

Charter Challenge Analysis Chart

Court: Supreme Court of Canada	Year of Decision: 1986	Appellant: The Crown	Defendant: David Edwin Oakes
Legal Issue: <p>Mr. Oakes was alleged to be a drug dealer. He had been charged with unlawful possession of a narcotic for the purpose of trafficking, contrary to s. 4(2) of the <i>Narcotic Control Act</i>. The trial judge determined that Mr. Oakes had been found in the illegal possession of eight one gram vials of hash oil. Oakes gave a statement that he bought the drugs for \$150.00, and that they were for his personal use. The trial judge's ruling that Oakes was in illegal possession of a narcotic triggered section 8 of the <i>Act</i> and Oakes was then required to prove that he was innocent of drug trafficking. Oakes challenged that section of the <i>Act</i>, as it put a "reverse onus" on him to prove that he was innocent. The challenge was based on s. 11(d) of the <i>Charter</i> which reads:</p> <p>"Any person charged with an offence has the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal."</p>		Appellant Evidence: <p>The government conceded the importance of the presumption of innocence, but Argued that drug trafficking was such a serious societal problem that section 1 of the <i>Charter</i> should be used to uphold the "reverse onus" legislation as a reasonable limit prescribed by law that could be demonstrably justified in a free and democratic society.</p>	Defendant Evidence: <p>Section 8 of the Narcotic Control Act infringed the right to be presumed innocent, by making him prove his innocence. The prosecution argued that the requirement of section 8 was a "reasonable limit prescribed by law" that could "be demonstrably justified in a free and democratic society" under section 1 of the <i>Charter</i>.</p>
Judgement (Held): <p>The Court ruled that Oakes Charter rights were violated and his appeal was upheld</p>			
Reasons for the Judgement: <ul style="list-style-type: none"> The presumption of innocence lies at the very heart of the criminal law and is protected expressly by s. 11(d) of the <i>Charter</i> and inferentially by the s. 7 right to life, liberty and security of the person. This presumption has enjoyed longstanding recognition at common law and has gained widespread acceptance as evidenced from its inclusion in major international human rights documents. In light of these sources, the right to be presumed innocent until proven guilty requires, at a minimum, that: (1) an individual be proven guilty beyond a reasonable doubt; (2) the State must bear the burden of proof; and (3) criminal prosecutions must be carried out in accordance with lawful procedures and fairness. The objective of the legislation was to catch and punish drug traffickers. The objective of discouraging drug trafficking was of sufficient importance. However, the government had over reached its objectives and could not justify convicting every person found in the possession of illegal drugs guilty of trafficking in them. The legislation was so sweeping that persons who were caught with <i>any</i> amount of illegal drugs, including those who had small amounts that were plainly for their personal use could be reasonably be expected to found guilty as drug traffickers because of the "reverse onus" provisions of the <i>Act</i>. The provisions were neither reasonable nor justified. The Court reiterated that discouraging drug trafficking was of "sufficient importance" to override <i>Charter</i> rights, but ruled that the effect of the <i>Narcotics Control Act</i> was potentially too harsh. A person caught with a small amount of "personal use" drugs could face a life sentence in jail. There was no proportionality between the crime and the jail sentence that could be imposed. Cases from across the country were studied by the Supreme Court. The cases either agreed with the government's position, upheld Mr. Oakes' (and others') position, or did neither. Even the cases that came to the same conclusion appeared to have a different logic behind them. The Supreme Court felt that Canadians should benefit from the same interpretation of the law, regardless of where they were prosecuted, and no matter what level of court they appeared in. There had to be consistency in judicial decision-making across the country. 			

Impact of the Judgement on Canada:

This case was important for two reasons:

1. It established that the provisions of the *Charter* could be relied upon to challenge government legislation; and
2. It produced the “Oakes Test” which the S.C.C. would use to make decisions in its future Charter rulings.

The federal government subsequently passed the *Controlled Drugs and Substances Act (CDSA)*. The *CDSA* distinguishes between different quantities of drugs and has penalties that are proportionate to the crime, with lighter sentences for personal use amounts of drugs and heavy sentences for trafficking in drugs.

Opinion of the Judgement:

Additional Comments:
