

Court file number: A35680131R

Provincial Court of Alberta

Judicial District of Red Deer

Between:

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA

and

JOEY COUTURE

Respondent

Applicant

**REQUEST TO OBTAIN A STAY OF PROCEEDINGS  
PENDING CONSTITUTIONAL CHALLENGE**

The Applicant is requesting a stay of proceedings pending his constitutional challenge, in Court of Queen's Bench, of the validity of Regulation 158/2013 made under Section 4 of the *Languages Act*, R.S.A. 2000, c. L-6.

This request will be considered Tuesday May 24, 2016 at 13h30, at the Red Deer Lodge, 4311 – 49<sup>th</sup> Avenue, Red Deer, Alberta. This request will be presented in English; no French language translation will be required.

THE FOLLOWING IS THE LEGAL BASIS FOR THE REQUEST:

a) the decision of Judge A. Brown in *R. v. Pooran*, 2011 ABPC 77 where she wrote:

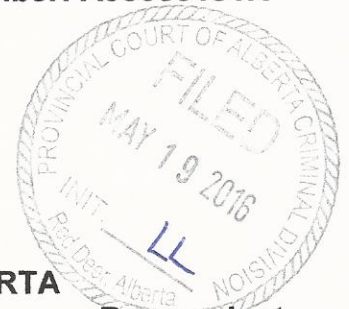
[21] If litigants are entitled to use either English or French in oral representations before the courts yet are not entitled to be understood except through an interpreter, their language rights are hollow indeed. Such a narrow interpretation of the right to use either English or French is illogical, akin to the sound of one hand clapping, and has been emphatically overruled by *Beaulac*.

[22] The Crown Respondent assertion that the rights in the *Languages Act* are met by the provision of an interpreter amounts to a sloughing of the language rights of the litigant to the *Charter* legal right to due process, natural justice and a fair trial...

[24] Therefore, for the following reasons, I have concluded that the Applicants are entitled to have their *Traffic Safety Act* trials in French, with a French-speaking judge and French-speaking prosecutor:

Language rights are to be given a liberal and purposive interpretation; (*Beaulac*)

Language rights are distinct from legal rights; (*Beaulac*)



Alberta recognizes the unique rights of Francophones; (ministerial statement, June 22, 1988, Alberta Hansard)

The languages of the courts in Alberta are English and French; (section 4(1), Languages Act) and, the language rights enunciated in section 4 of the Languages Act are not eroded by the failure of the provincial government to enact regulations to hone their delivery.

b) *R. v. Beaulac*, [1999] 1 SCR 768, where the Supreme Court of Canada has decided:

25. Language rights must in all cases be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada; ... To the extent that *Société des Acadiens du Nouveau-Brunswick*, at pp. 579-80, stands for a restrictive interpretation of language rights, it is to be rejected. The fear that a liberal interpretation of language rights will make provinces less willing to become involved in the geographical extension of those rights is inconsistent with the requirement that language rights be interpreted as a fundamental tool for the preservation and protection of official language communities where they do apply. It is also useful to re-affirm here that language rights are a particular kind of right, distinct from the principles of fundamental justice. They have a different purpose and a different origin.

c) *Caron v. Alberta*, [2015] 3 SCR 511 where the Supreme Court of Canada has **not** « ruled that the French language trials are not a right in the Province of Alberta ».

THE DOCUMENTARY EVIDENCE of this request is:

- a) The Notice of Constitutional Question, filed on June 23, 2015;
- b) The transcript of the May 15, 2015 proceedings where filing of French language documents has been authorized by Justice Kristine Eidsvik;
- c) The outcome of requests made under Regulation 158/2013;
- d) The affidavit of Joey Couture, signed November 17, 2015, with  
Annex A: the transcript of the November 17, 2015 proceedings;  
Annex B: September 10, 2013 letter to the three Chief Justice of Alberta;
- e) The transcript of the February 22, 2016 proceedings.

May 18, 2016




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Gérard Lévesque, Lawyer

414-1800 14a Street S.W.  
Calgary, Alberta T2T 6K3  
Phone: (403) 440-9823  
Email: [Levesque.Gerard@sympatico.ca](mailto:Levesque.Gerard@sympatico.ca)  
Lawyer for the Applicant

TO:

Traffic Commissioner S. T. Gorsalitz  
Provincial Court  
Court House  
4909 48<sup>th</sup> Avenue  
Red Deer, AB  
T4N 3T5

Mr. Rob Gregory, Provincial Prosecutor  
Crown Prosecutors Office  
Justice and Solicitor General  
6th fl Provincial Building  
4920 - 51 Street  
Red Deer, AB  
T4N 6K8  
Phone: 403 340-5190  
Fax: 403 340-7193  
E-mail: [Rob.Gregory@gov.ab.ca](mailto:Rob.Gregory@gov.ab.ca)