

SUPREME COURT OF CANADA
IN THE MATTER OF THE APPLICATION FOR LEAVE TO
APPEAL FROM THE COURT OF APPEAL FOR THE
PROVINCE OF BRITISH COLUMBIA

BETWEEN:

HAROLD CECIL GAFFNEY

APPELLANT

AND:

SHEILA FRANCES GAFFNEY

RESPONDENT

MEMORANDUM OF THE RESPONDENT

SHEILA FRANCES GAFFNEY

The Applicant in Person:

Counsel for the Respondent:

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It is important to examine the background to Mr. Keith Oliver's conduct, in particular, he follows the style of his father Herbert Arnold Dimitri Oliver, in his ability to manipulate the law and influence judges of Canada's superior courts to disregard the law.

Here his father is pictured beaming over having orchestrated the exit of fugitive Mr. Hon from this country, thirty years ago when he was 55, the age of his son, Keith Oliver. Enlarging the picture to 300% shows what could be described as a perfect DNA match of the father and son.

Mr. Hon skipped the country.

Hon's lawyer, **H.A.D. Oliver**, who later went on to become a judge and a **conflict-of-interest commissioner**, applied for the case to be thrown out on a technicality involving the law.



Three months later, a Federal Court judge agreed with Hon's lawyer and ordered the extradition hearing stopped.

Hon's lawyer, **H.A.D. Oliver**

Hon is released, bail is discontinued and his three passports returned. The government of Canada appealed this ruling to the Federal Court of Appeals Canada.

Trustee Ken Rowan, seeing he was party to a fraud, took himself Mr. Gaffney's property and and put his client back on.

RESPONSE TO APPLICATION FOR AN EXPEDITED STAY

FACTS:

Justice Meikem decided that Sheila Gaffney was not insolvent and the insolvency was a fraud.

1 The Respondent, Sheila Francis Gaffney and the Appellant, Harold Cecil Gaffney were married for approximately 25 years and in the last several years of that marriage resided in the property that is now the subject of Mr. Gaffney's application for a Stay.

2 In April, 2005 Sheila Gaffney left the marriage. In May, 2005, Sheila Gaffney declared personal bankruptcy. In June, 2006 Sheila Gaffney was discharged from Bankruptcy and the Appellant, Harold Gaffney made an application to annul her discharge.

3 The dismissal of Mr. Gaffney's application in the Bankruptcy matter was appealed to the Court of Appeal, the dismissal of that Appeal now comes before the Supreme Court of Canada in Mr. Gaffney's related file. There is no merit to his Appeal in that matter.

4 An application was made by the Respondent for conduct of sale of the subject property. That application came on in Masters Chambers on April 11th, 2007. Mr. Gaffney applied on that date for an adjournment and was granted an adjournment to April 25th, 2007.

5 Mr. Gaffney appealed the successful adjournment of the Chambers application. That Appeal came on before Mr. Justice Singh on April 23rd, 2007 but as Mr. Gaffney had not filed proper materials, was not heard.

6 The Application for Partition and Sale came on before Mr. Justice Crawford on April 25th, 2007 and was granted with Conduct of Sale to the Respondent.

7 Mr. Gaffney applied for a review of Mr. Justice Crawford's decision and for settlement of the Order. That application came on on May 22nd, 2007 and the Order was confirmed.

8 Mr. Gaffney appealed the Order of Partition and Sale to the Court of Appeal.

...told the judge about Mr. Oliver's insolvency fraud, Mr. Oliver had.."

The appeal is on the basis of inter alia, including major fraud on the courts.

Where Mr. Gaffney added evidence that Mr. Oliver and his client had defrauded the Federal treasury of \$13,000 by way of filing fraudulent tax returns for a period of 6 years..

Was found by CJ Finch to be a dismissed on the basis of a technicality but does not say what the technicality is that is alleged.

Justice Crawford said he was not aware of the law --- Fright v Fright BCCA Apr 96.

3

Judge McKenzie believed the property would be sold and the appeal would be moot.

On the basis there was no triggering event, and the bankruptcy was a fraud.

9 Mr. Gaffney applied for a Stay of the Partition and Sale. His first application came on at the hearing of his appeal in the bankruptcy matter on June 20th, 2007. The Court of Appeal refused to hear it at that time.

10 Mr. Gaffney's second application for a Stay of the Partition and Sale of his home came on before the BC Court of Appeal on July 4th, 2007 before Mr. Justice Low. It was adjourned at that time because Mr. Gaffney had failed to provide proper notice of his application to the Respondent. The matter came on again on July 12th, 2007 before Mr. Justice Thackray who dismissed Mr. Gaffney's application for a Stay.

