

CANADA / JUDGMENT

R. v. Lamb

2005 BCCA 587

COURT

British Columbia Court of Appeal

DECIDED

21 November 2005

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2005 BCCA 587 R. v. Lamb COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Lamb, 2005 BCCA 587 Date: 20051121 Docket: CA033425 Between: Regina Respondent And Joseph James Lamb Appellant Before: The Honourable Mr. Justice Hall The Honourable Mr. Justice Low The Honourable Mr. Justice Lowry Oral Reasons for Judgment D. Kripp Counsel for the Appellant U. Botz Counsel for the (Crown) Respondent Place and Date: Vancouver, British Columbia 21 November 2005

- [1] LOW, J.A.: For five counts of fraud a provincial court judge sentenced the appellant to imprisonment for two years plus three years probation. This sentencing occurred on 28 February 1997. The term of imprisonment was made concurrent with a global sentence of imprisonment for three years imposed the same date for 57 counts of fraud, forgery, personation, and property offences committed between 1987 and 1996 but was consecutive to sentences the appellant was then serving including a sentence of three months for being unlawfully at large.
- [2] The appellant seeks to have the probation order set aside as being illegal. He did not bring an application for extension of time to appeal until 20 October 2005. We are told by counsel that the appellant was released last August and that the serving of the probation order has been suspended pending the outcome of this appeal.
- [3] The Crown concedes that the probation order violates s. 731(b) of the Criminal Code and s. 139 of the Corrections and Conditional Release Act because it attaches to a sentence of greater than two years: see R. v. Pawluk 2005 BCCA 500.
- [4] The Crown consents to the extension to appeal; agrees that leave to appeal should be granted; and agrees that this Court should allow the appeal and quash the probation order.
- [5] I would extend the time to appeal to 20 October 2005, grant leave to appeal and allow the appeal and quash the probation order.
- [6] HALL, J.A.: I agree
- [7] LOWRY, J.A.: I agree.

[8] HALL, J.A.: The appeal is allowed and the probation order is quashed. "The Honourable Mr. Justice Low"

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