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<div>CANADIAN CHARTER OF RIGHTS ANNOTATED Dunn • Bernstein Greenspan • Laskin Release No. 6, December 2025</div>

This release features updates to Appendix WP. Words and Phrases, as well as providing a consolidated Table of Cases.

Highlights

- **WORDS AND PHRASES – ABUSE OF PROCESS – Supreme Court of Canada** – “The abuse of process doctrine reflects the necessarily high threshold for the judiciary to invoke its inherent jurisdiction and intrude on the Attorney General’s core prosecutorial discretion. The doctrine of abuse of process applies in various fields of law and ‘engages the inherent power of the court to prevent misuse of its proceedings in a way that would be manifestly unfair to a party or would in some way bring the administration of justice into disrepute’ [citations omitted] ... In the criminal law context, abuse of process targets egregious conduct that threatens an accused’s right to a fair trial or undermines the integrity of the justice system [citations omitted] [A]buse of process can exist even absent prosecutorial misconduct.” (*R. v. Varennnes*, 2025 CarswellQue 5771 (S.C.C.))
- **WORDS AND PHRASES – ACQUITTAL & JUDICIAL STAY – Supreme Court of Canada** – “An acquittal represents a finding that the accused is not guilty. It means that the Crown has failed to prove its case beyond a reasonable doubt and, subject to a right of appeal, it puts an end to the

proceedings. A judicial stay also puts an end to the proceedings and means that the Crown is ‘disentitled to a conviction’ [citation omitted]. Unlike an acquittal, a stay does not reflect a conclusion on whether or not the person is guilty. While the two remedies are conceptually distinct, they bear important similarities. A judicial stay and an acquittal, unlike a new trial order, both bring a final end to the criminal proceedings against an accused [citation omitted]. ...The difference between an acquittal and a judicial stay is said to lie in the residual stigma for the accused... , because an acquittal represents a conclusion of not guilty that a judicial stay does not.” (*R. v. Bouvette*, 2025 CarswellBC 1641 (S.C.C.))

- **WORDS AND PHRASES – ERRORS IN PRINCIPLE – Supreme Court of Canada** – “... Errors in principle include an error of law, a failure to consider a relevant factor, or erroneous consideration of an aggravating or mitigating factor...” (*R. v. Sheppard*, 2025 CarswellAlta 2231 (S.C.C.))
- **WORDS AND PHRASES – FIT TO STAND TRIAL – Supreme Court of Canada** – “As I will explain, an accused is fit to stand trial when they are able to make and communicate reality-based decisions in the conduct of their defence or instruct counsel to do so. Conducting a defence includes making decisions that an accused must always make personally and those which relate to the exercise of their right to full answer and defence, such as decisions about pleas, the mode of trial, selection of counsel, whether to testify, whether to call or cross-examine witnesses, and closing submissions, among others. The capacity required to make those decisions is a reality-based understanding of the nature or object of the proceedings and their possible consequences, an ability to understand the available options and their consequences, and an ability to select between those options when making decisions. Fitness to stand trial does not require an accused to make decisions in their best interests. Rather, it requires making decisions based on an understanding of reality that is not overwhelmed by delusions, hallucinations, or other symptoms of their mental disorder.” (*R. v. Bharwani*, 2025 CarswellOnt 11929 (S.C.C.))

WORDS AND PHRASES – WRONGFUL CONVICTION – Supreme Court of Canada – “In my view, where procedural and substantive hallmarks of wrongful convictions are present, it is incumbent on an appellate court to consider whether an acquittal is appropriate, even if it cannot conclude that no jury could reasonably convict. Without endorsing an exhaustive definition, a useful description of a wrongful conviction is one which ‘is overturned based on new matters of significance related to guilt not considered when the accused was convicted or pled guilty’ ... (*R. v. Bouvette*, 2025 CarswellBC 1642 (S.C.C.))

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