Oliver was given the right to a later appearance, because the service was not with enough clear days. Yet Mr. Oliver always had it the other way around, with inadequate notice.

11 Mr. Gaffney applied to the Court of Appeal for review of Mr. Justice Thackray's decision. That review came on on July 20th, 2007 before Mr. Justice Low who dismissed Mr. Gaffney's application.

three judges of

came on before Justice Finch on 29 Nov 07.

12 On September 5th, 2007 an interlocutory motion for access to the premises was necessary and Mr. Gaffney was ordered by Baker, J. to provide specific terms of access to the premises.

as Mr. Oliver inched the fraud further through the courts.

after being advised that she took instructions from Martin Wirick with Kenneth Oliver to defraud Ruby Mills of her property on 8 Feb 2000.

13 On September 21st, 2007, Mr. Gaffney made an application at the Court of Appeal in respect of the September 5th Order. That application was dismissed.

14 On November 2nd, 2007 a further application for specific access was made by the Petitioner and granted against Mr. Gaffney by the Order of Mr. Justice Sigurdson.

15 On November 7th, 2007 Mr. Gaffney obtained a further hearing before Mr. Justice Sigurdson despite his Order having already been entered. That further hearing resulted in no change to the Order of November 2nd, 2007.

by Justice McKenzie said the matter would be moot once the property is sold.

16 On November 20th, 2007 an application to approve the sale of the subject property was made but upon representations by Mr. Gaffney, Madam Justice Ballance ordered that an appraisal be filed before the sale could be approved. Specific access was ordered by Madam Justice Ballance so that an appraiser could have access to the property on November 21st, 2007.

Sigurdson directed that Mr. Oliver could communicate with him by cell phone and would not have to appear in

17 November 26th, 2007 an Order was made by Mr. Justice Bernard of the Supreme Court of British Columbia ordering the sale of the property to complete on December 14th with possession to pass on December 15th, 2007. At the same time a separate order directing Mr. Gaffney to be out of the property and give vacant possession of the property to the purchasers by 12 noon December 15th, 2007 was made.

on December 15th not 14th as reported here.

Mr. Oliver then contracted for and received a fraudulent appraisal -- from realtor Eric Lindquist of Sutton Group.

Mr. Gaffney sent evidence of fraud in the appraisal to the regulator Canadian Associate of Appraisers.

at 12:00 pm.

This order was a forgery and reported as such to the ADM Helen Pendault of Court Services to which there has been no reply.

for short leave to bring on the matter of the appeal from Justice Bernard of 26 Nov 07, on hearing submissions from Mr. Oliver that he had not been provided with the necessary "2 clear days"

18 On November 29th, 2007 at the BC Court of Appeal Mr. Gaffney had his full Court hearing in the matter of the Partition and Sale of the property. Mr. Gaffney brought forward his appeal of the Order of Madam Justice Baker's Order which had been filed in a separate Court of Appeal file and initiated a third separate Court of Appeal file to appeal the Order of Mr. Justice Bernard and to apply for a Stay of that Order. The Court of Appeal considered Mr. Gaffney's files and in Reasons for Judgment that Mr. Gaffney has obtained and which we now attach, the Court of Appeal dismissed Mr. Gaffney's application for a Stay of the Order of Mr. Justice Bernard on November 26th, 2007 and summarily dismissed his appeal of that Order. The Court of Appeal also dismissed his appeal of the Order of Madam Justice Baker and his appeal of the partition and sale Petition.

19 The Court of Appeal made an Order against Mr. Gaffney under Section 29 of the *Court of Appeal Act* which Order prohibits Mr. Gaffney as a vexatious litigant, from bringing any matters before the Court of Appeal with out specifically obtaining leave of a Justice.

20 On November 30th, 2007 Mr. Gaffney tested the last referenced Order and his application in the file that he has now brought to the Supreme Court of Canada was refused at the registry counter since he had made no attempt to obtain the necessary leave of a Justice.

False: Gaffney had attempted to gain leave and been denied. Justice Binnie knew that.

21 On December 3rd, 2007 Mr. Gaffney filed his application for Leave to Appeal and his application to Stay the Order of Mr. Justice Bernard granted November 26th, 2007.

Not believable in the absence of any proof.

22 The purchasers pursuant to the Order of Mr. Justice Bernard have engaged a solicitor to handle the conveyance. They have obtained mortgage financing and have given notice in their rental premises. They are first time home buyers, they are not sophisticated in matters of Court applications.

