

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

WING WHA WONG

APPLICANT
(Appellant)

and

HER MAJESTY THE QUEEN

RESPONDENT
(Respondent)

RESPONSE TO APPLICATION FOR LEAVE TO APPEAL
HER MAJESTY THE QUEEN, RESPONDENT
(Rule 27)

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PART I: STATEMENT OF FACTS

Overview

1. This case examines the circumstances in which a guilty plea can be struck by a court of appeal where the collateral immigration consequences of the plea were unknown at the time of its entry. In a comprehensive analysis of the jurisprudence, the Court of Appeal determined that non-criminal collateral consequences can lead to a finding that a guilty plea was “not informed”; however, whether allowing the guilty plea to stand would give rise to a miscarriage of justice depends on the facts of each case.

2. In this case there was no evidence that the appellant would not have pleaded guilty had he been aware of the immigration consequences flowing from his guilty plea. This fact was critical to the determination of the appeal. The fact dependent inquiry is not a matter of controversy. While the basis for appellate court intervention to invalidate a guilty plea is an important matter, it is not an issue in respect of which there is any present need for clarification by this Court.

3. The Court of Appeal was not unanimous on the question of whether an appellant who seeks to withdraw a guilty plea must show an articulable route to an acquittal or a valid defence. However, this issue was at most a secondary reason for dismissing Mr. Wong’s appeal. It was not squarely before the Court of Appeal and was not argued by the parties. The Court of Appeal should be given the opportunity to pronounce on the issue. If divergent appellate points of view emerge, this Court would then be in a position to resolve the controversy. Accordingly, Mr. Wong’s proposed appeal does not raise any issue of national or public importance warranting leave.

The Charge

4. The applicant Wing Wong pleaded guilty to one count of trafficking cocaine in Kelowna, British Columbia, on 29 February 2012. The charge arose from the sale of .7 grams of cocaine to an undercover police officer.¹

¹ Trial Judge’s Reasons for Sentence, para. 1 [Applicant’s Record (“AR”), Tab B-2]; Court of Appeal Reasons, paras. 6, 8 [AR, Tab B-3]; Transcript February 21, 2014, at p. 2, l.18, p.3, l.20 [AR, Tab D-2]

The Guilty Plea and Sentencing Hearing

5. Several months after his preliminary hearing, Mr. Wong pleaded guilty to the cocaine trafficking count. Crown counsel submitted that a 12 month jail sentence was an appropriate disposition while Mr. Wong's counsel sought a conditional sentence. The sentencing judge imposed a nine month jail sentence.²

The Immigration Consequences

6. The sentencing judge was not informed that there could be potential immigration consequences flowing from the sentence imposed on the applicant, who had permanent resident status in Canada. On appeal, the evidence established that Mr. Wong did not appreciate that his ability to remain in Canada could be jeopardized by his conviction and sentence. It was common ground that Mr. Wong's trial counsel did not provide him with advice about the potential immigration consequences flowing from his conviction and sentence.³

7. Section 36(1)(a) of the *Immigration and Refugee Protection Act* renders a permanent resident inadmissible to Canada on grounds of serious criminality if convicted of an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years. A person deemed inadmissible under this section has a right of appeal pursuant to s. 63(2) of the *Act*; however, s. 64 removes the right of appeal of persons sentenced to a term of imprisonment of at least six months.⁴

8. As a result of the conviction, Mr. Wong is deemed inadmissible to Canada. Because he was sentenced to a term of imprisonment of more than six months, he does not have a right to appeal his status.⁵

² Court of Appeal Reasons, para. 10 [AR, Tab B-3]; Trial Judge's Reasons, para. 9 [AR, Tab B-2]

³ Court of Appeal Reasons, paras. 12, 13, 19, 53 [AR, Tab B-3]

⁴ Court of Appeal Reasons, paras. 30-33 [AR, Tab B-3]

⁵ Court of Appeal Reasons, para. 34 [AR, Tab B-3]

