

Pintea v. Johns, 2017 SCC 23 – A SHORT SUMMARY

Your Honour, I would like to respectfully draw your attention to *Pintea v Johns*, 2017 SCC 23 (S.C.C.). This case was decided unanimously by the Supreme Court of Canada.

In this case, the case management judge found that the plaintiff, a self-represented litigant, was in contempt of court because he failed to attend two case management conferences as ordered. The case management judge found that the plaintiff was in contempt of court, struck the statement of claim filed by the plaintiff and ordered significant costs (\$83,000) against him. The plaintiff appealed to the Alberta Court of Appeal, where he was unsuccessful, and then further appealed to the Supreme Court of Canada.

The Supreme Court found that the case management judge, in her decision to find the plaintiff in contempt of court, failed to consider that the plaintiff had not actually received the orders to attend the case management conferences which were sent to him. The plaintiff moved during the proceedings, and it is disputed as to whether or not he filed a change in address form with the Court in accordance with the *Rules*. The Court continued to send notices and orders to his old address and the orders were not forwarded to him and were not otherwise brought to his attention.

The Supreme Court found that under the common law of civil contempt it must be proved beyond a reasonable doubt that a person had actual knowledge of the orders and that the respondents did not satisfy this requirement. The justices were concerned to ensure that the plaintiff was not unfairly penalized as a self-represented litigant and that sufficient had been done to ensure he understood and could participate in the court process.

In its decision, the Supreme Court unanimously allowed the appeal, restored the action, and vacated the costs award.

As well, the Supreme Court of Canada endorsed the *Principles of Self-Represented Litigants and Accused Persons* published by the Canadian Judicial Council in 2006¹.

The Canadian Judicial Council *Principles* promote access to justice for self-represented litigants and are used to ensure self-represented persons are provided with fair and equal treatment in the courts.

Highlights of the *Principles* include:

- Access to justice for self-represented persons requires all aspects of the court process to be, as much as possible, open, transparent, clearly defined, simple, convenient and accommodating.

¹ Canadian Judicial Council, December 12, 2006
https://www.cjc-ccm.gc.ca/english/news_en.asp?selMenu=news_2006_1212_en.asp

- Judges and court administrators should do whatever is possible to provide a fair and impartial process and prevent an unfair disadvantage to self-represented persons.
- Self-represented persons should not be denied relief on the basis of a minor or easily rectified deficiency in their case.
- Judges have a responsibility to inquire whether self-represented persons are aware of their procedural options, and to direct them to available information if they are not. Depending on the circumstances and nature of the case, judges may explain the relevant law in the case and its implications, before the self-represented person makes critical choices.
- Judges should ensure that procedural and evidentiary rules are not used to unjustly hinder the legal interests of self-represented persons.

I would respectfully ask this Court to ensure that the Principles, where relevant, are used to guide your management of my case.

Several courts have since considered the decision of *Pintea* and the endorsement of the Principles when crafting opinions that deal with self-represented litigants. I can refer you to for instance, *Gray v. Gray*, 2017 ONSC 5028, *R v Tossounian*, 2017 ONCA 618 and *Moore v. Apollo Health & Beauty Care* (2017 ONCA 383) in Ontario; *1985 Sawridge Trust v Alberta (Public Trustee)* 2017 ABQB 530 in Alberta; and *Young v Noble*, 2017 NLCA 48 in Newfoundland and Labrador.

The Supreme Court of Canada's endorsement of the Canadian Judicial Council *Principles* is relevant and important for me in my present case as a self-represented litigant, and I would ask that this Honourable Court to give due consideration to both the application of the *Principles* and spirit of the *Pintea* decision in my case.

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