

CANADA / JUDGMENT

R. v. Hartley-Anderson

2020 BCSC 260

COURT

Supreme Court of British Columbia

DECIDED

29 January 2020

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2020 BCSC 260 R. v. Hartley-Anderson IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: R. v. Hartley-Anderson, 2020 BCSC 260 Date: 20200129 Docket: 29432-1 Registry: Vancouver Regina v. Priya Gwendolyn Sigrun Hartley-Anderson Before: The Honourable Madam Justice Fitzpatrick On appeal from: A decision of the Provincial Court of British Columbia, dated March 7, 2019 (R. v. Hartley-Anderson, Richmond File No. AJ05317971-1) Oral Reasons for Judgment Counsel for Crown (Respondent): J.L. Horneland Appearing on her own behalf (Appellant): P.G. Hartley-Anderson Place and Date of Hearing: Vancouver, B.C. January 29, 2020 Place and Date of Judgment: Vancouver, B.C. January 29, 2020

- [1] THE COURT: This matter involves a summary conviction appeal. On March 7, 2019, Judicial Justice Osborne found Ms. Hartley-Anderson guilty of driving without insurance, contrary to s. 24(3)(b) of the Motor Vehicle Act.
- [2] Ms. Hartley-Anderson made efforts to appeal the conviction; however, she unfortunately made a number of errors in undertaking that exercise. Firstly, she filed her appeal in the wrong court; secondly, she filed the appeal under the Supreme Court Civil Rules rather than the Criminal Rules of the Supreme Court of British Columbia regarding summary conviction appeals (the "Rules"). Unfortunately, the Supreme Court Registry in New Westminster did not point out the latter mistake to Ms. Hartley-Anderson at the time she filed the appeal. Ms. Hartley-Anderson did take steps to order and obtain transcripts in accordance with the Rules.
- [3] The matter comes before me today as Ms. Hartley-Anderson's application to obtain an extension of the time to appeal the conviction. In the circumstances, that relief is more than justified.
- [4] In the meantime, the Crown was able to review the transcripts and consider the merits of Ms. Hartley-Anderson's grounds of appeal. Arising from that process, the Crown has concluded that there was a miscarriage of justice in the proceedings below that would support Mr. Hartley-Anderson's appeal to set aside the conviction and also, a defence with respect to the charge should there be a new trial.
- [5] Accordingly, the Crown consents to an order that:

- a) the appeal be deemed as properly filed;
 - b) the appeal be allowed; and
 - c) an acquittal be entered with respect to the charge.
- [6] Ms. Hartley-Anderson, of course, fully supports that result. However, Ms. Hartley-Anderson also seeks relief with respect to what she describes as the "price she has paid" to undertake an appeal of her conviction.
- [7] She seeks reimbursement of what she describes as her "out-of-pocket costs" in respect of the ticket, filing costs, transcripts and related office expenses. She will, of course, obtain a refund of the amount she has paid upon conviction (\$598).
- [8] As the Crown argues, I am not aware of any basis upon I can order any party (including the Crown) to reimburse Ms. Hartley-Anderson for the remainder of her out-of-pocket costs. Unlike the civil context, such relief is not usually considered in criminal matters. That includes the costs of the transcripts. This is not a case where Ms. Hartley-Anderson sought government assistance to pay for the transcripts by reason of, for example, impecuniosity.
- [9] The same response can be made in relation to Ms. Hartley-Anderson's submission that she should be paid for the value of the work that she missed in order to deal with this appeal. I appreciate that she had gone to some trouble to bring this appeal and challenge her conviction; however, again, there is no basis upon which I can order any party to pay those amounts.
- [10] Accordingly, I grant the order sought by Ms. Hartley-Anderson, and consented to by the Crown; namely, the appeal is deemed as properly filed; secondly, the appeal is allowed; and thirdly, an acquittal is entered with respect to the charge. "Fitzpatrick J."

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Prepared on 25 October 2026 · Esheria