

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Auclair, 2014 SCC 6, [2014] 1 S.C.R. 83 | **Date:** 20140121  **Docket:** 35372 |

**Between:**

**Her Majesty The Queen**

Appellant

and

**Guy Auclair, Mario Auger, Daniel Beaulieu, Georges Beaulieu, Bruno Belzile, Claude Berger, Jean-François Bergeron, René Bibeau, Alain Biron, Robert Bonomo, Éric Bouffard, Vincent Boulanger, Louis Brochu, Aurèle Brouillette, Mario Brouillette, Roberto Campagna, Clermont Carrier, Philippe Carrier, Salvatore Cazzetta, Sylvain Chalifoux, Michel Charland, Benoît Charron, Pierre Chayer, John Coates, Steven Collard, Rock Côté, Luc Dallaire, Christian Daneault, Gaétan David, Rock Delaney, Claude Demers, Lionel Deschamps, Marcel Desloges, Mario Dion, Steeve Doucet, Guy Dubé, Jacques Dumais, Gilles Dumas, Alain Durand, Jacques Émond, Jacques Filteau, Paul Fontaine, Yves Forest, Simon Forgues, Michel Fortier, Benoît Frenette, Daniel Gagné, Sylvain Gagné, Yves Gagné, Martin Gamache, Mélanie Gauthier, Serge Gauthier, Yannick Gauthier, Claude Giguère, Éric Giguère, François Goupil, Robert Groleau, Michel Guertin, Pierre Hamilton, Alain Harton, Marc-André Hinse, Marc-André Hotte, Magella Houde, Daniel Hudon, Richard Hudon, Benjamin Hudon-Barbeau, Bertrand Joyal, Daniel Jutras, Normand Labelle, Gilles Lambert, Kaven Langlois, Michel Langlois, Éric Laplante, Éric Larouche, Claude Lavigne, Serge Lebrasseur, Yves Leduc, David Lefebvre, Guy Lemoyne, Marc Loiseau, Sylvain Lord, Stéphane Maheu, Émery Martin, Éric Martin, Réginald Martin, Patrick Massicotte, Christian Ménard, Marcel Messier, René Monfette, Dean Moore, Claude Morin, Daniel Normand, Richard Ouellet, Pierre Ouellette, Marvin Ouimet, René Pearson, Marc Pelletier, Claude Pépin, Jean-Damien Perron, Elliot Perry, Stéphane Plouffe, Bernard Plourde, Stéphane Poitras, Gaétan Proulx, Patrick Pruneau, Steve Rainville, Jean-Paul Ramsay, Marc Readman, Michel Rivard, Marc Roberge, Jonathan Robert, Martin Robert, Kevin Robertson, Gilles Robidoux, Pierre Rodrigue, Yvon Rodrigue, David Rouleau, Richard Rousseau, Daniel Royer, Louis Ruel, Alain Ruest, Maurice Soucy, Yvon Tanguay, Normand Théorêt, Sylvain Thiffault, François Vachon, Sylvain Vachon, Ghislain Vallerand, Michel Vallières, Karl Véronneau, Bruno Villeneuve and Jean-Marc Vincent**

Respondents

- and -

**Attorney General of Alberta**

Intervener

**Official English Translation**

**Coram:** McLachlin C.J. and LeBel, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

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| **Reasons for Judgment:**  (paras. 1 to 3) | McLachlin C.J. (LeBel, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ. concurring) |

R. *v.* Auclair, 2014 SCC 6, [2014] 1 S.C.R. 83

Her Majesty The Queen Appellant

v.

Guy Auclair, Mario Auger, Daniel Beaulieu, Georges Beaulieu, Bruno Belzile, Claude Berger, Jean-François Bergeron, René Bibeau, Alain Biron, Robert Bonomo, Éric Bouffard, Vincent Boulanger, Louis Brochu, Aurèle Brouillette, Mario Brouillette, Roberto Campagna, Clermont Carrier, Philippe Carrier, Salvatore Cazzetta, Sylvain Chalifoux, Michel Charland, Benoît Charron, Pierre Chayer, John Coates, Steven Collard, Rock Côté, Luc Dallaire, Christian Daneault, Gaétan David, Rock Delaney, Claude Demers, Lionel Deschamps, Marcel Desloges, Mario Dion, Steeve Doucet, Guy Dubé, Jacques Dumais, Gilles Dumas, Alain Durand, Jacques Émond, Jacques Filteau, Paul Fontaine, Yves Forest, Simon Forgues, Michel Fortier, Benoît Frenette, Daniel Gagné, Sylvain Gagné, Yves Gagné, Martin Gamache, Mélanie Gauthier, Serge Gauthier, Yannick Gauthier, Claude Giguère, Éric Giguère, François Goupil, Robert Groleau, Michel Guertin, Pierre Hamilton, Alain Harton, Marc-André Hinse, Marc-André Hotte, Magella Houde, Daniel Hudon, Richard Hudon, Benjamin Hudon-Barbeau, Bertrand Joyal, Daniel Jutras, Normand Labelle, Gilles Lambert, Kaven Langlois, Michel Langlois, Éric Laplante, Éric Larouche, Claude Lavigne, Serge Lebrasseur, Yves Leduc, David Lefebvre, Guy Lemoyne, Marc Loiseau, Sylvain Lord, Stéphane Maheu, Émery Martin, Éric Martin, Réginald Martin, Patrick Massicotte, Christian Ménard, Marcel Messier, René Monfette, Dean Moore, Claude Morin, Daniel Normand, Richard Ouellet, Pierre Ouellette, Marvin Ouimet, René Pearson, Marc Pelletier, Claude Pépin, Jean-Damien Perron, Elliot Perry, Stéphane Plouffe, Bernard Plourde, Stéphane Poitras, Gaétan Proulx, Patrick Pruneau, Steve Rainville, Jean-Paul Ramsay, Marc Readman, Michel Rivard, Marc Roberge, Jonathan Robert, Martin Robert, Kevin Robertson, Gilles Robidoux, Pierre Rodrigue, Yvon Rodrigue, David Rouleau, Richard Rousseau, Daniel Royer, Louis Ruel, Alain Ruest, Maurice Soucy, Yvon Tanguay, Normand Théorêt, Sylvain Thiffault, François Vachon, Sylvain Vachon, Ghislain Vallerand, Michel Vallières, Karl Véronneau, Bruno Villeneuve and Jean-Marc Vincent Respondents

