

Action No.: B96210413C
E-File Name: COP20PAVING
Appeal No.: _____

IN THE PROVINCIAL COURT OF ALBERTA
JUDICIAL CENTRE OF CALGARY

HER MAJESTY THE QUEEN

v.

ALBERTA PAVING LTD.

Accused

PROCEEDING S

Calgary, Alberta
January 14, 2020

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1 Proceedings taken in the Provincial Court of Alberta, Calgary Courts Centre, Calgary, Alberta

2

3 January 14, 2020

Morning Session

4

5 Commissioner Elliott

Provincial Court of Alberta

6

7 J. Schoonraad

For the Crown

8 (Student-at-Law)

9 J. Couture

For the Accused

10 (Agent)

11 L. Smith

Court Clerk

12

13

14 THE COURT:

Good morning, everyone.

15

16 MS. SCHOONRAAD:

Good morning, Your Worship.

17

18 THE COURT:

Please be seated.

19

20 MS. SCHOONRAAD:

Thank you.

21

22 THE COURT CLERK:

Agent for Alberta Paving Ltd. Interpreter

23 present.

24

25 MS. SCHOONRAAD:

Good morning, Your Worship. Schoonraad,

26 initial 'J', for the record. I'm a student-at-law with Alberta Justice.

27

28 THE COURT:

Good morning, Mr. Couture.

29

30 MR. COUTURE:

Good morning.

31

32 THE INTERPRETER:

Good morning, Sir.

33

34 MR. COUTURE:

Good morning. How are you?

35

36 **Discussion**

37

38 THE COURT:

I am good. Thank you. So, clearly, we will

39 schedule a French trial for you with a French judge and a French prosecutor and, hopefully,

40 a French clerk.

41

1 Now, just at the last minute now I am starting to get emails from various people coming in
2 to advise me on what to do with this situation. It looks like we are going to put it before a
3 Provincial Court judge rather than a Traffic Court justice, and I would like to take a few
4 minutes now to go finish reading all those emails. They are just coming in as I speak. And
5 so we can find out what to do with you.

6

7 MR. COUTURE: So just for now I guess I will talk in English with
8 you for just -- because you talk really long.

9

10 THE COURT: That is fine. We have also determined that even
11 though, apparently, you speak and understand English fairly well, if you request a French
12 trial, you are entitled to it.

13

14 MR. COUTURE: Yes, exactly.

15

16 THE COURT: Okay? So what I am saying right now is that I
17 just want a few minutes to finish reading these emails that are coming in to decide what to
18 do with you.

19

20 MR. COUTURE: Perfect. And can I help you out also with some
21 direction? Because right now --

22

23 THE COURT: Yes. Go ahead.

24

25 MR. COUTURE: -- right now if you look at the regulation, how it's
26 written, so the -- I have to find it. Just to help you out with this. So as the regulations stand,
27 you're actually not in right to give me a French trial because as it stand, it state:

28

29 A judge may, at the request of a [defender] and with the consent
30 of the prosecutor, conduct a proceeding in French.

31

32 So right now even if you would like to give me a French trial, as the regulation is written,
33 you're not in -- like, you're not in -- allowed to. That's them. That's the Crown that has the
34 right to give me a trial in French.

35

36 THE COURT: Do I understand you still request a trial in
37 French?

38

39 MR. COUTURE: Yeah, like, but I under -- but do you understand
40 that the main request of everything why I'm here is to say that it's not constitutional, and
41 we're basically debating the right of that article. It's not -- it's not fair for any French person

1 that come here. And their right: It's not into your hand, and it's into the Crown hand, which
2 is a conflict of interest.

3

4 THE COURT: And you feel that is not fair?

5

6 MR. COUTURE: That's definitely not fair.

7

8 THE COURT: Okay. I appreciate that.

9

10 MR. COUTURE: Yeah.

11

12 THE COURT: And we talked about that last time.

13

14 MR. COUTURE: Yeah.

15

16 THE COURT: Okay. Crown, do you have anything to say about
17 this?

18

19 MS. SCHOONRAAD: The Crown has no objection to the French trial
20 proceeding --

21

22 THE COURT: Well, there you have it.

23

24 MS. SCHOONRAAD: -- so there shouldn't be an issue.

25

26 THE COURT: Okay.

27

28 MR. COUTURE: Okay, then. Perfect. So that's my second point.

29

30 THE COURT: Okay. Now we just have to finalize the plans of
31 how we are going to set your French trial.

32

33 MR. COUTURE: But, like, on my second point now, it's -- it's
34 the -- I would say that's the first time since I'm involved into this. That's at least six years.
35 But that's the first time I see the Crown approving it, which is -- I -- it's wonderful. But,
36 also, the argumentation is about more than -- like, it's about six to ten years of, like, proof
37 that the Crown is not collaborating. And this is a matter that it's already in front of the
38 Provincial Court, in front of the Queen -- the Queen's Bench. The Queen's Bench. So right
39 now that's what I want to tell you. Like, I want to put that matter into the higher court,
40 which we -- we want to keep pushing where we've been stopped by the Crown many times.

