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| **SUPREME COURT OF CANADA** | | | |
| **Citation:** Ontario (Attorney General) *v.* G, 2019 SCC 36, [2019] 2 S.C.R. 990 |  | **Appeal Heard:** June 14, 2019  **Judgment Rendered:** June 14, 2019  **Docket:** 38585 |
| **Between:**  **Attorney General of Ontario**  Applicant  and  **G**  Respondent | | | |

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| **Coram:** Moldaver J. | |
| **Reasons for Judgment:**  (paras. 1 to 6) | Moldaver J. |

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Ontario (Attorney General) *v.* G, 2019 SCC 36, [2019] 2 S.C.R. 990

Attorney General of Ontario Applicant

*v.*

G Respondent

**Indexed as : Ontario (Attorney General) *v.*** G

2019 SCC 36

File No.: 38585.

2019: June 14.

Present: Moldaver J.

motion for a stay of an exemption from a suspension of a declaration of invalidity

Judgmentsand *orders — Stay of execution — Exemption from period of suspension of declaration of invalidity — Court of Appeal declaring provisions of provincial and federal sex offender registry legislation of no force or effect in their application to persons found not criminally responsible by reason of mental disorder and subsequently granted absolute discharge — Court of Appeal suspending declaration of invalidity for 12 months but exempting respondent from period of suspension, and subsequently dismissing motion by Attorney General of Ontario for stay of exemption — Attorney General of Ontario seeking leave to appeal Court of Appeal’s judgment relating to provincial legislation and bringing motion to stay individual exemption granted to respondent until disposition of application for leave to appeal or until decision on appeal if leave granted — No special circumstances warranting re-examination of refusal by Court of Appeal to grant stay — No evidence of irreparable harm — Stay denied.*

**Cases Cited**

**Applied:** *Esmail v. Petro-Canada*, [1997] 2 S.C.R. 3.

**Statutes and Regulations Cited**

*Canadian Charter of Rights and Freedoms*, s. 15(1).

MOTION to stay part of a judgment of the Ontario Court of Appeal (Doherty, van Rensburg and Hourigan JJ.A.), 2019 ONCA 264, 145 O.R. (3d) 161, granting an individual exemption from a suspension of a declaration of invalidity. Motion dismissed.

Written submissions by S. Zachary Green, for the applicant.

Written submissions by Marshall A. Swadron, for the respondent.

The following order was delivered by

[1] Moldaver J. — I have two reasons for refusing a stay.

[2] First, I note that Justice Roberts of the Ontario Court of Appeal previously refused to grant a motion seeking the same relief now sought by the Attorney General of Ontario in this Court.

[3] In *Esmail v. Petro-Canada*, [1997] 2 S.C.R. 3, Sopinka J. observed that “[i]t is only in special circumstances that successive applications to a judge of the court appealed from and a judge of this Court should be permitted”: para. 2. Having reviewed the record and the reasons of Roberts J.A., I see no special circumstances here that would warrant a re-examination by me of her decision.

[4] Second, and in any event, the Crown has not made out a tenable case for irreparable harm.

[5] The respondent’s track record over the past 17 years has been exemplary, and it provides cogent evidence that there is little, if any, chance of him committing a sexual offence prior to the determination of the leave application, and if leave is granted, the disposition of the appeal. That being so, I see no apparent reason why he should be deprived of his s. 15(1) right under the *Canadian Charter of Rights and Freedoms* in the interim. In particular, I adopt the words of Doherty J.A. at para. 155 of his reasons in which he states: “. . . as I read this record, it is difficult to envision a constitutionally-compliant legislative scheme that would not result in [the respondent] being removed from the registries and exempted from the requirement of any further compliance with them”: 2019 ONCA 264, 145 O.R. (3d) 161.

[6] Accordingly, the motion for a stay is dismissed without costs.

*Order accordingly.*

*Solicitor for the applicant: Attorney General of Ontario, Toronto.*

*Solicitors for the respondent:* *Swadron Associates, Toronto.*