Michael J.; Karakatsanis, Andromache; Wagner, Richard; Gascon, Clément On appeal from British Columbia Subjects Criminal law Notes SCC Case Information: 35862 Decision Content SUPREME COURT OF CANADA Citation: R. v. Goleski, 2015 SCC 6, [2015] 1 S.C.R. 399 Date: 20150211 Docket: 35862 Between: Grant Anthony Goleski Appellant and Her Majesty The Queen Respondent Attorney General of Ontario and Attorney General of Alberta Interveners Coram: Abella, Rothstein, Cromwell, Moldaver, Karakatsanis, Wagner and Gascon JJ. Reasons for Judgment: (paras. 1 to 2) The Court
- r. v. goleski, 2015 SCC 6, [2015] 1 S.C.R. 399 Grant Anthony Goleski Appellant v. Her Majesty The Queen Respondent and Attorney General of Ontario and Attorney General of Alberta Interveners Indexed as: R. v. Goleski 2015 SCC 6 File No.: 35862. 2015: February 11. Present: Abella, Rothstein, Cromwell, Moldaver, Karakatsanis, Wagner and Gascon JJ. on appeal from the court of appeal for british columbia Criminal law — Motor vehicles — Failure to provide breath sample — Burden of proof applicable to demonstration of “reasonable excuse” for refusal to provide breath sample — Accused bears persuasive burden of proving excuse — Criminal Code, R.S.C. 1985, c. C-46, s. 794(2) . Statutes and Regulations Cited Criminal Code, R.S.C. 1985, c. C-46, s. 794(2) . APPEAL from a judgment of the British Columbia Court of Appeal (Newbury, Frankel and Garson JJ.A.), 2014 BCCA 80, 307 C.C.C. (3d) 1, 64 M.V.R. (6th) 254, 10 C.R. (7th) 188, [2014] B.C.J. No. 347 (QL), 2014 CarswellBC 490 (WL Can.), setting aside the accused’s acquittal and reinstating his conviction. Appeal dismissed. Amandeep Jaswal, for the appellant. Mary T. Ainslie, Q.C., and John Caldwell, for the respondent. Philip Perlmutter and Karen Papadopoulos, for the intervener the Attorney General of Ontario. Matthew David Dalidowicz, for the intervener the Attorney General of Alberta. The following is the judgment delivered orally by

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- [1] The Court — In our view, the British Columbia Court of Appeal correctly concluded that s. 794(2) of the Criminal Code, R.S.C. 1985, c. C-46 , properly interpreted, imposes a persuasive burden on the accused to prove an “exception, exemption, proviso, excuse or qualification prescribed by law”. We do not think it appropriate to deal with the new issues raised by the interveners.
- [2] The appeal is dismissed. Judgment accordingly. Solicitor for the appellant: Vincent Michaels Law Corporation, Vancouver. Solicitor for the respondent: Attorney General of British Columbia, Vancouver. Solicitor for the intervener the Attorney General of Ontario: Attorney General of Ontario, Toronto. Solicitor for the intervener the Attorney General of Alberta: Attorney General of Alberta, Calgary.
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Prepared on 27 October 2026 · Esheria