File Numbers: 35115
35339

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE NOVA SCOTIA COURT OF APPEAL)

BETWEEN:

HER MAJESTY THE QUEEN

Appellant (Appellant)

and

LEVEL AARON CARVERY

Respondent (Respondent)

and

THE CRIMINAL LAWYERS' ASSOCIATION OF ONTARIO

Intervener

and

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE ONTARIO COURT OF APPEAL)

BETWEEN:

HER MAJESTY THE QUEEN

Appellant (Appellant)

and

SEAN SUMMERS

Respondent (Respondent)

and

THE CRIMINAL LAWYERS' ASSOCIATION OF ONTARIO

Intervener

FACTUM OF THE CRIMINAL LAWYERS' ASSOCIATION OF ONTARIO

<table>
<tr>
<td>Russell Silverstein & Associate
Barristers and Solicitors
116 Simcoe Street, Suite 100
Toronto, Ontario M5H 4E2
Tel: 416-977-5334
Fax: 416-596-2597
russell@silverstein-Iaw.com

Counsel for the Criminal Lawyers' Association</td>
<td>Gowling Lafleur Henderson LLP
2600 - 160 Elgin St
Box 466 Station D
Ottawa, Ontario
K1P 1C3
Telephone: (613) 233-1781
FAX: (613) 563-9869
E-mail: brian.crane@gowlings.com

Agents for the Criminal Lawyers' Association</td>
</tr>
<tr>
<td>David W. Schermbrucker and
Bradley Reitz
Public Prosecution Service of Canada
Suite 1100, Duke Tower
5251 Duke Street
Halifax, Nova Scotia
B3J IP3
Telephone: (902) 426-2285
FAX: (902) 426-1351

Counsel for the Appellant in R. v. Carvery</td>
<td>Francois Lacasse
Director of Public Prosecutions of Canada
284 Wellington Street
2nd Floor
Ottawa, Ontario
KIA OH8
Telephone: (613) 957-4770
FAX: (613) 941-7865

Agent for the Appellant in R. v. Carvery</td>
</tr>
<tr>
<td>Luke A. Craggs
Burke Thompson
5162 Duke Street, Suite 200
P.O. Box 307
Halifax, Nova Scotia
B3J 2N7
Telephone: (902) 429-7701
FAX: (902) 423-2968

Counsel for the Respondent in R. v. Carvery</td>
<td>Marie-France Major
Supreme Advocacy LLP
340 Gilmore Avenue
Suite 100
Ottawa, Ontario
K2P OR3
Telephone: (613) 695-8855 Ext: 102
FAX: (613) 695-8580

Agent/or the Respondent in R. v. Carvery</td>
</tr>
<tr>
<td>Gregory J. Tweney and
Molly Flanagan
Attorney General of Ontario
720 Bay Street, 10th Floor
Toronto, Ontario
M5G2Kl
Telephone: (416) 326-4582
FAX: (416) 326-4656

Counsel/or the Appellant in R. v. Summers</td>
<td>Robert E. Houston, Q.C.
Burke-Robertson
441 MacLaren Street
Suite 200
Ottawa, Ontario
K2P 2H3
Telephone: (613) 236-9665
FAX: (613) 235-4430

Agent/or the Appellant in R. v. Summers</td>
</tr>
</table>

Brennan Smart Barrister and Solicitor 130 Lancaster Street East Kitchener, Ontario N2H 1N1 Telephone: 519-579-2924 Fax: 519-579-2935 *Counsel/or the Respondent in* R. v. Summers	Terri H. Semanyk Shanbaum Semanyk Professional Corporation 150 Isabella Street, Suite 305 Ottawa, Ontario KIS IV7 Telephone: (613) 238-6969 Ext: 2 FAX: (613) 238-9916 *Agent for the Respondent in* R. v. Summers

