



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

February 15, 2017

17-03

Special Prosecutor Files Appeal of Acquittal in Bountiful Related Case

Victoria – The Criminal Justice Branch, Ministry of Justice (the “Branch”), announced today that Special Prosecutor Peter Wilson, QC has filed an appeal with the Court of Appeal for British Columbia, asking that the Court set aside the acquittal of James Marion Oler on charges under section 273.3 of the *Criminal Code* alleging the unlawful removal of a child from Canada. The trial proceeded against Mr. Oler and two others in Cranbrook on November 22, 2016. Mr. Oler was acquitted on February 3, 2017, court file no. 31248.

Mr. Wilson has reviewed the decision of the court and, in accordance with the Branch policy on appeals to the Court of Appeal, is satisfied that: (1) the judgment reveals errors of law; (2) a reasonable argument can be made that the verdict of acquittal would not necessarily have been the same if the errors were not made; and (3) the public interest requires an appeal.

The Special Prosecutor has advanced, as grounds of appeal, that the learned trial judge erred in law by concluding that the *actus reus* of section 273.3(1) of the Criminal Code requires proof that the accused and/or complainant be physically present in Canada in order for the offence to be committed; that the learned trial judge erred in law by concluding that the principles governing prosecutions based upon circumstantial evidence were applicable to the circumstances of the respondent and; that the learned trial judge erred in law by drawing the speculative inference that the respondent or complainant may not have been in Canada at the time of the commission of offence despite the fact there was no evidence supporting this inference.

The Special Prosecutor is seeking a ruling that the acquittal be set aside, a conviction substituted as originally charged or, in the alternative, a new trial ordered.

Branch Vision

Courageous, Fair and Efficient – A Prosecution Service that has the Confidence of the Public.

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This Media Statement has been reviewed by the Special Prosecutor and he has approved its release. As the matter will continue before the Courts additional details cannot be released. Neither the Special Prosecutor nor the Criminal Justice Branch will make any further statements at this time.

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