

R. v. Delaronde, [1997] 1 S.C.R. 213

John Delaronde

Appellant

v.

Her Majesty The Queen

Respondent

Indexed as: R. v. Delaronde

File No.: 25261.

1997: January 30.

Present: Lamer C.J. and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

on appeal from the court of appeal for quebec

Constitutional law -- Charter of Rights -- Right to be informed without unreasonable delay of specific offence -- Twenty-month interval between issuance of arrest warrant and actual arrest -- No proof of prejudice to accused from delay in being informed of offence -- Trial judge erred in ordering stay of proceedings.

Statutes and Regulations Cited

Canadian Charter of Rights and Freedoms, ss. 11(a), 24(1).

APPEAL from a judgment of the Quebec Court of Appeal, [1996] R.J.Q. 591, allowing the Crown's appeal from a stay of proceedings ordered by Cliche J.C.Q. Appeal dismissed.

Julio Peris, for the appellant.

Henri-Pierre Labrie and *Jacques Pothier*, for the respondent.

The judgment of the Court was delivered orally by

1 THE CHIEF JUSTICE -- For the reasons of Otis J.A. of the Quebec Court of Appeal, [1996] R.J.Q. 591, the appeal is dismissed.

The following addendum by Lamer C.J. was delivered on February 27, 1997

1 THE CHIEF JUSTICE -- The Court's decision in this appeal was rendered at the hearing. I would like to write a short addendum to the brief reasons for the decision on a subject that, while not at issue, was discussed before this Court and might be raised in another case involving the right guaranteed by s. 11(a) of the *Canadian Charter of Rights and Freedoms*. The purpose of my addendum is to leave open the possibility of finding an infringement of s. 11(a) of the *Charter* for prejudice other than that resulting from a breach of the right to make full answer and defence, thus making certain remedies available under s. 24(1) of the *Charter*.

2 The Court concurred with the Court of Appeal's decision ([1996] R.J.Q. 591) in the present case. While I am in complete agreement with that decision, I wish to add a comment to Otis J.A.'s decision in order to ensure that a person alleging an

infringement of his or her right protected by s. 11(a) of the *Charter* on the basis of economic prejudice will not be limited in the choice of remedies under s. 24(1). I point out that Mr. Delaronde's claim for a s. 24(1) remedy was based exclusively on a breach of his right to a fair trial.

3 Otis J.A. held that the sole purpose of s. 11(a) of the *Charter* is to protect the right of a person charged with an offence to a fair trial. On the basis of her reasoning, persons charged with an offence who fail to show that their ability to prepare a defence has been prejudiced as a result of the length of the delay in informing them of the specific offence will be denied a remedy under s. 24(1) of the *Charter*. However, I believe that apart from any breach of the right to a fair trial, a person charged with an offence could rely on an infringement of his or her s. 11(a) right where economic prejudice is proven. With respect, I do not think an infringement of s. 11(a) of the *Charter* is limited solely to a breach of the right to a fair trial. Accused persons have the right to be informed rapidly of the charges against them so that they can make important decisions relating to, among other things, their professional or family life. If such decisions lead to economic prejudice as a direct result of unreasonable delay in informing them of the specific offence with which they are charged, it should be open to them to rely on the infringement of the right protected by s. 11(a) of the *Charter* and to apply to the appropriate court for a remedy under s. 24(1).

4 I offer two examples to explain how prejudice other than that resulting from a breach of the right to a fair trial might lead to an infringement of the right guaranteed by s. 11(a) of the *Charter*. First, a person who, unaware that an information was laid against him some time ago, decides to invest all his savings to buy a convenience store that he intends to manage with his wife could sustain considerable financial damage if required to be absent to stand trial and even serve a prison sentence.

Such a person might argue that had he been informed sooner, within a reasonable time, of the information laid against him, he would never have decided to invest all his money in this small business which could not survive without his active participation. He might also argue that he had not planned for the additional cost of having to hire a temporary employee for the duration of his trial and his time in prison, if any, to do his share of work in running his store. Second, a person who decides not to renew a legal expenses insurance policy, which guaranteed her the services of a lawyer at a lower cost, because she is unaware that charges have been laid against her might very well seek a remedy under s. 24(1) of the *Charter*. It would be possible to establish a causal link between the prejudice resulting from that decision and the fact that she was not informed within a reasonable time of the specific offence with which she was charged.

5 In writing this addendum, I wished to present my view that the remedies available under s. 24(1) of the *Charter* for an infringement of the right guaranteed by s. 11(a) should not be limited to prejudice resulting from a breach of the right to a fair trial. Having charges pending against one can affect decisions one must make in one's life that are unrelated to the preparation of a defence.

Judgment accordingly.

Solicitors for the appellant: Girouard, Peris, Pappas, Brabant, Sutton & Prihoda, Montreal.

Solicitor for the respondent: The Attorney General of Quebec, Longueuil.