TABLE OF CONTENTS

PART I – STATEMENT OF THE CASE 1

PART II – THE CLA'S POSITION ON THE QUESTION IN ISSUE 1

PART III – STATEMENT OF ARGUMENT 2

A. The Appellants' Erroneous Approach to Statutory Interpretation 2

B. The Structure of the Act: Principles vs. Numbers 3

C. Parity and Fairness Matter 4

D. The Relevance of Remission in Calculating Pre-sentence Custody Credit... 5

E. Exceptional Circumstances 6

F. The Appellants' Distortion of the Logic Underlying Credit for Pre-sentence Custody 7

G. The Appellants' Shifting Test is Unprincipled and Unworkable 9

PART IV and V – COSTS AND ORDER REQUESTED 10

PART VI – TABLE OF AUTHORITIES 11

PART VII - STATUTORY PROVISIONS 12

PART I – STATEMENT OF FACTS

1. The Criminal Lawyers' Association ("CLA") accepts the facts as summarized by the parties.

PART II – THE CLA'S POSITION ON THE QUESTION IN ISSUE

2. The CLA's position is that the decisions appealed from were correctly decided. The CLA submits that the Appellants' position that the unavailability of remission on pre-sentence custody can **never** be a circumstance that justifies credit beyond 1:1 is unprincipled and contrary to the plain meaning of the statute and the general principles of sentencing. Rather, when the principles of statutory interpretation are properly considered, the unavailability of remission **can** and generally **should** be a circumstance that justifies credit up to 1.5:1, subject of course to the many other relevant considerations that inform a sentencing judge's exercise of discretion in crediting pre-sentence custody. This interpretation is based on the principles of sentencing set out in the *Criminal Code* and the common law.

3. The term "if the circumstances justify it" in s. 719(3.1) ("subs. 3.1") is not ambiguous and can be easily interpreted on a principled basis. It contains no internal limitations and is subject only to the explicit limitations further set out in subs. 3.1.[1] A circumstance will "justify" a particular outcome when it renders that result fair, logical and in keeping with broader principles. The lack of remission available to those serving pre-sentence custody is thus a circumstance that justifies credit up to 1.5:1. The Appellants' attempt to read-in numerical limitations on the availability of this credit is unfounded and misguided.

4. Alternatively, if there is any ambiguity in the term, according to the principles of statutory interpretation, the term should be interpreted in the manner most favourable to the accused and in a manner consistent with *Charter* principles. Both of these considerations favour the CLA's interpretation of the term.

---

[1] A detention under s. 524 or detention "primarily because of a previous conviction."

PART III - STATEMENT OF ARGUMENT

A. The Appellants' Erroneous Approach to Statutory Interpretation

5. In arguing that the words "if the circumstances justify it" in subs. 3.1 must be interpreted to exclude lack of earned remission as a circumstance justifying the crediting of pre-trial custody up to a 1.5:1 basis, the Appellants rely almost exclusively on what they submit was the intention of Parliament in the drafting of the section. The CLA submits that the Appellants' approach to statutory interpretation is contrary to this Court's jurisprudence on the interpretation of criminal statutes and further submits that, insofar as the intention of Parliament is relevant, the Appellants have misunderstood it.

6. The intention of Parliament in passing legislation, broadly speaking, is certainly relevant to the interpretation of that legislation. But the Appellants' approach would twist this reasoning from a consideration of Parliament's broad purpose to a microscopic examination of the Parliamentary record for individual instances where the specific application of the bill was discussed. Indeed they go so far as to suggest that because the Minister mentioned a few examples of when subs. 3.1 may apply, this Court can infer that any examples not mentioned were meant to be exempted.[2] This approach is not the approach to determining the "intentions of Parliament" set out in the jurisprudence.

> *R. v. Lavigne*, [2006] 1 S.C.R. 392
> *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27 at paras. 23 – 42
> *R. v. S.A.C.*, [2008] 2 S.C.R. 675at paras. 26 – 33

7. The CLA agrees with the Public Prosecution Service of Canada ("PPSC") and the Respondent Carvery that the legislative record is too ambiguous to be of much assistance to this Court, especially in light of Mr. Daubney's comments quoted at paras. 86-7 of the Court below's decision in *Summers*. However, the CLA submits that taken as a whole the legislative record suggests that the main purpose of the government in proposing the legislation (although not necessarily of Parliament in passing it) was to eliminate the motive for an accused to delay his trial or sentencing to take advantage of the 2:1 credit, which could result in a shorter actual sentence than he would serve as a sentenced inmate. The interpretation of subs. 3.1 proposed by the CLA and adopted by the Courts below does not undermine this goal in any way. Credit of up to 1.5:1 creates no incentive for an accused person to delay his case; he can get no more credit

---

[2] Factum of the Attorney General of Ontario (AGO) at paras. 31 and 59

than he would earn from remission as a sentenced offender. The proposed interpretation is entirely consistent with Parliament's goals.[3]

