

**SUPREME COURT OF CANADA**

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| **Citation:** R. *v.* Aitkens, 2017 SCC 14, [2017] 1 S.C.R. 199 | **Appeal heard:** February 14, 2017  **Judgment rendered:** February 24, 2017  **Docket:** 36866 |

Between:

**Ronald James Aitkens**

Appellant

and

Her Majesty The Queen (Alberta Securities Commission)

Respondent

and

Attorney General of Canada,

Attorney General of Ontario,

Attorney General of Quebec,

Attorney General of Alberta,

Canadian Constitution Foundation and

Ontario Securities Commission

Interveners

**Coram:** McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Côté, Brown and Rowe JJ.

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| **Reasons for Judgment:**  (para. 1) | The Court |

R. *v.* Aitkens, 2017 SCC 14, [2017] 1 S.C.R. 199

Ronald James Aitkens Appellant

v.

Her Majesty The Queen (Alberta Securities Commission) Respondent

and

Attorney General of Canada,

Attorney General of Ontario,

Attorney General of Quebec,

Attorney General of Alberta,

Canadian Constitution Foundation and

Ontario Securities Commission Interveners

**Indexed as: R. *v.*** Aitkens

2017 SCC 14

File No.: 36866.

2017: February 14; 2017: February 24.

Present: McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Côté, Brown and Rowe JJ.

on appeal from the court of appeal for alberta

*Constitutional law — Charter of Rights — Securities — Offences — Right to trial by jury — Accused charged with offences under Alberta Securities Act, which provides for maximum penalty of imprisonment of five years less a day or fine up to five million dollars or both — Accused seeking determination that maximum penalty engages his constitutional right to trial by jury under s. 11(f) of Canadian Charter of Rights and Freedoms — Provincial Court judge finding that accused not entitled to jury trial — Reviewing judge agreeing — Court of Appeal holding that s. 11(f) should be interpreted as primarily engaging deprivation of liberty inherent in maximum sentence of imprisonment imposed by statute and that imprisonment of five years less a day does not become “more severe punishment” when mere prospect of fine or financial penalty is added — Accused not entitled to trial by jury — Securities Act, R.S.A. 2000, c. S-4, s. 194.*

APPEAL from a judgment of the Alberta Court of Appeal (Berger, Slatter and O’Ferrall JJ.A.), 2015 ABCA 407, 609 A.R. 352, 656 W.A.C. 352, 32 Alta. L.R. (6th) 304, 330 C.C.C. (3d) 175, [2016] 3 W.W.R. 464, [2015] A.J. No. 1413 (QL), 2015 CarswellAlta 2332 (WL Can.), affirming a decision of the Court of Queen’s Bench (Wilson J.), affirming a decision of Judge Camp, 2015 ABPC 21, 605 A.R. 100, [2015] A.J. No. 110 (QL), 2015 CarswellAlta 147 (WL Can.). Appeal dismissed.

Brendan Miller and Joshua Sutherland, for the appellant.

Don Young and Robert Stack, for the respondent.

Marianne Zoric and Jeanette Gevikoglu, for the intervener the Attorney General of Canada.

Matthew Horner and Jennifer Luong, for the intervener the Attorney General of Ontario.

Written submissions only by Sylvain Leboeuf, for the intervener the Attorney General of Quebec.

Robert J. Normey, for the intervener the Attorney General of Alberta.

Byron Shaw and Brandon Kain, for the intervener the Canadian Constitution Foundation.

Hugh Craig and Carlo Rossi, for the intervener the Ontario Securities Commission.

The following is the judgment delivered by

[1] The Court — The appeal is dismissed. We conclude that the appellant was not entitled to a trial by jury, substantially for the reasons of the majority of the Court of Appeal, 2015 ABCA 407, 609 A.R. 352.

*Appeal dismissed.*

Solicitors for the appellant: Walsh, Calgary.

Solicitor for the respondent: Alberta Securities Commission, Calgary.

Solicitors for the intervener the Attorney General of Canada: Attorney General of Canada, Toronto; Public Prosecution Service of Canada, Toronto.

Solicitor for the intervener the Attorney General of Ontario: Attorney General of Ontario, Toronto.

Solicitor for the intervener the Attorney General of Quebec: Attorney General of Quebec, Québec.

Solicitor for the intervener the Attorney General of Alberta: Alberta Justice, Constitutional Law Branch, Edmonton.

Solicitors for the intervener the Canadian Constitution Foundation: McCarthy Tétrault, Toronto.

Solicitor for the intervener the Ontario Securities Commission: Ontario Securities Commission, Toronto.