



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

Citation: *R. v. Brenton*, 2016 NLCA 66

Date: November 22, 2016

Docket: 201601H0097

BETWEEN:

JASON DAVID HENRY BRENTON

APPLICANT

AND:

HER MAJESTY THE QUEEN

RESPONDENT

Coram: Hoegg J.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador,
Clareville, 2016 NLTD(G) 121, 201606G0013

Application Heard: November 15, 2016

Reasons for Decision Filed: November 22, 2016

Counsel for the Applicant/Appellant: Self-represented

Counsel for the Respondent: Rachel Furey

Hoegg J.A.:

INTRODUCTION

[1] Jason David Henry Brenton applies to this Court for an extension of time to file a notice of appeal. Mr. Brenton was convicted of trafficking marihuana on April 28, 2016 at Clarenville, Newfoundland and Labrador. On June 23, 2016 he was sentenced to 21 months imprisonment (with appropriate reduction for time spent in pre-sentence custody) and ancillary orders. On August 30, 2016, he attempted to file a notice of appeal against his conviction and sentence. He was advised he was out of time and that he would have to apply for an extension.

[2] Mr. Brenton represented himself at trial and in this Court.

ANALYSIS

[3] The factors to be considered on an application to extend the time for filing a notice of appeal were set out in *Fahey v. The Law Society of Newfoundland*, 2000 NFCA 19, at para. 3:

1. whether the appellant had a bona fide intention to appeal within the appeal period;
2. whether there is a reasonable excuse for the failure to comply with the rule;
3. the potential merits of the appeal; and
4. the presence of any exceptional or special circumstances justifying or working against the fairness of an extension.

[4] Mr. Brenton submitted that he had difficulty initiating an appeal due to being incarcerated in four different institutions between April 28 and August 29, 2016, and also because he was delayed in obtaining both a copy of the trial judgment and assistance from a classification officer at the jail. He also advised the Court he was further delayed because his first notice of appeal was filed in the wrong court.

[5] I am satisfied from Mr. Brenton's submissions that he had a bona fide intention to appeal his conviction and sentence and that he has a reasonable excuse for failing to comply with the 30-day filing period in Rule 3 of the

Supreme Court of Newfoundland and Labrador - Court of Appeal Criminal Rules (2002).

[6] The third and fourth *Fahey* considerations involve evaluating the merits of his proposed appeal and the presence of special circumstances bearing on the fairness of an extension. It is therefore useful to refer to the trial record and Mr. Brenton's grounds of appeal.

[7] At trial the Crown presented evidence that over 38 pounds of marihuana (in 79 vacuum-sealed bags) were seized from three boxes mailed to Mr. Brenton via Canada Post. Canada Post officials contacted police after being alerted to the boxes by the smell. The police took the marihuana out of the boxes and replaced it with used clothing, and then waited for Mr. Brenton to attend at the post office to fetch the boxes and take them home. Police searched his home under warrant, seized the boxes, and arrested Mr. Brenton. The Crown also adduced evidence respecting mobile phone conversations which supported the Crown's case, as well as expert evidence that the quantity and packaging of the marihuana was for the purpose of trafficking rather than personal use.

[8] Mr. Brenton did not testify at trial, although he tendered three documents – two affidavits executed by him and a “Statement of Will and Indenture: Jason David Henry Brenton; Private Citizen”. His first affidavit contains a rambling list of statements which include legal words and phrases that have no connection to Mr. Brenton's charges and are otherwise incoherent and illogical. For example, he purports to make an equitable plea to settle the proceedings against him by way of some sort of “indemnification” or “payment to his account”. His second affidavit is a list of purported facts also irrelevant, incoherent, and illogical, and containing a statement that Mr. Brenton does not submit to the court's jurisdiction.

[9] The Judge reviewed the trial evidence and applicable law, and concluded that he was satisfied beyond a reasonable doubt of Mr. Brenton's guilt. He rejected Mr. Brenton's claim that the Court had no jurisdiction over him as having “no basis in law, no merit, and no bearing on the charge against him”. At the sentencing hearing two months later the Judge said:

I agree with the Crown that the range of sentence for this offence is 18 to 24 months in jail, even though Mr. Brenton is a first offender. He had a large quantity of marihuana in his possession, he is a trafficker at the supplier level and he was equipped with the wherewithal to readily dispense it to his customers. He must be deterred. Thus, I sentence Mr. Brenton to 21 months in jail.

