

Action No.: A27128102R  
E-File No.: CCP15PAQUETTEFRAN  
Appeal No.: \_\_\_\_\_

IN THE PROVINCIAL COURT OF ALBERTA  
JUDICIAL CENTRE OF CALGARY

HER MAJESTY THE QUEEN

v.

FRANCOIS PAQUETTE

Accused

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P R O C E E D I N G S

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Calgary, Alberta  
May 15, 2015

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

2 \_\_\_\_\_  
3 May 15, 2015 Afternoon Session

4  
5 Commissioner Plater A sitting Justice of the Peace in the Province of  
6 Alberta

7  
8 C. Neill For the Crown  
9 G. Levesque For the Accused  
10 K. Lauinger Court Clerk

11 \_\_\_\_\_  
12  
13 THE COURT CLERK: Francois Paquette, to speak to. Counsel present.

14  
15 THE COMMISSIONER: Thank you. Mr. Levesque.

16  
17 **Discussion**

18  
19 MR. LEVESQUE: Oui. Bonjour votre Honneur. My name is  
20 Gerard Levesque and I'm here today for Francois Paquette just to ask pertinent to  
21 *Language in Court Regulation* 158, 2013. A request that the proceeding be in French and  
22 the regulation mention that it has to be with the consent of the pros -- prosecutor, so  
23 depending of the --

24  
25 THE COMMISSIONER: Is it with the consent of the prosecutors? So --

26  
27 MR. NEILL: Not at this time, Your Worship, no.

28  
29 THE COMMISSIONER: -- so then it will be a French interpreter. I think  
30 we've gone through this before.

31  
32 MR. LEVESQUE: -- yes.

33  
34 THE COMMISSIONER: All right.

35  
36 MR. LEVESQUE: So --

37  
38 THE COMMISSIONER: So, is there a trial date that's been reserved?

39  
40 MR. LEVESQUE: -- we cannot proceed, Your Honour, because  
41 this morning in Queen's Bench, Judge Eidsvik is seized of the matter. There is a

1 constitutional challenge to the --

2

3 THE COMMISSIONER: Okay.

4

5 MR. LEVESQUE: -- validity of the regulation. So, what I suggest  
6 is that the case be adjourned. It is possible the longest on the possible times to be mark as  
7 to be spoken to, so I would inform the Court where we are in Queen's Bench, but I can --

8

9 THE COMMISSIONER: What's the timing of the Queen's Bench --

10

11 MR. LEVESQUE: -- well --

12

13 THE COMMISSIONER: -- matter?

14

15 MR. LEVESQUE: -- Judge Eidsvik ordered a phone conference  
16 with the constitutional law section in Edmonton of the Justice Alberta, myself, and her in  
17 mid-September. Now, I know that it's a bit longer --

18

19 THE COMMISSIONER: It's quite a ways away.

20

21 MR. LEVESQUE: -- than what we use to adjourn. I don't mind --  
22 I'll be here some time this summer if -- if you have a date to suggest.

23

24 THE COMMISSIONER: I -- I'm thinking what we should do is set a  
25 trial date so that there is time reserved, right, with the French interpreter, so have that all  
26 in place, set a trial date --

27

28 MR. LEVESQUE: Uh hmm.

29

30 THE COMMISSIONER: -- to follow that conference. You can bring the  
31 matter forward, update us at that point, but at least there's court time reserved.

32

33 MR. LEVESQUE: As long as you don't ask the witness to be here  
34 because we won't proceed in court until the decision of the Queen's Bench because the --

35

36 THE COMMISSIONER: Well --

37

38 MR. LEVESQUE: -- regulation is constitutionally challenged.

39

40 THE COMMISSIONER: -- there -- there would be -- if it's set for trial,  
41 the Crown would notify its witnesses, as it always would. What would be up to you to do,

1 is bring the matter forward following that September conference --

2

3 MR. LEVESQUE: Yes.

4

5 THE COMMISSIONER: -- update the Court here. If the trial date needs  
6 to be reset and moved down, then that can --

7

8 MR. LEVESQUE: Okay.

9

10 THE COMMISSIONER: -- be done and the witnesses would be excused  
11 for the first date, brought back in for the second date. So, it's just more reserving time in  
12 the event that the matter can go ahead to trial so that we've got a trial date set.

13

14 MR. LEVESQUE: Okay.

15

16 THE COMMISSIONER: We'll out of an abundance of caution order a  
17 French interpreter, but it'll be up to you to bring the matter forward to speak to it and ask  
18 for a further trial date, adjournment date if that's necessary given the timing of the  
19 Queen's Bench matter.