B. The Structure of the Act: Principles vs. Numbers

8. The Appellants' argument is essentially this: it was Parliament's intention to limit the availability of credit above 1:1. They wanted the number of offenders who receive such credit to be small. The interpretation of the section adopted by the Courts below would mean that many offenders would receive up to 1.5:1 credit. Their interpretation must therefore be incorrect.[4]

9. The CLA submits that, when Parliament sets out two categories (in this case, offenders who will receive up to 1.5:1 credit and offenders who will receive only 1:1) and sets out criteria for who will fall into each category (those for whom "circumstances justify" higher credit and those for whom they do not), the fact that Parliament anticipated that one category would be more populous than the other is of little assistance in interpreting the criteria themselves on a principled basis. **The Court's task should be to determine what it means for "circumstances [to] justify" up to 1.5:1 credit**, not to determine how many people Parliament intended to receive it and interpret the term in a way that will yield that number.

10. The Appellants further obfuscate the approach to Parliament's intention by suggesting that Parliament intended 1:1 credit to be the "general rule" and 1.5:1 credit to be the "exception." This is just another way of saying that Parliament intended more people to qualify for the 1:1 category than the 1.5:1 category. But this confuses what an "exception" refers to in law. An "exception" will not necessarily be uncommon or "exceptional." Again, the fact that category A applies, except where set criteria trigger category B says nothing about the absolute numbers that will fall into each category. It is for the courts to determine if a particular situation falls into one category or the other. The division anticipated by Parliament is of no moment.

11. The structure of the provisions, with subs. 3.1 drafted as an "exception" to subs. 3 does not assist the Appellants and does not suggest anything about what circumstances will, on a principled basis, justify credit up to 1.5:1. Subsection 3.1 serves to place the burden of

---

[3] In *Johnson,* the PPSC agreed and took the position, contrary to their current view, that lack of remission **could** justify credit up to 1.5:1 (*R. v. Johnson,* [2011] O.J. No. 822 at para. 181).

[4] It should be noted that there is no evidence before the Court that the interpretation adopted by the Courts below would result in all, nearly all, or a majority of offenders being granted up to 1.5:1 credit. The detention of accused persons on s. 524 applications or because of their prior record is a very common occurrence and such offenders are not eligible for credit under subs. 3.1.

establishing circumstances that justify increased credit on the accused, a departure from the days when 2:1 credit was the starting point. Contrary to the Appellants' assertion, the interpretation adopted by the Courts below does not undercut subs. 3. Subsection 3 sets out the starting point that applies to those who do not qualify for higher credit, either because they fall into a statutory exemption or because their circumstances do not justify higher credit. An offender must justify a departure from this starting point. Nothing in the language used limits what circumstances those might be and this Court should not read in any arbitrary limitations.

C. Parity and Fairness Matter

12. The CLA submits that, not only does the legislation allow lack of remission to be a circumstance that may justify credit beyond 1:1, but that justice, fairness and parity demand that it be considered. The CLA will not attempt to repeat in this factum the persuasive reasoning set out by both the Courts below regarding the unfairness that results when lack of remission is ignored in crediting pre-sentence custody. The disparity in treatment of remand inmates over bailed or sentenced offenders that would be created by the Appellants' approach is, as the Courts below found, both relevant and compelling.

13. The Appellants' suggestion that the disparities at issue, often differences of months in jail, are "modest" and thus insignificant,[5] and that the sentencing principles of proportionality and parity "do not apply"[6] shows a troubling lack of respect for liberty and the severity of incarceration (discussed further below). Furthermore, the fact that the approach of the Courts below may not remedy every possible unfairness to offenders in every conceivable circumstance[7] does not change the fact that this Court should interpret the sections in accordance with the broader principles of Canadian sentencing law, including respect for liberty and parity. Sentencing judges must seek to impose sentences that maximize fairness and reflect the principles of sentencing to the greatest extent possible. We should not settle for so-called "modest" departures from our principles.

14. When this Court considers, as the Courts below did, whether lack of remission "justifies" increased credit, the answer is clear that it does. It always has. Nothing in the amendments changes the inherent fairness of this approach. Parliament can be assumed not to deliberately

[5] Factum of the AGO at para. 79
[6] Factum of the AGO at p. 27
[7] Factum of the AGO at paras. 77-79

create unfairness and injustice. And Parliament must be assumed to have been aware that, historically, the most common justification for credit above 1:1 was lack of remission. They must have known it would continue to serve as a circumstance to justify increased credit unless it were specifically exempted, which they chose not to do.