[10] In his application to this Court, Mr. Brenton states the grounds for his appeal as follows:

There is no law that can force me, Jason David Henry Brenton, private citizen, to take responsibility or punishment for charges, claims or indictments placed upon the account, DAVID HENRY BRENTON, JASON, Strawman, legal person, that was created by the government. Yet, I have citizenship of this account which allowed me to make a legal and lawful payment through Deputy Minister Donna Brewer, Hon. Andrew Parsons and the Hon. Jody Wilson-Raybould. I presented my Notice of Payment to the crown and the court. It was accepted by the crown and recognized by the court. My Affidavit of Jason David Henry Brenton, private citizen, was also presented to the court. The Hon. Judge Garrett A. Handrigan recognized me by my name, therefore as a man, on numerous occasions. As a man, I an Not this account that the indictment was place upon. The Hon. Judge Garrett A. Handrigan then denied my Affidavit and my Notice of Payment into the court that should of closed this matter. I was railroaded straight into jail effectively stopping me from being able to defend my inherent and natural rights as a man upon the Queens Bench.

I have legally and lawfully taken care of this matter. The fact that public servants have failed to recognize and process my payment to the court resulting in Harm to my Property which includes my name and my body is an outrageous violation to my Human Rights.

I Require the finding of guilty be reversed.

I Require the sentence of 21 month be rescinded.

I Require my name be placed on the list of names [where] I can no longer be bothered by any marital laws, civil laws, Financial debts or quasi criminal laws. Or any other matter that involved with the account that was created by the government using my name without my permission.

I Require all my property be returned to me.

I Require compensation for the Harm and [losses] I have suffered.

Thank you.

[11] Mr. Brenton's written account of his grounds for his appeal does not identify any possible basis on which this Court could grant an appeal of his conviction or sentence, and his oral argument in this Court did not improve upon his written grounds. In short, Mr. Brenton's asserted grounds of appeal do not so much as touch on the legal issues at play in his criminal proceedings, and are otherwise irrelevant and illogical.

[12] In addition, the Crown submits that it has reviewed the case with a view to discerning any arguable ground of appeal not articulated by Mr. Brenton but which could interest the Court, and has been unable to find one. I would add that I have come to the same conclusion upon my review of the record. Accordingly, I conclude that there is no merit to Mr. Brenton's appeal.

[13] I am also of the view that there exists a special circumstance in this case which works against granting Mr. Brenton an extension of time to file a notice of appeal.

[14] Mr. Brenton's submissions are similar in nature to the plaintiff's claims in *Fiander v. Mills*, 2015 NLCA 31, which Green C.J. described as frivolous, vexatious, and an abuse of process:

The claims being asserted, being completely baseless and having no recognized foundation within the jurisprudence in our judicial system and no rational connection to the remedies being claimed, are clearly frivolous. By asserting them, not only in the trial court but continuing to press them on appeal in the face of their rejection in the court below also makes them vexatious, at least at the level of this Court. Furthermore, where a claim not only does not disclose a cause of action but is additionally based on assertions that are profoundly *contrary* to accepted law, it is open to the Court to infer that the claim is being advanced for an ulterior and improper purpose and is thereby an abuse of process. ...

(paragraph 37)

The Chief Justice went on to direct how such claims may be handled:

... this Court has now declared that arguments relating to opting out of legislation, the fractionating of human personality to support claims of not being subject to law and the fanciful use of arguments based on birth certificates to create notions of estates to advance submissions that would otherwise have no rational support in the jurisprudence, have no basis in the law in this jurisdiction. It would therefore be open to a trial court in the future, when made aware of such submissions in other proceedings, to treat those submissions as presumptively vexatious and abusive and to act preemptively to prevent such claims from improperly clogging up the legal system to the cost and prejudice of those who would otherwise have to face and deal with them. ...

(paragraph 40)

[15] Like the plaintiff in *Fiander*, Mr. Brenton asserts that he is not subject to the law of the land or the jurisdiction of the courts. Also like the plaintiff

in *Fiander*, Mr. Brenton makes fanciful arguments about “settling his account on some sort of payment basis”, a notion which is irrelevant to the criminal proceedings against him and “has no rational support in the jurisprudence” or “no basis in law in this jurisdiction” (*Fiander*, at para. 40). I also note that it is rather a contradiction for Mr. Brenton to seek to appeal to a court which he asserts has no jurisdiction over him.

[16] I therefore conclude that Mr. Brenton’s application for an extension of time to file a notice of appeal is a frivolous, vexatious, and abusive proceeding which, if permitted to continue, would have no chance of success for Mr. Brenton or serve any other useful purpose. Yet, continued proceedings would waste the justice system’s valuable time and resources to the prejudice of its legitimate participants. Accordingly, I regard the nature of Mr. Brenton’s application as a special circumstance working against the fairness of granting him an extension of time to file a notice of appeal.

[17] In the result, Mr. Brenton’s application is dismissed.

L. R. Hoegg J.A.