The Argument Advanced

9. In the Court of Appeal, Mr. Wong argued that his trial counsel was ineffective because he had failed to provide advice about the consequences of a guilty plea and the effect of a jail sentence exceeding six months on his immigration status.⁶

The Court of Appeal's Decision

10. The Court of Appeal dismissed the conviction appeal and granted leave to Mr. Wong to appeal sentence.⁷

11. While each member of the Court wrote separate reasons for dismissing the appeal, they all agreed that allowing the conviction to stand did not amount to a miscarriage of justice as Mr. Wong failed to establish that he would not have pleaded guilty had he known the immigration consequences of his plea.⁸ As noted by Fitch J.A., the affidavit filed by Mr. Wong on the appeal was very detailed. Conspicuously absent from the affidavit was any assertion that he would not have pleaded guilty had he been aware of the immigration consequence of doing so.⁹

12. Saunders J.A. held that in addition to Mr. Wong's failure to show that advice about immigration consequences would have made a difference to his decision to plead guilty, Mr. Wong had failed to advance an "articulable route to an acquittal". Saunders J.A. relied on jurisprudence in British Columbia requiring an appellant to establish a "valid defence" on an application to strike a guilty plea to conclude that an appellant must do more than demonstrate that a guilty plea was invalid to establish a miscarriage of justice.¹⁰ Based on the Court's decision in *R. v. Duong*, 2006 BCCA 325, and the purpose of s. 686(1)(a)(iii) Saunders, J.A. interpreted the "valid defence" requirement as one that requires an appellant to establish an articulable route to an acquittal; the hope of a favourable verdict must be based on more than the chance that evidence needed for conviction will become unavailable.¹¹

⁶ Court of Appeal Reasons, paras. 1, 2, 54 [AR, Tab B-3]

⁷ Court of Appeal Reasons, paras. 48, 51, 71, 79, 80, 83 [AR, Tab B-3]

⁸ Court of Appeal Reasons, paras. 42, 44, 56, 80 [AR, Tab B-3]

⁹ Court of Appeal Reasons, para. 68 [AR, Tab B-3]

¹⁰ Court of Appeal Reasons, paras. 24-26 [AR, Tab B-3]; *R. v. Singh*, 2014 BCCA 373; *R. v. Duong*, 2006 BCCA 325, 142 C.R.R. (2d) 261; *R. v. Carter*, 2003 BCCA 632; *R. v. Read* (1994), 47 B.C.A.C. 28, 24 W.C.B. (2d) 240 (C.A.)

¹¹ Court of Appeal Reasons, para. 26 [AR, Tab B-3]

13. Saunders J.A. considered that there were two approaches to assessing the validity of a guilty plea on appeal: (a) an objective test which was described by Justice Lebel in *R. v. Taillefer; R.v Duguay*, 2003 S.C.C. 70, [2003] 3 S.C.R. 307, which falls short of requiring the appellant to establish that the new information would have made a difference to the plea;¹² and (b) a subjective test, set out by Laskin, J.A. in *R. v. Quick*, 2016 ONCA 95, where the question is whether the unknown consequences of the plea would have mattered to him. In this analysis, the appellant does not need to show that a viable defence is available before the plea will be set aside.¹³

14. Saunders J.A. concluded that Mr. Wong's conviction appeal could not succeed for two reasons: (a) Mr. Wong did not establish that the lack of information in respect of the immigration consequences would have made a difference to his decision to plead guilty; and (b) Mr. Wong had not advanced an articulable route to a conclusion other than a guilty verdict. She noted that unlike Mr. Quick who only had to wait out six months to avoid the collateral consequences, Mr. Wong needed to avoid conviction altogether to avoid the immigration consequences. Mr. Wong did not articulate any basis to avoid conviction or show that he had any prospect of success in respect of the verdict.¹⁴

15. Saunders J.A. left open the question whether, in a different case, an appellant would need to show a viable defence in order to have a guilty plea set aside.¹⁵

16. Saunders J.A. reached the same conclusion analyzing the issue from the perspective of the law relating to ineffective assistance of counsel. She concluded that Mr. Wong had not established prejudice flowing from his lack of knowledge of the immigration consequences, as there was no evidence he would have gone to trial and because he had not shown any basis on which to think the verdict after a trial would have been different.¹⁶