41

1 I'm not going to debate and show you all that has been deposed, but there is a lot, and that
2 was part of the documentation I gave you. So you're most likely reading all these proof that
3 the Crown has been not cooperating. So -- and I can give you my personal experience that
4 was from last year if you want. I went six times in court. So they bring me six time, all the
5 time in Canmore. I live in Calgary, so I miss six time, like, work for it. And the sixth -- after
6 the sixth time, basically, they send me for a -- an interpretation trial. And what happened,
7 basically, the interpreter wasn't there. So then I went by default.

8
9 So there is a bunch of tactical, like, the Crown has been -- used. And right now that's why
10 we just want to keep high -- to go in a higher court to show the attitude of the Crown. It's
11 not fair for any French person and French-speaking person in Alberta. So it's going way
12 deeper than just having a trial in French, so that's what I'm saying to you.

13
14 THE COURT: Okay. But I am only dealing with this particular
15 trial now. If you want to appeal what has been happening so far in this trial and take it to a
16 higher level, that is up to you, but for this particular trial, we are going to set it to be in
17 French. And if you do not like how it is shaping up, you can put it on the pile of things that
18 you are taking to Queen's Bench.

19
20 MR. COUTURE: Perfect.

21
22 THE COURT: I can only deal with this particular case.

23
24 MR. COUTURE: Thank you.

25
26 THE COURT: So I am going to ask you to sit down for a
27 moment till I run upstairs and confirm what the plan is, so we do not make you come back
28 again.

29
30 MR. COUTURE: Okay.

31
32 THE COURT: All right?

33
34 MR. COUTURE: Thank you so much.

35
36 THE COURT: So have a seat.

37
38 MR. COUTURE: Thank you so much.

39
40 (OTHER MATTERS SPOKEN TO)

41

1 (ADJOURNMENT)
2
3 THE COURT: Good morning once again, everyone. Please be
4 seated.
5
6 MS. SCHOONRAAD: Thank you, Your Worship.
7
8 THE COURT CLERK: What would you like me to re-call?
9
10 THE COURT: Alberta Paving, please.
11
12 THE COURT CLERK: Re-calling agent for Alberta Paving Ltd.
13
14 THE COURT: Good morning once again, Mr. Couture.
15
16 MR. COUTURE: Good morning.
17
18 THE COURT: I have this all set up for you.
19
20 MR. COUTURE: (FRENCH LANGUAGE SPOKEN)
21
22 THE INTERPRETER: Thank you.
23
24 THE COURT: You can go to the Case Management Office on
25 the fourth floor of the north tower -- that is the other building -- right now, ask for Mrs.
26 MacDonald (phonetic). She is waiting for you, and she will make the arrangements for a
27 French trial. I suggested that you might want to book half a day for it. If you think you
28 want more or less time than that, you can speak to Mrs. MacDonald about that.
29
30 MR. COUTURE: (FRENCH LANGUAGE SPOKEN)
31
32 THE COURT: Do you want to interpret that for me, please,
33 Madam Interpreter?
34
35 THE INTERPRETER: I am not a lawyer, so if I go to see Ms.
36 MacDonald, I think I -- she should be dealing with a lawyer, and I think it's better for me
37 to go there when I have a lawyer.
38
39 THE COURT: That is fine, but at least for now you can go speak
40 to Mrs. MacDonald because she is waiting for you, and if you wish to ask the interpreter
41 to ask Mrs. MacDonald to ask for a day for you to come back with a lawyer, that is just

1 fine.

2

3 MR. COUTURE: Okay.

4

5 THE COURT: But for now we have to speak to MacDonald
6 because I have spent the last upwards of an hour now getting her in the loop and organizing
7 for her to organize a French trial for you. So we have to at least go tell her that you are
8 here, and if you wish to ask for an adjournment to set another date, she is the lady to speak
9 to about it.

10

11 MR. COUTURE: So just to make sure I understand, so I will go see
12 Ms. MacDonald.

13

14 THE COURT: Yes.

15

16 MR. COUTURE: I will present what I --

17

18 THE COURT: On the fourth floor of the Case Management
19 Office.

20

21 MR. COUTURE: Case --

22

23 THE INTERPRETER: CMO.

24

25 THE COURT: Fourth floor of the north tower at the Case
26 Management Office. Because we are moving this trial to a Provincial Court judge.

