

SUPREME COURT OF CANADA



Case in Brief: *R. v. Carson*

2018 SCC 12 | Judgment of March 23, 2018 | On appeal from the Court of Appeal for Ontario

The offence of influence peddling includes a promise to influence government to change the way it operates, the Supreme Court has ruled. The phrase “any matter of business relating to the government” in the Criminal Code captures activities that go beyond current government operations, to include those that the government could facilitate.

In an 8-1 decision, Justice Andromache Karakatsanis dismissed Bruce Carson’s appeal and upheld his conviction for influence peddling.

Bruce Carson was formerly a Senior Advisor in the Office of the Prime Minister. In 2010, about a year after leaving that position, he negotiated a deal with H2O Professionals Inc. where he promised to use his government contacts to help the company sell water treatment products to First Nations. In exchange, the company agreed to pay Mr. Carson’s then-girlfriend commissions on the sales. Mr. Carson promoted the company to First Nations leaders, government officials, and cabinet ministers and their staff.

Indian and Northern Affairs Canada (as it was called at the time, or INAC for short) provided funding to First Nations for water treatment systems like the ones sold by H2O. First Nations themselves determined how the money would be spent. However, INAC sometimes funded pilot projects for water treatment systems. Mr. Carson tried to convince INAC to set up a project to purchase H2O products and pilot them in First Nations communities.

Mr. Carson was charged with a fraud against the government for selling his influence with the government.

At trial, Mr. Carson admitted that he had influence over the government. He also admitted that he had demanded a benefit for his then-girlfriend in exchange for promising to help H2O sell its products. He denied, however, that he was selling his influence in connection with “any matter of business relating to the government.” The trial judge acquitted Mr. Carson on the basis that the purchase of water treatment systems by First Nations did not require government approval or action. That was because First Nations, rather than government, would decide whether to purchase H2O’s water treatment systems. The Court of Appeal disagreed, finding that the trial judge’s interpretation was too narrow. It held that Mr. Carson’s promise was, in fact, related to government business. It set aside his acquittal and found him guilty.

The main question before the Supreme Court was what counts as a “matter of business relating to the government.” The majority determined that this phrase should be interpreted broadly. Business relates to the government if it depends on or could be facilitated by the government, even if it requires government to change its operations to promote a specific result. Based on this, the majority held that Mr. Carson’s promise was indeed in connection with “any matter of business relating to the government.” This was because, while First Nations did not need government approval to buy H2O products, INAC could have encouraged such purchases. It could have changed its funding conditions to benefit the company, or created a pilot project promoting H2O products—something Mr. Carson pushed for. For these reasons, the majority held that it was clear Mr. Carson believed that sales of H2O products to First Nations could be facilitated by the government. In these circumstances, the majority considered that Mr. Carson undermined the appearance of government integrity and that he was guilty of influence peddling.

Writing in dissent, Justice Suzanne Côté disagreed that the matter was connected to government business, and would have restored Mr. Carson’s acquittal. In her view, “a matter of business relating to the government” must be actually—not just potentially—related to the operational structures of government in place at the time of the offence. The trial judge had found that the federal government had given First Nations complete independence to purchase water treatment systems of their own choosing. Therefore, Justice Côté agreed with the trial judge that Mr. Carson’s activities could not be said to be “relating to the government.” In her view, the *Criminal Code*

sought to protect government integrity by criminalizing agreements that would pose a risk of corruption if they were carried out successfully. She held that no such risk existed where the “matter of business” in question did not actually relate to the government.

This case dealt with the meaning and scope of “any matter of business relating to the government” in section 121(1)(d) of the *Criminal Code*. The majority determined that business relates to the government if it depends on or could be facilitated by the government. A broad interpretation is necessary because real or apparent corruption may undermine the integrity and transparency that are crucial to democracy.

For more information (case no. 37506):

- [Reasons for judgment](#)
- [Case information](#)
- [Webcast of hearing](#)

Breakdown of the decision:

- Majority: [Karakatsanis](#) J. ([McLachlin](#) C.J. and [Abella](#), [Moldaver](#), [Wagner](#), [Gascon](#), [Brown](#) and [Rowe](#) JJ. concurring)
- Dissenting: [Côté](#) J.

Lower court rulings:

- Court of Appeal for Ontario ([appeal judgment](#))
- Ontario Superior Court of Justice ([trial judgment](#))

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