20

21 MR. LEVESQUE: Okay.

22

23 THE COMMISSIONER: Does that make sense?

24

25 MR. LEVESQUE: Yes.

26

27 THE COMMISSIONER: Sort of?

28

29 MR. LEVESQUE: Sort of. Well, the constitutional validity is  
30 challenged because obviously if the regulation to use French make it so that the lawyer  
31 has to present for a client a request to the Court to use French, whether it's ac -- accepted  
32 or not, just the first appearance costs more for my client --

33

34 THE COMMISSIONER: Okay.

35

36 MR. LEVESQUE: -- than if he would have plead English -- guilty  
37 in English. So, you see that there will be a long argument in small -- in Queen's Bench.

38

39 THE COMMISSIONER: Well, what I'm trying to do is preserve court  
40 time --

41

1 MR. LEVESQUE: Okay.

2

3 THE COMMISSIONER: -- so that there is a date set, but I guess what I  
4 should ask you is what do -- if you can, tell me this, what do you anticipate after the  
5 conference in September? Re -- di -- if you have a favourable outcome --

6

7 MR. LEVESQUE: Right.

8

9 THE COMMISSIONER: -- when would a trial date be able to be --

10

11 MR. LEVESQUE: It will depend on how long --

12

13 THE COMMISSIONER: -- on --

14

15 MR. LEVESQUE: -- will be the affidavit. I can say that I represent  
16 five litigants and one of them, for instance, the Court and Crown make it so that I had to  
17 appear five times for the request between Airdrie and here because in Airdrie they say,  
18 Oh, Calgary has more staff and judges that are available, we'll transfer the case. So, when  
19 the counsellor come --

20

21 THE COMMISSIONER: -- 'cause there are more court days probably, so  
22 it's easier for you --

23

24 MR. LEVESQUE: -- yeah.

25

26 THE COMMISSIONER: -- to appear or that's the theory.

27

28 MR. LEVESQUE: But when they arrive here, the Crown says the  
29 new regulation dons the liberty to not only the Crown, but each Crown. So, whether the --  
30 I had the consent of Crown in Airdrie to transfer here, the Crown here said, We're  
31 sending you -- this back to --

32

33 THE COMMISSIONER: Airdrie.

34

35 MR. LEVESQUE: -- Airdrie because our policy is not to consent  
36 and --

37

38 THE COMMISSIONER: Okay.

39

40 MR. LEVESQUE: -- make a -- a new motion in -- in Airdrie. I  
41 went -- it took five time. The fifth time, they realized I was going in Queen's Bench for

1 that one, they either stayed or dropped the charge, but he's one of the -- so it will be a  
2 lengthy affidavit and it goes to the right to use both language of the Court that is --

3  
4 THE COMMISSIONER: So, once it gets --

5  
6 MR. LEVESQUE: -- yeah.

7  
8 THE COMMISSIONER: -- set down for argument it will be lengthy.

9  
10 MR. LEVESQUE: Uh hmm.

11  
12 THE COMMISSIONER: What I'm wondering is that September  
13 conference, what's anticipated to come out of that, positive or negative?

14  
15 MR. LEVESQUE: Well --

16  
17 THE COMMISSIONER: What -- what's --

18  
19 MR. LEVESQUE: -- that's what Judge Eidsvik wants to do in  
20 September after receiving five affidavit, one bilingual notice of a -- a con -- contest to the  
21 validity of the con -- of the regulation --

22  
23 THE COMMISSIONER: -- right.

24  
25 MR. LEVESQUE: -- and see what will then be the position of the  
26 Crown. Because this morning we argue whether I could file in French or not and the  
27 position of the Crown was the one of -- the client of the Crown now. In two weeks, the  
28 client will be different, maybe the argument will change, but this morning it was that --  
29 there was a view that it's something like a French lang -- the French language is a foreign  
30 language, like -- there's no difference with any other language. So, that's the issue --

31  
32 THE COMMISSIONER: Okay.

33  
34 MR. LEVESQUE: -- and Judge Eidsvik will be in a better  
35 situation to determine a date after reading the material that I'll be filing now.

36  
37 THE COMMISSIONER: And that's what's being determined in  
38 September?

39  
40 MR. LEVESQUE: Yeah. I have until that date to file five affidavit.

