COURT OF APPEAL FOR ONTARIO

CITATION: Toronto (City) v. Riddell, 2019 ONCA 103
DATE: 20190213
DOCKET: C65182

Sharpe, Benotto and Brown JJ.A.

BETWEEN

City of Toronto

Respondent (Respondent)

and

Matthew Riddell

Applicant (Appellant)

Matthew Riddell, acting in person

Gadi Katz, for the respondent

Heard: February 7, 2019

On appeal from the judgment of Justice Shaun S. Nakatsuru of the Superior Court of Justice, dated March 28, 2018, with reasons reported at 2018 ONSC 2048, dismissing an application for *certiorari* to quash the order of Justice of the Peace Odida Quamina of the Ontario Court of Justice, dated November 6, 2017.

REASONS FOR DECISION

[1] At the start of his trial on a speeding ticket, the appellant informed the justice of the peace that he wanted to argue a motion seeking a stay of the proceeding on the basis that the prosecutor had not responded to his two written requests for disclosure. The appellant had not given notice of his intention to bring a stay motion

prior to the trial date. In the result, the justice of the peace: (i) adjourned the trial; (ii) told the prosecutor to make certain disclosure in specified ways; and (iii) reserved to the appellant the right to argue his stay motion on the new trial date.

[2] The appellant applied for judicial review in the nature of *certiorari* under s. 140(1) of the *Provincial Offences Act,* R.S.O. 1990, c. P.33. The application judge dismissed the application. Noting that the order made by the justice of the peace was interlocutory in nature, the application judge held that: (i) the adjournment of the trial was a fit remedy for the Crown's non-disclosure; and (ii) there was no denial of natural justice as the appellant was free to ask for a stay of proceedings upon the resumption of the trial.

[3] The appellant appeals pursuant to s. 140(3) of the *Provincial Offences Act*. He advances numerous arguments.

[4] We are not persuaded by any of them.

[5] Most of the appellant's arguments are predicated on his contention that the justice of the peace dismissed his motion for a stay. The justice of the peace did no such thing: he adjourned the trial to a later date, asked for further Crown disclosure, and clearly told the appellant he could bring his stay motion on the new trial date. The justice of the peace did not exceed his jurisdiction by adjourning the appellant's motion for a stay rather than deciding it then and there.

[6] The appellant's application for judicial review in effect was an appeal from the justice of the peace's interlocutory ruling. As the Supreme Court of Canada

observed in *R. v. Awashish*, 2018 SCC 45, 367 C.C.C. (3d) 377, at paras. 10, 11 and 20, with limited exceptions, there are no interlocutory criminal appeals. As a result, the use of *certiorari* is tightly limited by the *Criminal Code* and the common law to ensure that it is not used to do an "end-run" around the rule against interlocutory appeals. *Certiorari* in criminal proceedings is available to parties only for a jurisdictional error by a provincial court judge, which includes circumstances where the judge acts contrary to the rules of natural justice. The same principles apply to *certiorari* under s. 140(1) of the *Provincial Offences Act*: *York (Regional Municipality) v. McGuigan*, 2018 ONCA 1062, at paras. 4, 49-52.

[7] In the present case, the ruling by the justice of the peace was an interlocutory trial management ruling, made within his jurisdiction, that sought to ensure proper disclosure was made to the appellant, and which did not preclude him from pursuing his motion for a stay. The application judge's conclusions that (i) the ruling was interlocutory and (ii) there was no denial of natural justice were fully supported by the record. He did not err in dismissing the appellant's application for judicial review.

[8] The appeal is dismissed.

"Robert J. Sharpe J.A."
"M.L. Benotto J.A."
"David Brown J.A."