

Trociuk v British Columbia (Attorney General) [2003] 1 S.C.R. 835, 2003 SCC 34

1) Reference Details

Jurisdiction: Supreme Court of Canada

Date of Decision: 6 June 2003

Case Status: Concluded

Link to Full Case: <http://scc.lexum.umontreal.ca/en/2003/2003scc34/2003scc34.html>

2) Facts

The appellant, an estranged father of triplets, appealed against a decision of the Court of Appeal upholding the British Columbia Supreme Court's decision to dismiss the appellant's request for a declaration that the British Columbia Vital Statistics Act 1996 violated s. 15(1) of the Canadian Charter of Rights and Freedoms (the Charter). Following the birth of the triplets, the respondent mother had completed and submitted a statement of live birth and indicated that the "father was unacknowledged by the mother". Without consulting anyone, the respondent mother chose and registered the children's surname pursuant to ss. 3(1)(b) and 4(1)(a) of the Vital Statistics Act. The Director of Vital Statistics rejected the appellant father's requests to alter the registration forms so as to include his details as s. 3(6)(b) of the Vital Statistics Act prevented a father from altering or amending the registration.

3) Law

- Section 3(1)(b) of the British Columbia Vital Statistics Act;
- Section 3(6)(b) of the British Columbia Vital Statistics Act;
- Section 15(1) of the Canadian Charter of Rights and Freedoms (Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law).

4) Legal Arguments

The appellant

Argued that the British Columbia Vital Statistics Act violated s. 15(1) of the Canadian Charter of Rights and Freedoms, on the basis of sex.

5) Decision

The court applying the legal test set out in *Law v Canada* [1999] 1 S.C.R. 497 held, that s. 15(1) of the Charter was violated by s. 3(1)(b) and s 3(6)(b) of the British Columbia Vital Statistics Act which discriminated on the ground of sex. The sections were declared unconstitutional and the declaration of invalidity was suspended for 12 months. Section 3(1)(b) and s. 3(6)(b) drew a distinction on an enumerated ground and the appellant father was subject to differential treatment on that ground. The appellant father, on the basis of being male, was excluded from including his details on the triplets' birth certificates and from choosing the children's surname. Further, he was denied any recourse. Given the significance of a father being involved in birth registration, exclusion from such activity amounted to an infringement of dignity. The sections of the Vital Statistics Act could not be justified under s. 1 of the Charter as they did not impair the rights of fathers as little as reasonably possible.