17. While ultimately arriving at the same result, Fitch J.A., approached the issue differently. He applied the analytical formula employed by Laskin J.A. in *Quick*. He concluded that because Mr. Wong did not know of the immigration consequences of his guilty plea when it was entered,

¹² Court of Appeal Reasons, para. 37, 38 [AR, Tab B-3]

¹³ Court of Appeal Reasons, para. 41 [AR, Tab B-3]

¹⁴ Court of Appeal Reasons, para. 42, 43 [AR, Tab B-3]

¹⁵ Court of Appeal Reasons, para. 42. [AR, Tab B-3] She called this a "*Quick*-like result".

¹⁶ Court of Appeal Reasons, para. 45 [AR, Tab B-3]

his guilty plea was not informed. However, because Mr. Wong did not assert that he would have acted differently had he known the immigration consequences of pleading guilty, he failed to show that the conviction was the product of a miscarriage of justice.¹⁷

18. Fitch J.A. questioned the correctness of the Court's own jurisprudence which requires an appellant seeking to set aside a guilty plea to demonstrate an articulable route to an acquittal or a valid defence to the charge. However, as the issue was not argued by counsel nor required to be resolved to dispose of the appeal, he declined to decide the issue, preferring that it be addressed in a case where the issue squarely arises for determination.¹⁸

19. Fitch J.A. took no issue with Saunders J.A.'s analysis of the competence of counsel claim; however, he did not believe it was necessary or helpful for the appellant to have framed his ground of appeal as a competence of counsel case. The reason the guilty plea was uninformed did not matter and added unnecessary complexity to the analysis. Analyzing it through the lens of competence of counsel could not possibly lead to a different result.¹⁹

20. Harris J.A. agreed with both Saunders J.A. and Fitch J.A. that because Mr. Wong failed to demonstrate his plea of guilt would not have been entered if he had known of the immigration consequences, the appeal must be dismissed. In relation to the ineffective assistance of counsel ground, he agreed with Saunders J.A. that it was appropriate to analyze the issue in this context and he agreed with her analysis in that regard.²⁰

21. Harris J.A. considered that he was bound by the British Columbia Court of Appeal's jurisprudence requiring an appellant to demonstrate an articulable route to an acquittal or a valid defence, but shared the concerns of principle regarding such a requirement expressed by Fitch, J.A.. Given the basis on which it was agreed that the appeal should be dismissed, he did not think that it was appropriate to resolve, reconsider or clarify the status of such a prerequisite.²¹

¹⁷ Court of Appeal Reasons, para. 55, 56 [AR, Tab B-3]

¹⁸ Court of Appeal Reasons, para. 72-77 [AR, Tab B-3]

¹⁹ Court of Appeal Reasons, para. 54 [AR, Tab B-3]

²⁰ Court of Appeal Reasons, para. 80, 81 [AR, Tab B-3]

²¹ Court of Appeal Reasons, para. 82 [AR, Tab B-3]

PART II: QUESTION IN ISSUE

22. The applicant proposes the following question:

What is the framework to be applied by an appellate court in deciding whether to strike a guilty plea by an individual who was not informed of significant collateral consequences of their plea?

23. In the respondent's submission, the narrow question raised in the application for leave to appeal is better stated as follows:

Did the Court of Appeal err when it concluded that allowing the applicant's guilty plea to stand was not a miscarriage of justice, as the applicant failed to establish that he would not have pleaded guilty had he known of the collateral immigration consequences arising from his guilty plea and sentence?

24. The respondent says the Court of Appeal correctly determined that, based on the facts of this case, allowing the guilty plea to stand was not a miscarriage of justice. In assessing whether Mr. Wong had established a miscarriage of justice, the Court engaged in a fact-specific inquiry and resolved the issue based on the evidence tendered in the case. There is no dispute that an application to withdraw a guilty plea on appeal based on an alleged miscarriage of justice calls for a case-specific factual analysis. Whether an appellant is also required to demonstrate an "articulable route to conviction" has not been fully canvassed or decided by the Court of Appeal.

