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Support the BCCLA with  
your gift to the United Way

Though the BCCLA is not a member agency, you can direct your gift to the United Way towards our efforts. Whether you are raising funds through a workplace campaign, or you are donating independently, when your contribution card asks if you would like your gift to go towards a specific charity, just fill in our name, and the United Way will pass on your gift. Thanks for giving!



THE BCCLA HAS MOVED  
900 Helmcken Street 2nd floor  
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## PATIENTS' RIGHTS

Patients' rights are a tremendously important part of the work of the BCCLA. The landscape of patients' rights has seen startling shifts due to changes in information technology and service delivery models, developments in medical and social science research and the invention of a public health arm of the national security agenda ('bio-security'). Here is a quick overview of some of the association's work to safeguard our fundamental rights in this rapidly shifting terrain.

### BCCLA WINS LANDMARK DECISION ON DEATH WITH DIGNITY



In a landmark decision, the B.C. Supreme Court struck down the ban on medically-assisted dying, giving Parliament one year to draft new legislation to ensure that all Canadians have the right to a dignified death. The Court also granted plaintiff Gloria Taylor, who suffers from Lou Gehrig's disease (also known as ALS), a constitutional exemption to seek a physician-assisted death, given the urgency of her case and her rapidly progressing illness.

The BCCLA is working to change the law on medically-assisted dying because we believe that everyone has the right to choose a dignified death. The prohibition against medically-assisted dying denies individuals the right to have control over choices that are fundamental to their physical, emotional and

*continued on page 12*

### PROTECTING THE RIGHTS OF PEOPLE WHO ARE HIV POSITIVE

Canada has the dubious distinction of being a world leader in criminally prosecuting people living with HIV for allegedly failing to disclose their status to sexual partners. The BCCLA has been to the Supreme Court of Canada twice in an effort to stem the tide of over-criminalization that undermines

public health and human rights. The latest cases at the SCC saw various provincial governments arguing that people living with HIV should be forced to disclose their status even in circumstances where the risk of transmission is virtually non-existent. Such prosecutorial overzealousness would deter people from HIV testing, endanger people

*continued on page 4*



## LINDSAY LYSTER

BCCLA welcomes former Supreme Court clerk and Human Rights Tribunal adjudicator to President's role

**2012** marks the 50th anniversary of the creation of the British Columbia Civil Liberties Association. We marked the anniversary with a marvelous birthday party that included a speakers' symposium open to the public, a full-day continuing legal education program on the law protecting liberty, and our truly fabulous Golden Anniversary Gala and Liberty Awards dinner.

Shepherding the Association through those events was our President, Rob Holmes, Q.C. So ubiquitous was his presence one began to wonder if he had mastered the art of being in two places at once, or at least teleportation. Rob has been at the helm of our Association since 2008 and has been an active member, Director, Executive member, and counsel since 1985. Our Golden Anniversary celebrations were very much Rob's brainchild, and Rob, together with our staff, did a tremendous job of celebrating the Association, its past, its present, and its future. Thank you, one and all.

Imagine my surprise when, short weeks after the Gala, Rob contacted me to see if I

would be interested in taking up the challenge of becoming the BCCLA's new President. Not without some trepidation, I agreed to put my name forward and was pleased to be elected by our Board. This is a time of transition for the Association, as not only do we have a rookie President, we are also in the process of searching for a new Executive Director to replace David Eby, who has given us notice of his plans to move on to new challenges next spring. I take comfort in knowing Rob will continue to be a valuable resource to me and the Association, serving on the Board and Executive, and currently acting as our counsel in the *Reference Re the B.C.*

*Election Act*, now before the Court of Appeal.

While this is a time of transition, I know that the Board, staff and entire membership will join together, as they have always done, to continue the Association's crucial work of protecting our fundamental rights and liberties. I look forward to working with all of you in that ongoing task. If you have any ideas or suggestions for issues for the Association to take up, or want to contribute your time, talents or resources, please feel free to contact me.

*Lindsay can be contacted at [president@bccla.org](mailto:president@bccla.org)*



### BCCLA TAKES ON UNFAIR LIQUOR REGULATIONS

"During our difficult battle The Rio Theatre had with the Liquor Control and Licensing Branch we had no option but to go to the media and rely on public protest to help get these out-dated laws changed, that were killing our business.

The BCCLA was instrumental in helping us further our cause. They helped broaden our issues and draw attention to our legitimate concerns with regards to civil liberties.

Without their help I have no doubt we would have had a much more difficult time getting our concerns taken seriously. We are grateful for their research and advice on the issue."

*Corinne Lea, Owner Rio Theatre*

# SEVEN

Thanks to your support, the BCCLA has celebrated many victories for rights and freedoms so far in 2012. Here are seven of our favourites.