D. The Relevance of Remission in Calculating Pre-sentence Custody Credit

15. Both Appellants make a version of the following argument: it is an error of law for a judge to consider the administration of the sentence, including parole and remission, in determining a fit sentence.[8] In other words, a judge should not increase a sentence because he knows the offender is not likely to serve the entire term. This is indeed a long standing legal principle with which the CLA takes no issue. However, the Appellants attempt to extend this argument to suggest that the Courts below engaged in impermissible reasoning by taking into account offenders' lack of remission in pre-sentence custody. But this argument falls apart when one considers the wealth of jurisprudence on the crediting of pre-sentence custody. **Lack of remission has always been one of the most important considerations in determining the appropriate credit for pre-sentence custody,** a determination that is distinct from the determination of the appropriate length of sentence. If, in considering the unavailability of remission, the Courts below ran afoul of the principle set out above, so too must this Court's decision in *Wust* and so too must every decision on the issue of pre-sentence custody made in this country before the amendments in question. Clearly, this line of cases offended no such principle. The decisions of the Courts below are firmly rooted in this Court's jurisprudence on the crediting of pre-sentence custody.

R. v. Wust, [2000] 1 S.C.R. 455
R. v. Monje [2011] O.J. No. 1

16. Furthermore, the position of the Crown on this issue can best be described as hypocritical. In *Francis* (and the many cases that followed it), the Court of Appeal for Ontario relied on reasonable inferences available from the evidentiary record to find that the offender was **unlikely** to be granted parole or remission, and thus did not grant the offender full 2:1 credit. Such "speculation or assumptions" about parole prospects (as the AGO now puts it)[9] did not, apparently, run afoul of this principle when the reasoning was applied to **deny** an offender

[8] Factum of the AGO at paras. 81-84; Factum of the PPSC at paras. 39-40
[9] Factum of the AGO at para. 84

credit.[10] How the same type of reasoning could now breach this principle when applied to **grant** credit is incomprehensible.[11]

R. v. Francis, [2006] O.J. No. 1287 (C.A.)

E. Exceptional Circumstances

17. While purporting to deny that "exceptional circumstances" are required under subs. 3.1[12] (which they have no choice but to deny since the phrase "exceptional circumstances" is not used in the subsection), the Appellants are in fact advocating that the "circumstances" mentioned in subs. 3.1 must be exceptional. While they use the terms "qualitative characteristic," "specific to his or her case" and "particular to the offender," upon close examination these terms can only mean "exceptional." "Qualitative characteristic" is a confusing expression, especially since it is defined by the PPSC (adopting the definition from *Bradbury*) as "a characteristic that is individual to the offender but also distinct from those characteristics that are universal to, or almost universally held, by other similarly situated offenders."[13] In other words, a "**qualitative** characteristic" is one shared by some undefined percentage of offenders, but short of all of them by an undefined amount – a purely **quantitative** analysis. The Attorney General of Ontario's ("AGO") definition is similar: a circumstance "particular to the offender, not those of nearly universal application."[14] Again, the definition addresses one issue only: how many people share the characteristic.

18. Neither Appellant is offering any principled basis, no basis rooted in logic or law, why lack of remission is not a circumstance as contemplated by subs. 3.1. Their one and only complaint is that it is too common a circumstance. They are in fact suggesting that only exceptional circumstances will suffice, an approach rejected by every Court of Appeal to consider the issue and rejected by Parliament itself by not using the term. This approach must be rejected, regardless of the words chosen.

19. It is entirely reasonable to say, as the Courts below have done, that circumstances can only justify up to 1.5:1 credit if those circumstances personally affect the offender; it is not

[10] For an example of the AGO advocating this approach in submissions see: *R. v. R.S.* [2013] O.J. No. 3889 (Sup. C.J.) at paras. 60-61
[11] Indeed at para. 66 of their factum, the AGO suggests that the unlikelihood of parole remains a legitimate factor to consider in denying an offender 1:1 credit.
[12] Factum of the PPSC at paras. 48(c)
[13] Factum of the PPSC at para.47
[14] Factum of the AGO at para. 6

enough to show that those circumstances might affect someone else. The burden is clearly on the accused to show that he is himself in such a circumstance. However, it is entirely unprincipled to say that the circumstance in question must not only apply to the offender, but **not apply to other people**, or not apply to too many other people, or not apply to a majority of other people. The section says nothing of the kind and no reasoned analysis could yield such a tortured definition of "if the circumstances justify it."

