




Preparing to Brief R. v. Proulx



Citation: R. v. Proulx [2003], (SCJ)
Appellant: Denis Proulx
Respondent: Her Majesty the Queen
Date: January 20, 2003

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- Facts of the Case:**
- Start with the actual offence (in this case, October 5th, 1991)
 - Outline only the details of the offence that have a *bearing on the issues* considered within this appeal.
 - For example, the fact that Mr. Proulx was operating a motor vehicle is relevant, while the fact that he was driving in a northerly direction is not.
 - Outline only the details of the trial that have a *bearing on the issues* considered within this appeal.
 - Indicate the trial verdict.
 - Indicate that the accused appealed the conviction, and outline the appellant's grounds for appeal.




SIDEBAR

Operating While Impaired [CC / 421]

253. Every one commits an offence who operates a motor vehicle or vessel or operates or assists in the operation of an aircraft or of railway equipment or has the care or control of a motor vehicle, vessel, aircraft or railway equipment, whether it is in motion or not,

(a) while the person's ability to operate the vehicle, vessel, aircraft or railway equipment is impaired by alcohol or a drug; or

(b) having consumed alcohol in such a quantity that the concentration in the person's blood exceeds eighty milligrams of alcohol in one hundred millilitres of blood.



SIDEBAR


255. (1) Every one who commits an offence under section 253 or 254 is guilty of an indictable offence or an offence punishable on summary conviction and is liable,

(a) whether the offence is prosecuted by indictment or punishable on summary conviction, to the following minimum punishment, namely,

- for a first offence, to a fine of not less than six hundred dollars;
- for a second offence, to imprisonment for not less than fourteen days; and
- for each subsequent offence, to imprisonment for not less than ninety days;

(b) where the offence is prosecuted by indictment, to imprisonment for a term not exceeding five years; and

(c) where the offence is punishable on summary conviction, to imprisonment for a term not exceeding six months.

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- Issues:**
- The **three** issues that the appeal court must consider in this case are neatly outlined by Judge Del Frate in his judgement.
 - You need only read these until you feel you understand them, and then summarize them as concisely as possible.
 - You must address all three issues.
 - Professors often require their students to present the issues within the form of questions that must be answered by the court within the current case.
 - Thus, an appeal court has an entirely different set of issues to address than the issues the original trial court had to address. In Proulx, for example, the court does not need to determine whether Denis Proulx was driving while impaired.

Ratio Dicidendi:

The ratio dicidendi (the Judge's reasons for deciding) must address **all of the issues** (in this case, three) presented within the issues section, preferably in the same order as they were outlined within the issues section.

Holding:

Appeal dismissed.

Analysis:

This is where the student discusses their reaction to the judge's decision. The student explains what impact this case might conceivably have on the future development of this area of law.

Essentially, this is one's original commentary on the judgement. This should be the only section containing a student's original thoughts. Every other section of the brief is dictated by the facts of the case, the events that transpired at trial, and the judge's ruling on the case.

Note: The analysis is *not* an opportunity to simply restate the ratio dicidendi or to summarize the case. After all, a brief *IS* a summary of a case.

Some past student reactions inspired by R. Vs Proulx, 2003 (ON S.C.)

- It has no particular significance on this area of law. The appeal court simply agreed with the trial court.
- It shows that judges really have to follow precedents.
- It shows that judges are fair and reasonable.
- It shows that appeal court judges cannot second-guess issues of fact that were previously decided upon by trial judges.
- It shows that the legal system is really serious about enforcing impaired driving charges.
- It reinforces the Stellato test, which states...
- It reinforces *Sheppard and Morrissey* in stating that ...
- It establishes that... [Is there any issue that the court dealt with autonomously? In other words, they didn't refer to any precedents to settle the issue?]
- It concerns me because...

Note: *There are causes for concern in this case!*

Poor / General

Advanced / Sophisticated

A final note about nuances in this case:

"...one does not need to show a marked departure, even the slightest indicia of impairment are sufficient to make out the offence, and I do find in this case that the indicia that were present, although Mr. Proulx did not feel that his ability to drive was impaired by alcohol, it is quite trite to say that one is always the worst judge of one's condition after having consumed alcohol, and certainly in these circumstances I do find that the ability of Mr. Proulx was impaired by alcohol to a certain degree and that that follows within the *Stellato* (sic) ambit..." (Page 24 Lines 9 to 21)

The judge used sic (Latin for "thus" or "so") in brackets within the quotation to assure readers that a quotation is accurate even though it contains an error in the spelling of *Stellato*.

"The threshold is clearly reached, as here, where the appeal court considers itself unable to determine whether the decision is vitiated by error".

Vitiate: To reduce the value or impair the quality of. To corrupt morally; debase. To make ineffective; invalidate.

A final note about the logical sequence of a case brief:

A good brief is highly sequential, with one section leading nicely into the next. Different sections should not necessarily repeat what has been stated in earlier sections, although there are times when facts or details mentioned earlier in the brief would be referred to in subsequent sections.

Look at it this way:

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    Facts of the Case → Issues → Ratio Dicidendi → Holding
    
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... generate questions that need to be answered.

... questions require answers.

... answers to the questions lead to a final decision.