

Federal Court of Appeal



Cour d'appel fédérale

Date: 20120919

Docket: A-30-12

Citation: 2012 FCA 242

**CORAM: NOËL J.A.
GAUTHIER J.A.
TRUDEL J.A.**

BETWEEN:

ROBERT ROY

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Montreal, Quebec, on September 19, 2012.

Judgment delivered from the bench at Montreal, Quebec, on September 19, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

TRUDEL J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the bench at Montreal, Quebec, on September 19, 2012)

TRUDEL J.A.

Relevant facts

[1] Mr. Roy tried, unsuccessfully, to appeal a decision of the National Parole Board (the Board) by which the Board placed special conditions on his full parole.

[2] In response to this negative outcome, Mr. Roy applied to the Federal Court for judicial review of the decision of the Board's Appeal Division. A Federal Court judge (the judge) dismissed his application with costs (2012 FC 78).

[3] On appeal to this Court, Mr. Roy, representing himself, raised many arguments which, in our opinion, have no basis in law and are not relevant for the purposes of a review on appeal of the impugned decision.

[4] The judge wrote as follows at paragraphs 2 to 4 of his reasons:

[2] Since 1998, Mr. Roy has faced several charges for contravening the *Quebec Securities Act*, RSQ, c V-1. Judge Jean-Pierre Bonin of the Court of Quebec found him guilty and sentenced him to a fine of \$455,000 plus costs. In 1999, Justice Côté, of the Superior Court of Quebec at the time, upheld the guilty verdict. In 2002, Mr. Roy pleaded guilty to a charge under the *Act respecting the ministre du Revenu*, RSQ c M-31, for making false or misleading statements in his income tax return. The court sentenced him to a fine of \$500,000.

[3] In 2006, following a class action, he was ordered to pay several million dollars to people who suffered financial losses resulting from their investments in the tax shelters of Mr. Roy and his co-accused.

[4] As he had not paid any of the fines ordered, Justice of the Peace Suzanne Bousquet allowed, in 2007, an application from the Montreal District fine collector to have Mr. Roy imprisoned pursuant to article 347 of the *Code of Penal Procedure*, RSQ, c C-25.1, in default of payment of his fines. He received a sentence of 7 years, 2 months and 22 days, and was sent to a federal penitentiary.

[5] Mr. Roy has since unsuccessfully attempted every recourse available to him under Quebec legislation in order to have Justice of the Peace Bousquet's decision reversed on the basis that it is contrary to the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982* (U.K.), 1982, c. 11. He is now once again trying to do this, indirectly, by challenging the conditions that the Commission imposed on his full parole.

[6] Essentially, Mr. Roy bases his appeal on two false premises. The first is that this Court and the Federal Court should have [TRANSLATION] "verified the legality" of the judgments of the Quebec courts. Mr. Roy oppugns in particular Justice of the Peace Bousquet's decision sentencing him to more than seven years in prison and to the judgments of the Superior Court dismissing his applications for writs of habeas corpus. The second false premise is that the Board could not impose special conditions on his full parole because he had been convicted of charges brought under provincial legislation for the non-payment of a fine. He therefore argues that the Board did not have jurisdiction to deal with his case and that, in any event, the conditions imposed by the Board have no connection with the non-payment of that fine.

[7] In addition to these arguments, there is also the argument that Mr. Roy's fundamental rights under sections 7 and 12 of the Charter were violated in that the [TRANSLATION] "Attorney General of Canada had a legal duty to ensure that, in the two habeas corpus proceedings, there was no violation of the Charter of Rights, which he failed to do, by act and/or omission".

[8] Mr. Roy's appeal must fail.

[9] First of all, as was explained at the hearing, the Federal Court is not the appropriate forum for appealing the judgments of the Court of Quebec and the Superior Court of Quebec. Moreover, as mentioned above, Mr. Roy has exhausted, with regard to those decisions, all of the remedies that are available to him under Quebec legislation. The appellant's argument that the Attorney General of Canada had a duty to intervene in penal proceedings against him in Quebec courts in order to protect his rights under sections 7 and 12 of the Charter is also baseless. There is no legislation imposing such a duty on the Attorney General in Mr. Roy's cases.

[10] Furthermore, Mr. Roy was sentenced to more than two years in prison. In accordance with section 743.1 of the *Criminal Code*, R.S.C. 1985, c. C-46, he therefore had to serve his sentence in a federal penitentiary rather than in a prison or other correctional facility in Quebec. This is why the Board was involved in his prison file, in accordance with subsection 107(2) of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

[11] Mr. Roy has not satisfied us that the judge committed an error of principle or any other error in finding that the Board had imposed reasonable conditions on him.

[12] In conclusion, we are all of the opinion that this appeal is completely baseless, and it is dismissed with costs.

“Johanne Trudel”

J.A.

Certified true translation
Erich Klein

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-30-12

STYLE OF CAUSE: Robert Roy v.
Attorney General of Canada

PLACE OF HEARING: Montreal, Quebec

DATE OF HEARING: September 19, 2012

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TRUDEL J.A.

DELIVERED FROM THE BENCH BY: TRUDEL J.A.

APPEARANCES:

Robert Roy REPRESENTING HIMSELF

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Deputy Attorney General of Canada