F. The Appellants' Distortion of the Logic Underlying Credit for Pre-sentence Custody

20. The AGO's argument rests on a fatally flawed premise. They suggest that the reason remand inmates get **any credit at all** for their pre-sentence custody is because of the poor conditions in remand facilities and lack of earned remission.[15] In other words, these are the justifications for all credit, even 1:1. This premise is utterly wrong. Indeed it is radically inconsistent with our country's deep and abiding respect for liberty. Credit of **more than 1:1** was historically granted for the three reasons set out in *Wust*. Lack of remission, poor conditions, and lack of programming were reasons to **credit this time as longer than it really was**. But they were never the reason the time was credited *per se*. A remand inmate receives credit for his time in remand facilities because those facilities are **jails**. The doors lock and the inmate is not given a key. The state controls what he eats, what he reads, to whom he speaks, and every other aspect of his life. Our society permits no more severe form of punishment than this deprivation of liberty. This, and no other reason, is why credit *per se* is given for pre-sentence custody.

Wust, supra
Francis, supra at para. 14

21. The AGO's argument at para. 60 of their factum is completely without foundation in law. They submit that the term "general rule" now applies to 1:1 credit, a term historically applied from time-to-time to 2:1 credit. They then suggest on this basis alone that all the reasons that historically justified 2:1 credit now serve as the rationale for 1:1 credit. This proposed shift is specious. 2:1 credit was a principled response to the poor conditions and lack of remission available to remand offenders. It made sense. The traditional reasons to depart from it either up (worse conditions than normal) or down (programming and conditions more akin to those of sentenced offenders and lack of prospect for early release) were also sound reasons to depart

[15] Factum of the AGO at paras. 23, 63

from the norm of 2:1. For instance, it made perfect sense not to give an offender credit for lack of programming when his remand facility actually had programs. But the Appellant now suggests that, because 1:1 credit is the "general rule," rather than 2:1, the historical justifications for departing from 2:1 credit must now be the reasons, and the only reasons, for departing from 1:1 credit. But this makes no sense whatsoever. 1:1 credit compensates for nothing; it is straight time. How could it be justified to depart from 1:1 credit to a lower credit when an inmate has, for example, access to programming, when 1:1 credit did not compensate him for lack of programming in the first place. And more to the point on this appeal, how is the lack of remission available to remand inmates not a circumstance that could justify a higher credit, when 1:1 credit contains no mechanism whatsoever to compensate for the lack of remission?

22. Similarly, the Appellant's use of the term "enhanced credit" to describe the up-to-1.5:1 credit available under subs. 3.1 is potentially misleading. Before the amendments at issue were implemented, the term "enhanced credit" was almost universally used (at least in Ontario) to refer to credit **beyond the norm of 2:1**, such as 3:1. The term was **not** generally used to refer to 2:1 credit itself or to credit between 1:1 and 2:1. To now use the term "enhanced credit" to refer to any credit beyond 1:1 risks **assuming** that the proper analysis in determining if credit up to 1.5:1 is appropriate is the same analysis that was previously applied to determine if, for instance, 3:1 credit was appropriate. This is the very issue to be determined on this appeal and this important analysis must not be clouded by word play or careless use of language. The CLA, of course, submits that it makes no sense to apply the same analysis to the two concepts. As set out above, 2:1 credit had built into it compensation for lack of remission and harsh remand conditions. Thus, something more than these factors was necessary to get more than 2:1 credit. But 1:1 credit does not include compensation for anything. It makes no sense to require that the offender prove that he suffered more than a lack of remission when he is not being compensated for lack of remission by the new starting point of 1:1.

G. The Appellants' Shifting Test is Unprincipled and Unworkable

23. The Appellants' submission that subs. 3.1 applies only to those circumstances "particular to the individual offender, not those of nearly universal application"[16] creates a completely unprincipled test in which the standard would be forever shifting. The CLA submits that this test is not only unworkable (as discussed below) but that the amorphous nature of the test demonstrates that it cannot possibly be the correct interpretation of the section.

