

NOVA SCOTIA COURT OF APPEAL
Citation: *R. v. Roshanimeydan*, 2014 NSCA 65

Date: 20140616
Docket: CAC 420106
Registry: Halifax

Between:

Alireza Roshanimeydan

Appellant

v.

Her Majesty the Queen

Respondent

Judges: MacDonald, C.J.N.S.; Oland and Scanlan, J.J.A.

Appeal Heard: June 16, 2014, in Halifax, Nova Scotia

Written Release: June 20, 2014

Held: Leave to appeal denied.

Counsel: Appellant, self represented, not present
Joshua J. Judah, for the respondent

Reasons for judgment (Orally):

[1] The governing authority established a fee structure to manage the operation of taxis out of the Halifax Stanfield International Airport. The appellant taxi operator refused to pay these fees while continuing to do business at the Airport. As a result, he faced three charges under the Province's *Protection of Property Act*, R.S.N.S. 1989, c. 363. He was convicted at trial and these convictions were upheld by The Honourable Justice Gregory M. Warner of the Supreme Court of Nova Scotia, sitting as a Summary Conviction Appeal Court.

[2] Mr. Roshanimeydan now seeks leave to appeal to this Court. However, he failed to appear for his scheduled oral hearing. Nonetheless, we have carefully reviewed the entire record, including the appellant's written submissions. Having done so, we are of the unanimous view that leave to appeal should be denied for the following reasons.

[3] Leave to appeal summary conviction matters to this Court should be limited to exceptional circumstances. Farrar J.A. of this Court recently observed in **R. v. Pottie**, 2013 NSCA 68:

[21] The Crown, in its factum, has accurately summarized the principles that have emerged from the case law to guide provincial appellate courts when deciding whether to grant leave to appeal from a SCAC decision. They are:

1. Leave to appeal should be granted sparingly. A second appeal in summary conviction cases should be the exception and not the rule. [see **R. R.** at ¶25 and ¶37; **R. v. Chatur**, 2012 BCCA 163 at ¶18; **R. v. Paterson**, 2009 ONCA 331 at ¶1]
2. Leave to appeal should be limited to those cases in which the appellant can demonstrate exceptional circumstances that justify a further appeal. [see **R.R.**, ¶27; **R. v. Dickson**, 2012 MBCA 2, ¶14; **R. v. M. (R.W.)**, 2011 MBCA 74, ¶32]
3. Appeals involving well-settled areas of law will not raise issues that have significance to the administration of justice beyond a particular case. [see **R. v. Zaky**, 2010 ABCA 95 at ¶10; **R. v. Im**, 2009 ONCA 101 at ¶17; **R. v. Hengeveld**, 2010 ONCA 60 at ¶5; **R.R.** at ¶31]
4. If the appeal does not raise an issue significant to the administration of justice, an appeal that is merely "arguable" on its merits should not be granted leave to appeal. Leave to appeal

should only be granted where there appears to be a clear error by the SCAC. [see **M. (R.W.)** at ¶37; **R.R.** at ¶32]

5. A second level of appeal is an appeal of the SCAC justice. It is to see if he or she made an error of law. The second level of appeal is not meant to be a second appeal of the provincial court decision. [see **R.R.** at ¶24; **Chatur** at ¶17]
6. The fitness or leniency of a sentence is a factor a provincial appellate court can consider when deciding whether to grant leave. [see **Chatur** at ¶19; **Im** at ¶22]

[22] To decide whether the appellant should be granted leave to appeal, I agree with the Crown's submission that the following questions must be answered:

- a. Does this case raise an issue that is significant to the administration of justice?
- b. Are the merits of the appellant's case strong; is there a "clear" error of law?
- c. Does the appellant face a significant deprivation of his liberty if he is not granted leave to appeal?

[4] Here, the Summary Conviction Appeal Court dismissed the appeal following a very comprehensive and correct analysis. There is nothing further this Court could or should add.

[5] Leave to appeal is therefore denied.

MacDonald, C.J.N.S.

Concurred in:

Oland, J.A.

Scanlan, J.A.