

Action No.: 120097332P1
E-File No.: CCP12CASTONGUAYJ
Appeal No.: _____

IN THE PROVINCIAL COURT OF ALBERTA
JUDICIAL CENTRE OF CALGARY

HER MAJESTY THE QUEEN

v.

JEANNE D'ARC CASTONGUAY

Accused

TRIAL
EXCERPT

Calgary, Alberta
June 14, 2012

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1 Proceedings taken in the Provincial Court of Alberta, Courthouse, Calgary, Alberta

2

3 June 14, 2012 Morning Session

4

5 The Honourable Judge Brown Provincial Court of Alberta

6

7 C.M Adair For the Crown

8 C.N. Leveque For the Accused

9 S. St. Arnault Court Clerk

10

11

12 MR. ADAIR: Madam Clerk, if you could please call
13 Castonguay.

14

15 THE COURT CLERK: Jeanne D'Arc Castonguay.

16

17 **Submissions by Mr. Adair (Other)**

18

19 MR. ADAIR: Your Honour, again, appearing for my
20 colleague, Colin Schulhauser.

21

22 This being a -- I understand to be a French trial, I don't have the capability to make my
23 application for an adjournment in French, so I'm just going to say that Mr. Schulhauser is
24 ill today, I found out this morning, so I'm appearing on his behalf to ask for an
25 adjournment. Obviously, there aren't any French-speaking prosecutors who can take this
26 at the last moment.

27

28 THE COURT: (OTHER LANGUAGE SPOKEN). Maitre
29 Leveque?

30

31 **Submissions by Mr. Leveque (Other)**

32

33 MR. LEVEQUE: (OTHER LANGUAGE SPOKEN).

34

35 THE COURT: (OTHER LANGUAGE SPOKEN).

36

37 MR. LEVEQUE: (OTHER LANGUAGE SPOKEN).

38

39 THE COURT: (OTHER LANGUAGE SPOKEN).

40

41 MR. LEVEQUE: (OTHER LANGUAGE SPOKEN).

1

2 **Discussion**

3

4 THE COURT: Mr. Adair, Mr. Leveque opposes the Crown
5 application for an adjournment for the following reasons:

6

7 As you know, this is scheduled to be a trial in French, and it is the right of an accused
8 person to have a trial in either English or French, according to the accused's choice.

9

10 Ms. Castonguay exercised that right, but had difficulty exercising other rights that would
11 flow from having a trial in French, the main example of which is the inability of the Case
12 Management Office to supply a form for designation of counsel in French, and when she
13 followed the instructions from case management and had Maitre Leveque draw up the
14 equivalent form in French, there was a reluctance to accept the form in French.

15

16 So, because of the difficulty of exercising her proper language rights, and on her behalf
17 Maitre Leveque represents that the item that is the subject of this theft charge was of
18 small value, and Ms. Castonguay is now a -- a senior, she expects to have her trial
19 proceed today.

20

21 So I'm informing you of this position, and telling you that Ms. Castonguay does not
22 consent to an adjournment of her trial, to hear what your response may be from the
23 Crown.

24

25 MR. ADAIR: My response, Your Honour, is pretty simple, in
26 that as I'm not capable of essentially meeting this application -- in English, obviously.
27 The only thing I recall from French class is I'd ask to go to the washroom, basically, I
28 would ask that this -- this adjournment application be adjourned. It could be heard at the
29 same date as the next trial date. If it's denied, the trial obviously wouldn't go forward.
30 To me that makes the most sense, and again, it's simply because I'm -- I'm not capable
31 of -- of arguing this.

32

33 THE COURT: I understand. Can you confirm for me, please,
34 the value of the item said to have been taken from Zellers?

35

36 MR. ADAIR: I don't have the file. I can -- I can -- well,
37 actually, I'm not sure I can. I can for -- I can e-mail Mr. Schulhauser, who's sick. I don't
38 know if I'll get an e-mail back. I do know that his assistant doesn't have the file, and I
39 have the synopsis here.

40

41 The value appears to be quite low, Your Honour. However, again, I have no information

1 with respect to a criminal record, or anything along those lines either.

2

3 THE COURT: All right.

4

5 MR. ADAIR: Again, I simply have to oppose. I -- I'm -- I'm
6 in no position to be able to argue this.

7

8 **Ruling (Other)**

9

10 THE COURT: Maitre Leveque, (OTHER LANGUAGE
11 SPOKEN).

12

13 Mr. Adair, in my view, the language rights asserted by Ms. Castonguay are of such
14 importance that despite the fact that this is the first time the matter has been set for trial,
15 and the reason for not proceeding is certainly a genuine one, I am calling on the Crown to
16 call its evidence at this time.

17

18 MR. ADAIR: Yes, Your Honour. In -- in that case, obviously
19 the counsel could call no evidence.

20

21 THE COURT: I'm dismissing the charge then for want of
22 prosecution.

23

24 MR. ADAIR: Thank you, Your Honour.

25

26 THE COURT: Madam Castonguay, (OTHER LANGUAGE
27 SPOKEN).

28

29 MR. LEVEQUE: (OTHER LANGUAGE SPOKEN)

30

31 THE COURT: (OTHER LANGUAGE SPOKEN).

32

33 MR. LEVEQUE: (OTHER LANGUAGE SPOKEN).

34

35 THE COURT: (OTHER LANGUAGE SPOKEN).

36

37 MR. LEVEQUE: (OTHER LANGUAGE SPOKEN).

38

39 THE COURT: (OTHER LANGUAGE SPOKEN).

40

41 UNIDENTIFIED SPEAKER: (OTHER LANGUAGE SPOKEN).

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3 PROCEEDINGS CONCLUDED

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1 Certificate of Record

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4 proceedings in the Provincial Criminal Court, held in courtroom 506, Calgary, Alberta, the
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