and

Attorney General of Alberta Intervener

**Indexed as:** R. ***v.*** Auclair

2014 SCC 6

File No.: 35372.

2014: January 21.

Present: McLachlin C.J. and LeBel, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

on appeal from the court of appeal for quebec

*Criminal law — Trial — Trial management — Direct indictment before judge at first instance setting out 29 counts involving more than 150 accused — Stay of proceedings ordered on certain counts because of unreasonable delays — Judge justified in exercising his discretion to protect rights of accused guaranteed by Canadian Charter of Rights and Freedoms and to further public’s interest in avoiding collapse of prosecution.*

**Statutes and Regulations Cited**

*Canadian Charter of Rights and Freedoms*.

APPEAL from a judgment of the Quebec Court of Appeal (Doyon, Gagnon and Levesque JJ.A.), 2013 QCCA 671, [2013] R.J.Q. 608, 302 C.C.C. (3d) 365, [2013] Q.J. No. 3349 (QL), 2013 CarswellQue 10165, SOQUIJ AZ-50956084, affirming a decision of Brunton J., 2011 QCCS 2661, [2011] R.J.Q. 933, 86 C.R. (6th) 155, [2011] Q.J. No. 6103 (QL), 2011 CarswellQue 12285, SOQUIJ AZ-50757582. Appeal dismissed.

Marc Cigana and Andrée Vézina, for the appellant.

Louis Belleau, Christian Desrosiers, Lida Nouraie and Annie Lahaise, for the respondents.

Jolaine Antonio, for the intervener.

English version of the judgment of the Court delivered orally by

[1] The Chief Justice — We all agree, essentially for the reasons given by Doyon J.A. of the Quebec Court of Appeal, that this appeal should be dismissed. However, we would also like to stress the extraordinary and unique nature of the circumstances faced by Brunton J. of the Superior Court as a result of the proceedings brought against the accused by the Crown.

[2] The cumulative effects of those circumstances justified Brunton J.’s significant intervention in matters usually left to the discretion of the prosecution, namely the selection of the charges and the prioritization of the order in which they would proceed. The direct indictment before the judge at first instance set out 29 counts involving more than 150 accused. It also contained a number of counts that could not lawfully be included in it. This direct indictment, as preferred by the Crown, did not lend itself to a trial, and it gave rise to serious challenges with respect to disclosure of the evidence to the accused. Furthermore, the prosecution did not have a realistic plan for taking those charges to trial and conducting the trial within a reasonable time.

[3] As Doyon J.A. mentioned at paragraph 60 of his reasons, Brunton J. had observed that [translation] “the prosecution had been making things up as it went along and had shown a flagrant lack of preparation, analysis and foresight in managing the case” (2013 QCCA 671, [2013] R.J.Q. 608). The unique nature of these extraordinary circumstances satisfies us that the approach taken by the trial judge was the right one in this case. In light of these circumstances, and of the ones referred to by Brunton J. in his reasons and by the majority of the Court of Appeal in theirs, we agree with the latter that Brunton J. did not err in exercising his discretion in this case. He exercised it to protect the rights of the accused guaranteed by the *Charter*, and to further the public’s interest in avoiding the total collapse of the prosecution that could have been caused by unreasonable delays.

*Judgment accordingly.*

Solicitor for the appellant: Poursuites criminelles et pénales du Québec, Montréal.

Solicitors for the respondents: Louis Belleau, Montréal; Desrosiers, Joncas, Massicotte, Montréal; Annie Lahaise, Montréal.

Solicitor for the intervener: Attorney General of Alberta, Calgary.