PART III: ARGUMENT

The Significance and Effect of a Guilty Plea

25. To be valid, a guilty plea must be voluntary, unequivocal, and informed. For the plea to be informed, the accused must be aware of the nature of the allegation, the legal effect of the plea, and the consequences of the plea.²²

26. A guilty plea involves an unequivocal acknowledgement of the legal elements of the offence to which the plea relates. The parties, the court, and the public are entitled to expect that

²² *R. v. Singh*, 2014 BCCA 373, 316 C.C.C. (3d) 490 at para. 33; *R. v. R.T.* (1992), 10 O.R. (3d) 514 (C.A.) at para.

a guilty plea will bring certainty and finality to the proceedings.²³ An accused may plead guilty as a result of discussions with the Crown or may plead guilty as an expression of remorse which may lead to a more lenient sentence.²⁴ Therefore, in view of the purpose and legal effect of a guilty plea, and the presumption that a guilty plea entered in open court is a voluntary admission of the elements of the offence, a guilty plea should only be set aside where the appellant establishes exceptional circumstances.²⁵

27. In Mr. Wong's case, the evidence established that his trial counsel thought that a guilty plea was a mitigating factor which would assist in advancing Mr. Wong's submission that a conditional sentence of imprisonment was an appropriate sentence. Trial counsel advised Mr. Wong accordingly.²⁶

Collateral Consequences of a Guilty Plea

28. Immigration consequences arising from a guilty plea or sentence are described as collateral because they are a secondary, or a non-criminal result arising from legislation outside the criminal law.²⁷

29. Unintended collateral consequences affecting the fitness of a sentence can be raised on a sentence appeal, and the appellate court can intervene because the sentencing judge decided on the fitness of sentence without considering a relevant factor. The Court of Appeal granted Mr. Wong leave to appeal his sentence and the Court of Appeal can consider the immigration consequence in determining a fit sentence.²⁸

Striking a Guilty Plea on Appeal

30. Appellants have been permitted to withdraw an otherwise valid guilty plea where the accused's constitutional right to disclosure has been infringed. In *R. v. Taillefer*; *R. v. Duguay*,²⁹

²³ *R. v. Duong*, 2006 BCCA 325, 142 C.R.R. (2d) 261 at para. 9-10; *R. v. Eizenga*, 2011 ONCA 113, 270 C.C.C. (3d) 168 at para. 70

²⁴ *R. v. Duong*, at para. 11; *R. v. Fegan* (1993) 80 C.C.C. (3d) 356 (O.N.C.A) at 360-61; *R. v. Roberts*, 1998 CanLII 2634 (ON CA) at para. 6

²⁵ *R. v. Staples*, 2007 BCCA 616 at para. 39; *R. v. Hoang* 2003 ABCA 251, 339 A.R. 291 at para. 24-27

²⁶ Court of Appeal Reasons, para. 42, 45 [AR, Tab B-3]; Affidavit of Michael Kennedy, para. 43 [AR, Tab D-4]

²⁷ Court of Appeal Reasons, para. 35 [AR, Tab B-3]; *R. v. Quick*, 2016 ONCA 95 at para. 18

²⁸ *R. v. Pham*, 2013 SCC 15, [2013] 1 S.C.R. 739 at para. 24

²⁹ *R. v. Taillefer*; *R. v. Duguay*, 2003 SCC 70, [2003] 3 S.C.R. 307

the Crown had failed to disclose relevant evidence prior to the appellant Mr. Duguay's guilty plea. On appeal Mr. Duguay filed an affidavit in which he deposed that he would never have pleaded guilty had he known of the undisclosed material.³⁰

