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***Anyone charged with a provincial offence in BC has the right to a trial in either English or French (just like for a criminal trial), the Supreme Court has ruled.***

The federal government has the power to make laws on crimes. These are mostly found in the *Criminal Code*, and include things like murder. The *Criminal Code* also explains the rules for how criminal trials should take place.

Provinces and territories have powers to make laws about “quasi-crimes” (which are kind of like crimes, but usually aren’t as serious). These are called provincial (or territorial) offences, and include things like not wearing a seatbelt. BC has an *Offence Act* that explains the rules for how provincial offences trials should take place.

Mr. Bessette was charged with a provincial offence in BC. He asked for his trial to be in French.

If he had been charged with a crime under the *Criminal Code*, Mr. Bessette would have had the right to have his trial in either English or French. The right isn’t just about fair trials. It’s about the person’s linguistic and cultural identity. All courts in Canada that deal with criminal matters already hold criminal trials in both official languages. This includes the BC Provincial Court, where Mr. Bessette’s trial was taking place.

Mr. Bessette’s provincial offence wasn’t a crime, so the *Criminal Code* didn’t apply – at least not directly. But the BC *Offence Act* didn’t say anything about trial language. It did say the *Criminal Code* could be used to fill in any gaps in the *Offence Act*. Mr. Bessette said that meant the parts of the *Criminal Code* that talked about language applied. He said he should get to choose to have his trial in either French or English.

The Crown (the prosecution) disagreed. It said trials for provincial offences had to be in English. This was because an 18<sup>th</sup>-century English law said so. This law was part of BC law because BC adopted all the English criminal laws that existed while it was an English colony. The Provincial Court judge agreed with the Crown. Mr. Bessette challenged the decision but the higher courts in BC didn’t look at his arguments. They said he should wait to raise them on appeal if he were found guilty.

There is a general rule that criminal and quasi-criminal trials shouldn’t be stopped in the middle to deal with side issues. That’s because it’s important to get trials done quickly. Mr. Bessette said language rights were too important to be just a side issue. He said the higher courts in BC should have cancelled the Provincial Court’s decision to run his trial in English.

The Supreme Court of Canada unanimously agreed that Mr. Bessette had the right to a trial in French. It said the BC Supreme Court judge was wrong to make him wait to appeal if he were found guilty. It looked at how the *Offence Act*, *Criminal Code*, and 18<sup>th</sup>-century English law worked together. It said that when someone is charged with a provincial offence, the *Offence Act* applies first. The only exception is if another, more specialized law has priority. In this case, the specialized law (the *Motor Vehicle Act*) didn’t say anything about trial language. That meant the *Offence Act* still applied – except it didn’t say anything about trial language, either. But it did say the *Criminal Code* could fill in any gaps. The *Criminal Code* said Mr. Bessette could have his trial in either language. The Court said this overrode the 18<sup>th</sup>-century English law.

Because the law said Mr. Bessette had a choice, the Provincial Court didn’t have the power to make him have his trial in English. Any decision on his case would have no legal effect because it wouldn’t respect his trial language rights. If he lost this (English) trial, he could have appealed about the trial language issue. But he would likely have to go through a second (French) trial once the appeal court saw the mistake. If he won his (English) trial, he would never have a chance to have his language rights respected, because you can’t appeal when you win.

This case wasn’t about Mr. Bessette’s language rights under the *Canadian Charter of Rights and Freedoms*. It was about what all the laws that applied to his trial, taken together, said about what language he could be tried in. The Supreme Court of Canada previously dealt with language rights during hearings in [\*Mazraani v. Industrial Alliance Insurance and Financial Services Inc.\*](#)

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**Breakdown of the decision: *Unanimous*:** Justices Suzanne [Côté](#) and Sheilah [Martin](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Moldaver](#), [Karakatsanis](#), [Gascon](#), [Brown](#), and [Rowe](#) agreed)

**More information (case # 37790):** [Decision](#) | [Case information](#) | [Webcast of hearing](#)

**Lower court rulings:** [decision on application for trial in French](#) (Provincial Court of British Columbia) | [judicial review](#) (Supreme Court of British Columbia) | [appeal](#) (Court of Appeal for British Columbia)

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