

CANADA / JUDGMENT

R. v. Verma

2018 BCSC 2311

COURT

Supreme Court of British Columbia

DECIDED

23 November 2018

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2018 BCSC 2311 R. v. Verma

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Verma,

2018 BCSC 2311

Date: 20181123

Docket: 27011-7

Registry: Vancouver

Regina

v.

Pradeep Kumar Verma

Before: The Honourable Mr. Justice Brundrett

Correction notice: This judgment was edited on July 26, 2019

On appeal from: A decision of the Provincial Court of British Columbia, dated September 23, 2016 (R. v. Verma, Vancouver File No. 19901-4-C).

Oral Reasons for Judgment

Counsel for the Crown (Respondent):

E.A. Wolfram

Appearing on his own behalf (Appellant):

P.K. Verma

Place and Date of Trial/Hearing:

Vancouver, B.C.

November 23, 2018

Place and Date of Judgment:

Vancouver, B.C.

November 23, 2018

Introduction

- [1] This matter arises in the context of a summary conviction appeal. The respondent Crown is seeking dismissal of the appeal for want of prosecution.
- [2] The appellant, Mr. Pradeep Verma, is seeking:
- (1) an adjournment to have an amicus appointed to respond to the respondent's application; and
 - (2) mandamus against three lawyers, those being counsel for the Public Trustee, counsel for the Legal Services Society, and counsel for the respondent.

Background

- [3] While there have been many appearances in relation to this matter, for present purposes, what matters is that the appellant was convicted on September 23, 2016 of two counts of uttering threats to cause death or bodily harm, contrary to s. 264.1 of the Criminal Code, R.S.C., 1986, c. C-46. I am told the charges related to an alleged threat in an email the appellant sent to an official of the office of the Public Guardian and Trustee and a threat to a social worker who was assisting the appellant.
- [4] On September 23, 2016, the appellant filed a summary conviction appeal. The summary conviction appeal remains outstanding.
- [5] On November 18, 2016, Madam Justice Beames dismissed an application for a stay of the Provincial Court sentencing in relation to the conviction for threats. Beames J. also dismissed an application for the appointment of amicus to assist the court in these proceedings.
- [6] On November 28, 2016, the appellant was sentenced in Provincial Court to a one-year conditional sentence, to be followed by three years' probation.
- [7] On January 18, 2017, Mr. Justice N. Smith, of this Court, dismissed the appellant's applications for a trial de novo, for the appointment of counsel to assist him, the provision of transcripts, and an order of mandamus directing public authorities to take certain actions: *R. v. Verma*, 2017 BCSC 652. The reasons of Smith J. indicate as follows:

- [3] The background is summarized in para. 4 of the Judgment of the Provincial Court judge:
- [4] The Public Guardian and Trustee of British Columbia (the "PGT") was appointed as the committee of the accused's estate about fifteen years ago. The ensuing legal relationship between the accused and the PGT has been characterized by conflict, as the accused does not believe the PGT has acted fairly towards him.
- [4] The Provincial Court judge discussed Mr. Verma's motivations at para. 30 of the Judgment:
- [30] ... He wanted to obtain some redress for the wrongs he had suffered, in his view, from the PGT and from people who had failed to adequately respond to his complaints about the PGT malfeasance.
- [5] Later in the same paragraph the judge said:
- [30] ... He was seeking remedies for injustices he perceived to be continuing events at the time he sent these documents containing the threatening words regarding Ms. Azyan.
- [6] The Provincial Court judge clearly did not accept that motivation or that background of conflict with the PGT as any form of defence to the criminal charges that Mr. Verma was facing.
- [8] In the present case, Mr. Verma did not have counsel at the Provincial Court trial and called no defence evidence. I understand he had legal aid counsel at some point but dismissed that counsel. At the hearing of this application he indicated that he believed legal aid counsel was acting in collusion with the PGT. The Provincial Court appointed amicus, who attended and made submissions at trial.
- [19] We are now dealing with a different conviction, but the factual and legal situation is indistinguishable from what was before Justices Silverman, Fisher and Levine. Those prior decisions are binding upon me, and the application for a trial de novo and the appointment of counsel are dismissed.
- [20] On the basis of *R. v. McDiarmid*, 2015 YKCA 19, a decision of Madam Justice Bennett, I have no jurisdiction to order that the state pay for the production of transcripts in the absence of an order to appoint counsel.
- [21] In relation to his various Mandamus applications, Mr. Verma appears to be seeking remedies against the PGT, including invocation of this Courts *parens patriae* jurisdiction. I do not know the basis on which the PGT was made responsible for Mr. Verma's affairs, but the PGT exercised its power under the statute law of British Columbia and any remedies related to its conduct would be available in civil proceedings. I do not know what remedies, if any, Mr. Verma has sought or what success he has had, but a criminal proceeding is not the appropriate proceeding in which those issues are relevant or properly raised.
- [8] Transcripts have still not been filed.