31. In assessing whether the guilty plea should be struck, this Court held that the breach of the appellant's right to disclosure did not automatically lead to the striking of the guilty plea. An appellant must demonstrate that there was a reasonable possibility that the undisclosed materials would have influenced his or her decision to plead guilty, if it had been available before the guilty plea was entered. The test is objective in nature and the question is whether a reasonable and properly informed person, put in the same situation, would have run the risk of standing trial if he or she had timely knowledge of the undisclosed evidence, when it is assessed together with all of the evidence already known.³¹

A Case-Specific Factual Inquiry Determines if Collateral Consequences Can Vitiating a Guilty Plea

32. There is little, if any, dispute in the appeal courts on the issue of whether a subsequently-discovered collateral consequence can render an otherwise valid guilty plea uninformed. In the respondent's submission, a close examination of the cases demonstrates that each case was decided on the particular facts before the court.

33. In *R. v Hunt*,³² the appellant sought to withdraw his guilty plea on appeal because at the time of the guilty plea he was unaware that his conviction could result in his deportation. He argued that where a person does not know and understand all legal consequences which will flow from a guilty plea, the plea is not voluntary. The appellant did not claim he had a valid defence, neither did he deny any of the facts. He understood that the guilty plea would result in a criminal record. The Court held that the unanticipated consequence of the guilty plea did not invalidate the guilty plea nor, in the circumstances of that case, result in a miscarriage of justice. There is no indication that Mr. Hunt deposed that had he known of the collateral immigration consequence he would not have pleaded guilty.

³⁰ *R. v Taillefer; R. v Duguay* at para. 110

³¹ *R. v Taillefer; R. v Duguay* at para. 86-90

³² *R. v Hunt*, 2004 ABCA 88

34. In *R. v. Quick*,³³ the Ontario Court of Appeal struck Mr. Quick's guilty plea because at the time of his plea he was unaware that a conviction would lead to an indefinite driving prohibition pursuant to provincial motor vehicle legislation. The evidence established that he did not know that this was a consequence flowing from his guilty plea and that had he known, he would not have pleaded guilty. The Court held that an accused's ignorance of collateral consequences may render a guilty plea uninformed.³⁴

35. In order to assess whether the collateral consequence can render an otherwise valid guilty plea uninformed, the Court in *Quick*, held that:

[33] What is called for is a fact-specific inquiry in each case to determine the legal relevance and the significance of the collateral consequence to the accused. A simple way to measure the significance to an accused of a collateral consequence of pleading guilty is to ask: is there a realistic likelihood that an accused, informed of the collateral consequence of a plea, would not have pleaded guilty and gone to trial? In short, would the information have mattered to the accused? If the answer is yes, the information is significant. I draw support for this approach from the reasons of Lebel J. in *R. v. Taillefer*; *R. v. Duguay*, 2003 SCC 70; [2003] 3 S.C.R. 307 and the reasons of Watt J.A. in *R. v. Henry*, 2011 ONCA 289.

36. The Court in *Quick* determined that a subjective test was an appropriate way to measure whether the plea was informed. An informed guilty plea requires that the accused be aware of the significant collateral consequence. The question in Mr. Quick's case was whether the consequence of which he was unaware would have mattered to him.³⁵ The Court went on to conclude that there was a realistic likelihood that Mr. Quick – a truck driver – would not have pleaded guilty had he known that a conviction would result in an automatic and indefinite suspension of his driver's license. Whether or not he had a defence to the charge was irrelevant.³⁶

37. It is noteworthy that had Mr. Quick been able to postpone his guilty plea by six months, he would not have been subjected to the indefinite suspension of his driver's license.³⁷ Most

³³ *R. v. Quick*, 2016 ONCA 95

³⁴ *R. v. Quick* at para. 30

³⁵ *R. v. Quick* at para. 35

³⁶ *R. v. Quick* at para. 37, 38

³⁷ *R. v. Quick* at para. 9

importantly for present purposes, Mr. Quick deposed that he would not have pleaded guilty had he known his driver's license would have been indefinitely suspended.³⁸

