

CANADA / JUDGMENT

R. v. Lazeo

2000 BCCA 192

COURT

British Columbia Court of Appeal

DECIDED

13 March 2000

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2000 BCCA 192 Citation: R. v. Lazeo Date: 20000313 2000 BCCA 192 Docket: CA025558 Registry: Vancouver COURT OF APPEAL FOR BRITISH COLUMBIA ORAL REASONS FOR JUDGMENT Before: The Honourable Mr. Justice Cumming March 13, 2000 The Honourable Madam Justice Newbury The Honourable Mr. Justice Hall Vancouver, B.C. BETWEEN: REGINA RESPONDENT AND: GARY LAZEO APPELLANT J. Green appearing for the Appellant S.D. Frankel, Q.C. appearing for the (Crown) Respondent

- [1] CUMMING, J.A.: This appeal is brought by Mr. Lazeo from his conviction by Mr. Justice Cowan, on six counts of violating s.6 of the Proceeds of Crime (Money Laundering) Act, S.C. 1991, c. 26 and four charges of attempts to launder the proceeds of crime contrary to s.19.2 of the Narcotic Control Act., R.S.C. (1985), c. N-1.
- [2] The judgment convicting the appellant on these charges is now reported at R. v. Au Canada Monetary Exchange Inc., [1998] B.C.J. No. 3172 (QL) and the subsequent judgment rejecting the defence of entrapment raised by the appellant is reported at R. v. Au Canada Monetary Exchange Inc., [1999] B.C.J. No. 455 (QL).
- [3] The facts are fully and fairly set out in the reasons for judgment of the learned trial judge and need not be repeated here.
- [4] I am not persuaded that the learned judge below erred as contended by the appellant.
- [5] On the contrary, in my respectful opinion, he arrived at the correct conclusions for the reasons which he gave and with which I find myself in substantial agreement.
- [6] I would dismiss the appeal.
- [7] NEWBURY, J.A. I agree.
- [8] HALL, J.A. I agree and I just want, out of deference to the argument of Mr. Green which was I thought a very clear argument, to point out that I entirely agree with the reasons of the learned trial judge. I draw attention in particular to the comments found at p. 65 of the appeal book in paragraphs 8 and 9 and the portion of the judgment in United States of America v. Dynar (1997), 115 C.C.C. (3d) (S.C.C.) 481 quoted at paragraph 67, which is set out at p. 63 of the appeal book, as follows: The absence of an attendant circumstance is

irrelevant from the point of view of the law of attempt. An accused is guilty of an attempt if he intends to commit a crime and takes legally sufficient steps towards its commission. Because an attempt is in its very nature an incomplete substantive offence, it will always be the case that the actus reus of the completed offence will be deficient, and sometimes this will be because an attendant circumstance is lacking. I point out in connection with that, that under s. 581 of the Code it is permissible to frame a charge in the words of the enactment which I consider was what was done here.

- [9] With respect to the question of whether or not there would have been a different tack taken with respect to any possible defence had there been a different wording used in the indictment, I simply draw attention to the provisions of paragraph 101 of the agreed statement of facts which is set out at p. 19.
- [10] I agree with the reasons expressed by Mr. Justice Cumming, but I did want to point to those specific matters in order to further illuminate my view of the situation and to explain why I believe that in this case Mr. Justice Cowan reached a correct conclusion. Accordingly, I too would dismiss the appeal.
- [11] CUMMING, J.A. The appeal stands dismissed. "The Honourable Mr. Justice Cumming" "The Honourable Mr. Justice Hall"

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Prepared on 29 October 2026 · Esheria