Supreme Court of Canada affirms the right to trial by jury under the Charter

On October 26, 2006, the Supreme Court of Canada (SCC) in R. v. Krieger held that the trial judge breached Grant Krieger's constitutional right to a proper trial by jury under section 11(f) of the Charter of Rights and Freedoms. Section 11 deals generally with criminal matters. Subsection 11(f) of the Charter gives a person charged with a criminal offence (with the possibility of at least five years of imprisonment) the right to have their case heard by a jury rather than by judge alone. In a jury trial, the jury decides whether they accept or reject the facts of the case (based on the evidence presented), while the judge decides on issues of law. Subsection 11(f) gives the accused an opportunity to be judged by his or her peers – an important constitutional right that was affirmed by the SCC in this case.

Mr. Krieger suffers from multiple sclerosis, a chronic disease that attacks the central nervous system. He smokes marijuana as a part of his medical treatment. In addition to smoking marijuana, Mr. Krieger also admits that he has supplied others with the drug for medicinal purposes, even though he is not legally permitted to do this.

At trial in 1999, the Alberta Court of Queen's Bench convicted Mr. Krieger of producing and trafficking marijuana. During his instructions, the trial judge ordered the jury to find the accused guilty. The SCC took issue with this order, saying that the trial judge robbed the jury of its function and denied Mr. Krieger his constitutional right to choose the type of trial he wanted.[1] In order for this right to be upheld, the SCC granted Mr. Krieger a new trial.

Sources

- CBC News, "Supreme Court strikes down conviction of pot activist" CBC News (26 October 2006)
- Francine Kopun, "New trial ordered for pot crusader" Toronto Star (27 October 2006)
- R. v. Krieger, 2006 SCC 47
- Kirk Makin, "Pot activist to get new trial: Judge 'usurped' jurors' function by ordering conviction, top court rules", The Globe and Mail (27 October 2006)

Further Readings

- CBC News, "Krieger elated with not guilty verdict," CBC News (21 June 2001)

- Canadian Charter of Rights Decisions Digest – Section 11(f)

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[1] R. v. Krieger, 2006 SCC 47 Krieger at para. 2 [hereinafter “Krieger”