38. In *R. v. Kitawine*,³⁹ a decision rendered after the hearing of Mr. Wong's appeal, the appellant sought to withdraw his guilty plea on appeal. Mr. Kitawine's trial lawyer knew that Mr. Kitawine faced immigration consequences resulting from his conviction and sentence, but did not know precisely what they were. Mr. Kitawine himself, however, was well aware that his conviction would seriously jeopardize his immigration status.⁴⁰ In assessing whether Mr. Kitawine had established that allowing his guilty plea to stand would amount to a miscarriage of justice, the Court accepted that unawareness of collateral immigration consequences may be a basis for setting aside the plea, "depending on the circumstances".⁴¹ In Mr. Kitawine's case, the Court of Appeal found that if, as the appellant contended, he pleaded guilty to avoid immigration consequences, he did so on "wishful thinking". In the end, Mr. Kitawine pleaded guilty to "make the most of a bad situation", and the prospect of avoiding the collateral immigration consequences was too remote to invalidate the plea.⁴²

39. From the foregoing, it is apparent that whether an unintended collateral consequence of a guilty plea can render an otherwise valid guilty plea uninformed is a fact-specific inquiry. In the absence of any evidence that Mr. Wong would not have pleaded guilty had he known of the collateral immigration consequence, his application to strike his guilty plea on appeal was bound to fail, because he pleaded guilty in the hopes of receiving a more favourable sentence. There was no evidence before the Court of Appeal upon which the Court could draw the inference that Mr. Wong would not have pleaded guilty, nor was it implicit in his affidavit. It could not be concluded that Mr. Wong would have "privileged longer-term immigration goals over the shorter-term goal of avoiding a custodial sentence."⁴³ The evidence established that Mr. Wong's trial counsel took the view that a guilty plea would be seen as a mitigating circumstance.⁴⁴

³⁸ *R. v. Quick* at para. 3

³⁹ *R. v. Kitawine*, 2016 BCCA 161

⁴⁰ *R. v. Kitawine* at para. 1-3

⁴¹ *R. v. Kitawine* at para. 19

⁴² *R. v. Kitawine* at para. 28

⁴³ Court of Appeal Reasons, paras. 68, 69 [AR, Tab B-3]

⁴⁴ Court of Appeal Reasons, para. 45 [AR, Tab B-3]

40. While Saunders J.A. held that, additionally, Mr. Wong had failed to show an articulable route to an acquittal, this was not central to her reasoning in finding that Mr. Wong had failed to demonstrate that allowing the guilty plea to stand would amount to a miscarriage of justice. As Fitch J.A. noted, the issue of whether an appellant must show a valid defence or route to acquittal in order to strike a guilty plea on appeal was not argued by counsel and a resolution of the issue was not necessary to dispose of the appeal.⁴⁵

The Absence of Legal Controversy

41. The applicant's contention that there is significant level of confusion and lack of clarity with respect to the striking of uninformed guilty pleas is simply not correct. There appears to be consensus in both the Ontario Court of Appeal and the British Columbia Court of Appeal that unintended collateral consequences may render an otherwise valid guilty plea uninformed, depending on a case-specific factual analysis. To the extent that there is any disagreement with this approach in other appellate courts, that disagreement should be resolved in a case where the applicant establishes that he or she would not have entered the plea had he or she been made aware of those consequences.⁴⁶

42. Whether an appellant must demonstrate something akin to a valid defence or an articulable route to an acquittal was not central to the Court of Appeal's reasoning in holding that Mr. Wong had failed to demonstrate that allowing his conviction to stand would result in a miscarriage of justice. While Fitch J.A. questioned the correctness of this requirement, he did not decide it. The Court of Appeal should be able to pronounce on it, particularly since it is the jurisprudence in British Columbia that is called into question. If differing appellate points of view emerge, this Court would then be in a position to resolve the controversy with the benefit of a number of differing perspectives.

43. The appellant has not identified an issue of any national or public importance. Leave to appeal should be dismissed.

⁴⁵ Court of Appeal Reasons, para. 77 [AR, Tab B-3]

⁴⁶ In *Hunt*, the Alberta Court of Appeal refused to strike a plea based on collateral consequences, but in that case it is not clear that the appellant would have acted differently had he been made aware of the collateral consequence. In that sense, the result in *Hunt* is in sync with the result in the case at bar.

