

CANADA / JUDGMENT

R. v. Rube

[1992] 3 SCR 159**COURT**

Supreme Court of Canada

DECIDED

9 October 1992

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R. v. Rube Collection Supreme Court Judgments Date 1992-10-09 Report

[1992] 3 SCR 159 Case number 22421 Judges Lamer, Antonio; L'Heureux-Dubé, Claire; Sopinka, John; Gonthier, Charles Doherty; Cory, Peter deCarteret; McLachlin, Beverley; Iacobucci, Frank On appeal from British Columbia Subjects Constitutional law Food and drugs Notes SCC Case Information: 22421 Decision Content R. v. Rube, [1992] 3 S.C.R. 159 Gary Rube Appellant v. Her Majesty The Queen Respondent and The Attorney General for Ontario Intervener Indexed as: R. v. Rube File No.: 22421. 1992: October 9. Present: Lamer C.J. and L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin and Iacobucci JJ. on appeal from the court of appeal for british columbia Constitutional law -- Charter of Rights -- Fundamental justice -- Strict liability -- Food and drugs -- Accused charged with selling food in false, misleading or deceptive manner under s. 5(1) of Food and Drugs Act -- Section 5(1) creating strict liability offence -- Defence of due diligence available -- Section 5(1) not offending s. 7 of Canadian Charter of Rights and Freedoms -- Food and Drugs Act, R.S.C. 1970, c. F-27, ss. 5, 29. Food and drugs -- Mens rea -- Selling food in false, misleading or deceptive manner -- Strict liability offence -- Defence of due diligence available -- Food and Drugs Act, R.S.C. 1970, c. F-27, ss. 5, 29. APPEAL from a judgment of the British Columbia Court of Appeal (1991), 54 B.C.L.R. (2d) 106, 63 C.C.C. (3d) 47, [1991] 4 W.W.R. 430, allowing the Crown's appeal from a judgment of Taggart Co. Ct. J. granting a stay of proceedings. Appeal dismissed. Sheldon Goldberg and Jeff Ray, for the appellant. James D. Bissell, Q.C., and Kimberly Prost, for the respondent. M. Philip Tunley, for the intervener. //Lamer C.J.// The judgment of the Court was delivered orally by Lamer C.J. -- This appeal comes to us as of right. We agree with the Court of Appeal of British Columbia that the wording of the sections [ss. 5(1) and 29 of the Food and Drugs Act, R.S.C. 1970, c. F-27] is open to interpretation and does not explicitly exclude a defence of due diligence. We agree that given the penalties, this is not an offence that could, without offending the Canadian Charter of Rights and Freedoms, be one of absolute liability. On the presumption that Parliament intends its legislation to conform to the exigencies of the Charter, we are of the view that the section [s. 5(1) of the Act] is one of strict liability and that a defence of due diligence is available to the accused. The appeal is dismissed. Judgment accordingly. Solicitor for the appellant: Sheldon Goldberg, Vancouver. Solicitor for the respondent: J.C.

Tait, Ottawa. Solicitor for the intervener: George Thomson, Toronto.

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