

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20120531

Docket: A-303-11

Citation: 2012 FCA 164

**CORAM: NADON J.A.
TRUDEL J.A.
MAINVILLE J.A.**

BETWEEN:

STEPHEN ZOLOTOW

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Toronto, Ontario, on May 31, 2012.

Judgment delivered from the Bench at Toronto, Ontario, on May 31, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on May 31, 2012)

NADON J.A.

[1] Notwithstanding Mr. Freiman's forceful arguments, we are all of the view that, substantially for the reasons given by Mr. Justice Zinn, s.106(2) and s.135(2) of the *Customs Act* apply to bar the Appellant's proceedings for the return of the diamonds seized by the Crown on April 13, 2000, or an accounting for and payment of all proceeds received on the sale of the diamonds.

[2] We are not however to be taken to be endorsing Mr. Justice Zinn's view that if the officer who effected the seizure did not have reasonable grounds to believe that the *Customs Act* or its

regulations had been contravened, no seizure occurred under s.110 of the *Customs Act*. That point of law need not be decided to dispose of the appeal.

[3] Accordingly, the appeal will be dismissed with costs.

“M. Nadon”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-303-11

**(APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE ZINN DATED
JULY 5, 2011, DOCKET NO. T-1075-08)**

STYLE OF CAUSE: Stephen Zolotow v
The Attorney General of Canada

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: May 31, 2012

**REASONS FOR JUDGMENT
OF THE COURT BY:** NADON, TRUDEL &
MAINVILLE J.J.A.

DELIVERED FROM THE BENCH BY: NADON J.A.

APPEARANCES:

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Trevor guy

Christopher Parke FOR THE RESPONDENT

SOLICITORS OF RECORD:

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