[9] The appellant appealed the decision of Mr. Justice Smith on July 25, 2017. In reasons reported at *R. v. Verma*, 2017 BCCA 273, Madam Justice Bennett dismissed various ancillary applications in relation to the appeal.

[10] On December 6, 2017, a division of the Court of Appeal in *R. v. Verma*, 2017 BCCA 436 dismissed the appeal from the orders of Mr. Justice Smith.

Discussion

[11] The appellant has outlined his grounds for appeal in a lengthy written submission marked as Exhibit 2 in these proceedings.

[12] I have looked at these submissions, and, while they are extensive, I say, with respect, that I cannot discern that the proposed grounds of appeal have any reasonable possibility of success.

[13] A superior court has jurisdiction to appoint amicus where necessary to permit a particular proceeding to be successfully and justly adjudicated. The appointment of amicus is to be done sparingly: *Ontario v. Criminal Lawyers' Association of Ontario*, 2013 SCC 43 at paras. 44-48. I see no basis for the appointment of amicus here.

[14] This morning, the appellant also characterized his request for counsel as an application under s. 684 of the Criminal Code, which allows the Court to appoint counsel if it appears desirable in the interests of justice. I note that a similar application was dismissed by Mr. Justice Smith in his aforementioned reasons. I also note that an earlier application for appointment of counsel was dismissed, in part, for a lack of merit to the proposed appeal: *R. v. Verma*, 2013 BCSC 782 at paras. 52-55, *aff'd* *R. v. Verma*, 2014 BCCA 157; see also, *R. v. Verma*, 2016 BCCA 498 at para.s. 19-28.

[15] While there is no bar to a subsequent application under s. 684, I cannot see that the circumstances have changed. Like Mr. Justice Smith, I can see no basis for the appointment of counsel in the interests of justice.

[16] The appellant has not shown a basis for the appointment of counsel, either under s. 684 of the Criminal Code or pursuant to this court's power to appoint amicus.

[17] As to the issue of mandamus, it was noted by the Court of Appeal in its December 2017 judgment that a mandamus application has no place within the confines of a summary conviction appeal: *R. v. Verma*, 2017 BCCA 436 at para 14.

[18] I see no basis for reconsidering the order of Beames J. dismissing the appellant's application for the appointment of amicus in this summary conviction appeal and no basis for the orders in the nature of mandamus which the appellant seeks. I would dismiss this aspect of his application as well.

- [19] The Crown's request for a dismissal of the appeal relates to the provision of transcripts. The appellant has attempted to get an order for transcripts or have others pay for them without success. In particular, he has indicated that his attempts to use some of his mother's funds have been resisted by the Public Guardian and Trustee. More than a year and a half has passed without the appellant complying with his duty to file transcripts in support of his appeal.
- [20] I accept that the appellant's resources to pay for transcripts are scarce. However, the fact remains that the appeal cannot proceed without them and the appellant has not demonstrated to the Legal Services Society or this Court that the merits of his appeal justify the provision of transcripts at no cost to him.
- [21] The appellant has also complained that he received the respondent's materials late in the day. The respondent replies that the materials were sent three days ago. Regardless, however, in the main the respondent's materials consist of an outline of the history of this matter and they restate principles and facts which would be well-known to the appellant because they have already been dealt with in prior decisions of this Court and the Court of Appeal.

Conclusion

- [22] Mr. Verma, you have presented your case to the best of your abilities, but, in my view, the materials before the Court simply do not justify the orders you are seeking.
- [23] Having considered all the circumstances, I have no choice but to dismiss the appellant's application for an adjournment, the request to issue mandamus, and the request for an appointment of counsel.
- [24] Given the passage of time and the appellant's failure to comply with the rules with respect to the provision of transcripts, the summary conviction appeal is dismissed for want of prosecution.
- [25] That is the end of my reasons. We will stand down. Thank you.

"Brundrett J."

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