

CANADA / JUDGMENT

R. v. Leighton

2005 BCCA 524

COURT

British Columbia Court of Appeal

DECIDED

17 October 2005

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2005 BCCA 524 R. v. Leighton COURT OF APPEAL FOR BRITISH COLUMBIA Citation: R. v. Leighton, 2005 BCCA 524 Date: 20051017 Docket: CA32455 Between: Regina (Respondent) And Douglas Lawrence Leighton (Appellant) Before: The Honourable Madam Justice Prowse The Honourable Mr. Justice Donald The Honourable Madam Justice Kirkpatrick Oral Reasons for Judgment A.J. Bonfield Counsel for the Appellant K. Wikberg Counsel for the Respondent Place and Date: Vancouver, British Columbia October 17, 2005

- [1] PROWSE, J.A.: On October 25, 2004, a provincial court judge convicted Mr. Leighton of possession of counterfeit money contrary to s. 450(b) of the Criminal Code. Mr. Leighton is appealing from his conviction and asking this court to enter an acquittal. In essence, Mr. Leighton argues that the verdict was unreasonable and unsupported by the evidence on the basis that the Crown had not proved beyond a reasonable doubt that the counterfeit bills tendered as an exhibit at trial were the same bills that were seized in connection with the arrest of Mr. Leighton on April 22, 2004, and which the trial judge found were in Mr. Leighton's possession.
- [2] Counsel submits that the trial judge erred in law in drawing an inference which amounts to speculation that the counterfeit bills which were tendered in court were the same bills that were seized at the time of Mr. Leighton's arrest.
- [3] The issue of continuity of the exhibits arose because one of the police officers who was present when Mr. Leighton was arrested, and who seized the money which the trial judge found Mr. Leighton had dropped in the gutter at the scene of his arrest, did not testify. In effect, counsel for Mr. Leighton submits that the absence of this officers' evidence was fatal to the case for the Crown.
- [4] In my view, there was an abundance of evidence upon which the trial judge could reasonably conclude that the counterfeit bills entered as an exhibit at trial were the same bills which were found in the immediate vicinity of Mr. Leighton at the time of his arrest, and which the trial judge found were in his possession.

- [5] I am not persuaded that the trial judge's finding in this regard amounted to mere speculation. Rather, I am satisfied that it was well grounded in the evidence. Nor am I persuaded that the trial judge erred in any other respect in reaching his verdict. I would dismiss the appeal.
- [6] DONALD, J.A.: I agree.
- [7] KIRKPATRICK, J.A.: I agree "The Honourable Madam Justice Prowse"
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