41

1 THE COMMISSIONER: Okay, so in September --  
2

3 MR. LEVESQUE: I have to file next month the bilingual notice.  
4

5 THE COMMISSIONER: Okay. So, in September the outcome of that  
6 conference will be to have a date set --  
7

8 MR. LEVESQUE: To set the date, yeah.  
9

10 THE COMMISSIONER: -- in Queen's Bench?  
11

12 MR. LEVESQUE: Yes -- yes, because, unfortunately, I tried to  
13 challenge --  
14

15 THE COMMISSIONER: Right.  
16

17 MR. LEVESQUE: -- but the provincial court doesn't have the  
18 power to receive a -- a constitutional challenge.  
19

20 THE COMMISSIONER: Mr. Neill, what do you suggest. I thought my  
21 idea was a good one at first.  
22

23 MR. NEILL: Actually, I still would agree with that, Your  
24 Worship, until there's actually an outcome comes from the challenge, it should be set.  
25

26 THE COMMISSIONER: Okay. There is a not guilty plea that's being put  
27 forward, if it hasn't already, it's -- it's a not guilty plea, correct?  
28

29 MR. LEVESQUE: Yeah.  
30

31 THE COMMISSIONER: On this matter he's disputing it. Let's go with  
32 that first plan where we set a trial date --  
33

34 MR. LEVESQUE: Okay.  
35

36 THE COMMISSIONER: -- downstairs, we'll endorse it that -- what's the  
37 date of the conference -- the Queen's Bench conference?  
38

39 MR. LEVESQUE: September the 22nd, at 1:00. It's gotta be  
40 organized by the Court.  
41

- 1 THE COMMISSIONER: All right, then what I'll endorse with your  
2 agreement is that a trial date not be set before October of 2015 because of these matters  
3 that are being brought forward and it will then be up to you following that September  
4 22nd date or before, if you become aware of something additional, to have the matter  
5 brought forward and spoken to in the event that a new trial date needs to be secured  
6 because the one set just clearly isn't going to work --  
7
- 8 MR. LEVESQUE: No.  
9
- 10 THE COMMISSIONER: -- given the timing of the QB matters.  
11
- 12 MR. LEVESQUE: Hmm.  
13
- 14 THE COMMISSIONER: Does that make sense?  
15
- 16 MR. LEVESQUE: Yes, is it possible --  
17
- 18 THE COMMISSIONER: Okay.  
19
- 20 MR. LEVESQUE: -- to have a copy of your endorsement, please?  
21
- 22 THE COMMISSIONER: Madam clerk will endorse the file --  
23
- 24 MR. LEVESQUE: Yeah.  
25
- 26 THE COMMISSIONER: -- in -- and I don't know if they'll make you a  
27 photocopy of that endorsement or not, but madam clerk will endorse the file to show that  
28 this is going to be set for trial, French interpreter ordered, trial date not to be set before  
29 October of 2015 due to a matter involving this before the Court of Queen's Bench, which  
30 is next being dealt with on -- at -- in the -- we'll say September 22nd, okay?  
31
- 32 MR. LEVESQUE: Okay.  
33
- 34 THE COMMISSIONER: So that all of that's in there, that's the reason  
35 that we're asking for a later trial date and again that you are to bring the matter forward  
36 anytime up to the trial date, but especially right after that conference just to advise what's  
37 going on --  
38
- 39 MR. LEVESQUE: Uh hmm.  
40
- 41 THE COMMISSIONER: -- and determine whether we need to move the

1 trial date --  
2  
3 MR. LEVESQUE: Makes sense.  
4  
5 THE COMMISSIONER: -- or cancel it depending on what happens in  
6 Queen's Bench.  
7  
8 MR. LEVESQUE: Yeah.  
9  
10 THE COMMISSIONER: Okay?  
11  
12 MR. LEVESQUE: Okay.  
13  
14 THE COMMISSIONER: So, what you'll now have to do, unfortunately,  
15 is go back to the second floor justice of the peace counter. We don't assign the trial dates  
16 here, that's why I've asked madam clerk to endorse the file so that when they get it down  
17 there, they'll -- they'll be aware that they're not to set a date before October --  
18  
19 MR. LEVESQUE: Okay.  
20  
21 THE COMMISSIONER: -- and the reasons for that.  
22  
23 MR. LEVESQUE: So, it's on the second -- the CMO --  
24  
25 THE COMMISSIONER: Second floor.  
26  
27 MR. LEVESQUE: -- CMO?  
28  
29 THE COMMISSIONER: For traffic, it's not -- CMO's on the --  
30  
31 MR. LEVESQUE: For tra --  
32  
33 THE COMMISSIONER: -- fourth floor --  
34  
35 MR. LEVESQUE: -- oh, okay.  
36  
37 THE COMMISSIONER: -- but this is justice of peace counter --  
38  
39 MR. LEVESQUE: Okay.  
40  
41 THE COMMISSIONER: -- on the second floor.

1  
2 MR. LEVESQUE: I thank you very much --

3  
4 THE COMMISSIONER: All right.

5  
6 MR. LEVESQUE: -- for your co-operation.

7  
8 THE COMMISSIONER: Thank you.

9  
10 MR. LEVESQUE: Thank you.

11  
12 \_\_\_\_\_

13 PROCEEDINGS ADJOURNED SINE DIE

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