27

28 MR. COUTURE: Mm.

29

30 THE COURT: This is Provincial Court as well, but this is
31 Provincial Court Traffic Court. Provincial Court Criminal Division apparently does all our
32 French trials for us.

33

34 MR. COUTURE: Okay.

35

36 THE COURT: So we have accomplished that today. I have
37 moved you into that venue.

38

39 MR. COUTURE: But just, all due respect, that all -- that already
40 happened to me in 2018. They send me to the criminal, and then -- and then they send me
41 back and said, Hey, why are you here today?

1
2 THE COURT: Well --
3
4 MR. COUTURE: And then we'll come back --
5
6 THE COURT: -- that is not going to happen today.
7
8 MR. COUTURE: No? All right. Thank you.
9
10 THE COURT: Because I went and talked to MacDonald.
11
12 MR. COUTURE: Okay.
13
14 THE COURT: And showed her the emails that I have from our
15 legislative people that tell me to put you in Provincial Court and set you a --
16
17 MR. COUTURE: A trial.
18
19 THE COURT: -- a French trial.
20
21 MR. COUTURE: Okay.
22
23 THE COURT: So we will not have that problem again.
24
25 MR. COUTURE: Okay.
26
27 THE COURT: Which is exactly part of the reason you have to
28 go establish a relationship with Mrs. MacDonald now.
29
30 MR. COUTURE: Perfect.
31
32 THE COURT: Okay?
33
34 MR. COUTURE: Thank you.
35
36 THE COURT: So, madam clerk, you send this information up
37 to the Case Management Office. You can fast-track it there.
38
39 THE COURT CLERK: Yeah, I will, pending --
40
41 THE COURT: Right now because Mrs. MacDonald is sitting

1 there waiting for you.

2

3 THE COURT CLERK: And perhaps, Madam Interpreter, if you would
4 like to maybe -- it sounds like you're going to assist, so if you maybe want to hand that in,
5 because I won't know what your end time is. So they should be able to finish the end time
6 for you and submit it up there.

7

8 MR. COUTURE: And before we go, can I ask you two things? To
9 get the endorsements before I go talk to Ms. MacDonald, just get the endorsement of the
10 day. I'm going to order -- basically, I'm going to order the -- a transcript.

11

12 THE COURT: All right. That is fair enough. The clerk will
13 endorse --

14

15 MR. COUTURE: Yeah.

16

17 THE COURT: -- that I have ordered a full French trial.

18

19 MR. COUTURE: Yeah.

20

21 THE COURT: Not just an interpreter, a full French trial, and I
22 have transferred the case to Provincial Court officially, so they cannot send it back. And I
23 have sent you to the Provincial Court trial coordinator, who is Mrs. MacDonald --

24

25 MR. COUTURE: Okay.

26

27 THE COURT: -- to set you a trial.

28

29 MR. COUTURE: Perfect. Another question. Just I miss -- I miss
30 your name because when I look on the transcript, it -- your name is not in the transcript
31 from last time.

32

33 THE COURT: My last name is Elliott.

34

35 MR. COUTURE: Elliott?

36

37 THE COURT: As in Pierre Elliott Trudeau.

38

39 MR. COUTURE: Oh.

40

41 THE COURT: Okay?

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MR. COUTURE:

And what's your first name, if I can ask?

THE COURT:

That is E-L-L-I-O-T-T. And my first name is

Danny.

MR. COUTURE:

Okay.

THE COURT:

I do not know if he is named after me or I am
named after him, but there is no relationship there.

MR. COUTURE:

Thank you so much.

THE COURT:

All right. So you are finished for today, Mr.
Couture.

MR. COUTURE:

Okay. Thank you.

PROCEEDINGS ADJOURNED

1 **Certificate of Record**

2

3 I, Lesley Smith, certify that this recording is the record made of the evidence in the
4 proceedings in Provincial Traffic Court, held in Courtroom 905, on the 14th day of January,
5 2020, and that I was the court official in charge of the sound-recording machine during the
6 proceedings.

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1 **Certificate of Transcript**

2

3 I, Catherine FosterFlynn, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best
6 of my skill and ability and the foregoing pages are a complete and accurate transcript of
7 the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record and
10 is transcribed in this transcript.

11

12

13

14

15 Catherine FosterFlynn, Transcriber

16 Order Number: AL-JO-1004-7758

17 Dated: January 15, 2020

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