PART IV: SUBMISSIONS CONCERNING COSTS

44. The respondent makes no submission as to costs.

PART V: NATURE OF ORDER SOUGHT

45. That the application for leave to appeal be dismissed, without costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 6th day of February, 2017.

John Walker
Counsel for the respondent

PART VI: AUTHORITIES

<u>Cases</u>	<u>Paragraph</u>
<i>R. v. Carter</i> , 2003 BCCA 63	12
<i>R. v. Duong</i> , 2006 BCCA 325, 142 C.R.R. (2d) 261	12, 26
<i>R. v. Eizenga</i> , 2011 ONCA 113, 270 C.C.C. (3d) 168	26
<i>R. v. Fegan</i> (1993), 80 C.C.C. (3d) 356 (O.N.C.A)	26
<i>R. v. Henry</i> , 2011 ONCA 289	35
<i>R. v. Hoang</i> , 2003 ABCA 251, 339 A.R. 291	26
<i>R. v. Hunt</i> , 2004 ABCA 88	33, 41
<i>R. v. Kitawine</i> , 2016 BCCA 161	38
<i>R. v. Pham</i> , 2013 SCC 15, [2013] 1 S.C.R. 739	29
<i>R. v. Quick</i> , 2016 ONCA 95	13, 17, 28, 34-37
<i>R. v. Read</i> (1994), 47 B.C.A.C. 28, 24 W.C.B. (2d) 240 (C.A.)	12
<i>R. v. Roberts</i> , 1998 CanLII 2634 (ON CA)	26
<i>R. v. R.T.</i> (1992), 10 O.R. (3d) 514 (C.A.)	25
<i>R. v. Singh</i> , 2014 BCCA 373, 316 C.C.C. (3d) 490	12, 25
<i>R. v. Staples</i> , 2007 BCCA 616	26
<i>R. v. Taillefer; R. v. Duguay</i> , 2003 SCC 70, [2003] 3 S.C.R. 307	13, 30, 31, 35

PART VII: STATUTORY PROVISIONS

<p align="center">Immigration and Refugee Protection Act, S.C. 2001, c. 27</p> <p>Serious criminality</p> <p>36 (1) A permanent resident or a foreign national is inadmissible on grounds of serious criminality for</p> <p>(a) having been convicted in Canada of an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years, or of an offence under an Act of Parliament for which a term of imprisonment of more than six months has been imposed;</p> <p>No appeal for inadmissibility</p> <p>64 (1) No appeal may be made to the Immigration Appeal Division by a foreign national or their sponsor or by a permanent resident if the foreign national or permanent resident has been found to be inadmissible on grounds of security, violating human or international rights, serious criminality or organized criminality.</p> <p>Serious criminality</p> <p>(2) For the purpose of subsection (1), serious criminality must be with respect to a crime that was punished in Canada by a term of imprisonment of at least six months or that is described in paragraph 36(1)(b) or (c).</p>	<p align="center">Loi sur l'immigration et la protection des réfugiés, L.C. 2001, ch. 27)</p> <p>Grande criminalité</p> <p>36 (1) Emportent interdiction de territoire pour grande criminalité les faits suivants:</p> <p>a) être déclaré coupable au Canada d'une infraction à une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans ou d'une infraction à une loi fédérale pour laquelle un emprisonnement de plus de six mois est infligé;</p> <p>Restriction du droit d'appel</p> <p>64 (1) L'appel ne peut être interjeté par le résident permanent ou l'étranger qui est interdit de territoire pour raison de sécurité ou pour atteinte aux droits humains ou internationaux, grande criminalité ou criminalité organisée, ni par dans le cas de l'étranger, son répondant.</p> <p>Grande criminalité</p> <p>(2) L'interdiction de territoire pour grande criminalité vise, d'une part, l'infraction punie au Canada par un emprisonnement d'au moins six mois et, d'autre part, les faits visés aux alinéas 36(1)b) et c).</p>
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