Appear to be nominees

23 On December 7th, 2007 Mr. Gaffney obtained the address of the purchasers (the information as to how to contact the purchasers was deliberately withheld from any documents that were forwarded to Mr. Gaffney so that he would not be in a position to communicate with them) and delivered a package of some approximately 40 pages of his materials to their apartment, including a letter, a copy of which is attached hereto.

24 On December 10th, 2007 short leave was granted to bring an application for an Order enjoining Mr. Gaffney from any further contact with the purchasers and from any further harassment of the real estate agent involved.

There is ample evidence of a suspicious transaction that needs the scrutiny of the courts and parliament. The transfer of #213 by Mr. Oliver's realtor Noella Neale appears to have been a drug deal. Since the property transferred to Ms. Neale in November 2004, at \$6,000 less than what the vendor paid in 1990 --- 14 years.

25 On December 11th, 2007 an Order was granted by Mr. Justice Burnyeat in the Supreme Court enjoining and restricting Mr. Gaffney's conduct so that he could not contact the purchasers nor harass the real estate agent any further.

26 Mr. Gaffney has forwarded a letter to the Supreme Court of Canada Registry seeking an expedited hearing of his application for a Stay. Mr. Gaffney has not seen fit to provide a copy of that letter to the Respondent and it is only through the request of the Respondent to the Registrar that a copy has been obtained.

27 Costs awarded against Mr. Gaffney in the Supreme Court and in the BC Court of Appeal now exceed his portion of the equity in the subject property.

No costs have been settled as yet.

SUBMISSIONS

1 The sale of the subject property must be allowed to go ahead unimpeded by any further Court applications by Mr. Gaffney. The purchasers are arms length purchasers who are purchasing through a Court Order properly obtained granting conduct of sale to the Petitioner. Mr. Gaffney has not seen fit to appeal to the Supreme Court of Canada in the file in which the Partition and Sale of his property and conduct of sale was granted to the Respondent and from which the Order approving the sale flows directly. His appeal to the Supreme Court of Canada is in a file that was vexatiously brought before the Court of Appeal and dealt with on November 29th, 2007 at which point Mr. Gaffney's application for a Stay was dismissed and his Appeal was summarily denied.

2 The proper place for Mr. Gaffney to make an application for a Stay of the execution of the Order of Mr. Justice Bernard was in fact British Columbia Court of Appeal. That application was heard and was denied.

3 The grounds set out in Mr. Gaffney's application for Leave to Appeal are rambling and incoherent and do not set any grounds upon which this Court may properly grant Mr. Gaffney's Appeal. The Orders appealed from are not set out in the Application for Leave but from the Notice of Application for Leave filed by Mr. Gaffney there does not appear to be any appeal from the refusal to grant a Stay. His Appeal appears to be from the Order confirming the sale of the property to the purchasers. That matter flows from the Partition and Sale Order, which has not been appealed.

4 Accordingly there is nothing before this Court upon which a Stay could be granted.

5 Of the 19 applications to various levels of Court in this matter, nine were originating applications and ten are appeals or reviews, none were brought on any proper grounds, all are vexatious. Since Mr. Gaffney had been deemed a vexatious litigant in the BC Court of Appeal, Mr. Gaffney ought to be held to the same standard in the Supreme Court of Canada, and asked to prove that his application has merit before being granted an expedited hearing.

6 The Petitioner and the purchasers of the property as confirmed by the Order of Mr. Justice Bernard ought to be granted the certainty of completion of the conveyance of the property on December 14th, 2007 and delivery of possession of the property at noon on December 15th, 2007 without any further vexatious proceedings being permitted to be brought by Mr. Gaffney.

Mr. Gaffney's equity in the property has been wasted in costs in his vexatious appeals and reviews, to the point of exhaustion. The recovery of further costs against Mr. Gaffney will be hampered, as his income is limited to pensions.

INTERIM ORDER SOUGHT

1 That Mr. Gaffney's application for an expedited hearing of his application for a Stay be denied.

2 That if Mr. Gaffney's application for a Stay of execution of the Order of Mr. Justice Bernard is heard, that it be denied.

3 Costs payable as special costs and those costs be deducted from Gaffney's share of the proceeds of sale of the subject property (if any).

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

R. KEITH OLIVER, Counsel

Dated: December 12, 2007

Served on Mr. Gaffney
by fax on about 9:00 am
14 Dec 2007