24. The relative frequency of a given circumstance cannot bear on whether that circumstance justifies credit under subs. 3.1 because the relative frequency of all circumstances is in flux. A shifting test leads to perverse results. Conditions that are particularly harsh yet uncommon now could at any moment (for example, in the event of a strike, an epidemic, or a large budget cut) become common or universal. So, an offender could be granted credit today, for instance, because he was triple-bunked. But a similarly situated offender would be denied the same credit when he was triple-bunked if, a year later, budget cuts lead to nearly everyone being triple-bunked. Whether one has company in one's misery is not a basis to grant or deny credit.

25. The examples chosen by the Appellants of circumstances that are sufficiently "qualitative" or "particular" demonstrate that this is no basis for a legal test. The PPSC cites a series of examples,[17] **all of which often apply to a majority of offenders and are never unique to one offender**:

> Overcrowded conditions: It is a logical impossibility for an overcrowded jail to be a problem unique to one inmate; if he were alone, the jail would not be overcrowded.
>
> Distance from home community: It is very common since the advent of 'super jails' for remand inmates to be held at great distance from their home community. Indeed, if a super jail services a given town and is located at great distance from the town, then 100% of the town's remand population will be jailed at great distance from home.[18]
>
> Significant delay: Delay is a universal feature of the Canadian justice system and "significant delay" is nearly universal. The CLA is aware of no jurisdiction in Canada where an inmate can have an immediate trial even if he is ready for one. We know of no jurisdiction where pre-sentence or *Gladue* reports are produced on the spot. Pre-trial delay and pre-sentence reports are nearly universal occurrences, as are *Gladue* reports

---

[16] Factum of the AGO at para. 6

[17] Factum of the PPSC at para. 48(e)

[18] Some examples of this very common practice in Ontario include Pembroke, serviced by the Ottawa-Carleton Detention Centre located 150 km away; Owen Sound, at 130 km from Central North Detention Centre in Penetanguishene; and the jails in Thunder Bay and Kenora which serve all of Northwestern Ontario, an area roughly the size of Western Europe.

> nearly universally ordered for aboriginal offenders. Unfortunately, there is nothing unique about delay.

It is clear that none of these circumstances can be distinguished from lack of remission on the basis that lack of remission is "nearly universal" and these examples are not. These examples are universal, near-universal, or universal in certain communities. Just as there is no basis to deny credit for the circumstances set out above because they affect many people, there would be no basis not to grant credit for lack of remission just because it does as well. Clearly, the Appellants' approach to this issue as a 'numbers game' should be rejected.

26. The Appellants' position is that whether a given circumstance will justify up to 1.5:1 credit depends on the number of people affected by that circumstance. This approach leads to a practical nightmare. Under this definition, an offender need call not only evidence of his own circumstances. If he is to show that a circumstance is "particular to him" and "not universal or nearly universal," he must also call evidence about the circumstances of everyone else (whether this means everyone else in his town, city, region, province, etc. is anyone's guess). How else could an offender prove that he is somehow uniquely placed? And of course, as set out above, what is uncommon one year may become common later or *vice versa*. Previous decisions would thus have no precedential value on the issue and would always have to be subject to new evidentiary hearings. This process would have a disastrous effect on an already overburdened system.

PARTS IV and V – COSTS AND ORDER REQUESTED

27. The CLA does not request costs and seeks leave to make 10 minutes of oral submissions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 20th day of November, 2013

RUSSELL SILVERSTEIN

INGRID GRANT

PART VI – TABLE OF AUTHORITIES

CASES	**CITED AT PARAGRAPH(S)**
R. v. Francis, [2006] O.J. No. 1287 (C.A.)	16, 20
R. v. Johnson, [2011] O.J. No. 822 *R. v. Monje* [2011] O.J. No. 1	7 15
R. v. Lavigne, [2006] 1 S.C.R. 392	6
R. v. R.S. [2013] O.J. No. 3889 (Sup. C.J.)	16
R. v. S.A.C., [2008] 2 S.C.R. 675	6
R. v. Wust, [2000] 1 S.C.R. 455	15, 20
Rizzo & Rizzo Shoes Ltd. (Re), [1998] 1 S.C.R. 27	6

PART VII – STATUTORY PROVISIONS

None.