## VICTORIES FOR RIGHTS

### ● SUCCESSFULLY CHALLENGED CANADA'S CRIMINAL PROHIBITION ON MEDICALLY ASSISTED DEATH

The BCCLA, in partnership with our brave plaintiffs and lawyers, launched successful groundbreaking litigation challenging Canada's prohibition on medically-assisted dying for the terminally and irremediably ill. Check our website for up to the minute updates on this important national case.

### ● DEMANDED THAT THE PAUL BOYD POLICE SHOOTING DEATH INVESTIGATION BE RE-OPENED

Our work keeping attention on the police-involved death of animator Paul Boyd in Vancouver paid off when a videotape surfaced that contradicted the "official" version of events. The BCCLA called for the investigation to be re-opened and it was – Alberta's Serious Incident Response Team is currently reviewing the case.

### ● FOUGHT BACK AGAINST WARRANTLESS WIRETAP REGIME AT THE SUPREME COURT

The BCCLA successfully intervened to argue that the emergency wiretap regime is unconstitutional under the Criminal Code. The Supreme Court of Canada delivered its judgment and unanimously struck down the section because it provides no mechanism for oversight of the police or notice to the people whose conversations were secretly intercepted.

### ● OPENED AN OFFICE IN PRINCE GEORGE

The BCCLA opened a physical office at a neighbourhood house in Prince George, staffed entirely by volunteers. This office provides us

with a local base for our work in Northern B.C., and also supports local residents who wish to file police complaints. Special thanks to our hard working Northern B.C. Chapter members who made it possible!

### ● ENDED RCMP PARTNERSHIP WITH MARICOPA COUNTY SHERIFF DEPARTMENT

When the BCCLA brought to the RCMP's attention the scandalous human rights record of the Maricopa County sheriff's department, the RCMP immediately cancelled their "Drug Recognition Expert" training with the rogue American police force. Maricopa County police have been chastised for racism, profiling, illegal arrest and detention and excessive force abuses.

### ● EXPOSED AND REFORMED CANADA'S POLICY AROUND DETAINEE TREATMENT

The BCCLA and Amnesty International's work on the Afghan detainee issue resulted in a report from the Military Police Complaints Commission detailing government obfuscation and non-cooperation in an attempt to undermine the concerns brought forward by our organizations.

### ● BROUGHT BEER TO THE MOVIES

The BCCLA got a call from the brave owner of the Rio Theatre asking for help. Her theatre had received a liquor primary license, meaning she could serve alcohol to 19+ audiences, but the province was telling her the movie theatre couldn't show movies if people were drinking. We worked with her to reverse this bizarre policy that permitted alcohol for sports on the big screen, but not movies. You can now enjoy a glass of wine while you watch *Sideways*.

PROTECTING THE RIGHTS OF PEOPLE WHO ARE HIV POSITIVE *continued from page 1*

who do not have HIV through a false sense of security (it is estimated that between 20-30% of HIV positive people in Canada don't know their status) and cause grievous injustice.

Meanwhile the good news on the HIV front – the great advances in treatment – have generated their own set of patients' rights concerns. Laudable efforts to expand

access to testing and treatment are too often resulting in side-lining informed consent. In order to fill the information gap created by a new "routine" HIV testing model that minimizes or removes pre-test counselling and presumes consent (opt-out versus opt-in), we are creating two eagerly anticipated resources on HIV testing and patient rights that will be launched in the fall of 2012. (see page 5 for details)

## MEDICAL CANNABIS – THE FIGHT CONTINUES

Canadian courts have repeatedly found the *Medical Marihuana Access Regulations* unconstitutional for failing to provide patients with genuine and workable access to medical cannabis. While the government has consistently failed to provide people with the medications that they need, it has harassed and prosecuted medical cannabis dispensaries



that are doing the work the government is failing to do.

The BCCLA intervenes in court cases on medical cannabis and does extensive policy work, including supporting the adoption of a well-regulated medical cannabis dispensaries model to make access to needed medication something other than a legal fiction for critically and chronically ill Canadians.

## MENTAL HEALTH – THE SAME RIGHTS AS OTHER PATIENTS

The BCCLA has a long history of fighting for the rights of mental health patients. Recently we proposed changes to B.C.'s legislation governing involuntary admissions. B.C.'s current system denies mental health patients the right of informed consent that all other patients have. We say that the

law must change to include a right for capable mental health patients to reject treatment and, where mental health patients are not capable, their decisions regarding treatment made when they were capable must be honoured when conveyed by substitute decision makers and/or advanced directives.

### BC Civil Liberties Association

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*The Democratic Commitment* is a publication of the British Columbia Civil Liberties Association. The BCCLA mandate is to preserve, defend, maintain and extend civil liberties and human rights across Canada through public education, complainant assistance, law reform and litigation.

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## HEALTH PRIVACY – UNPRECEDENTED THREATS

Canada has a huge push on to create electronic health records. Putting patient records on computers, instead of having them in paper files, presents absolutely no risk to patients' rights. Computers are not the problem.

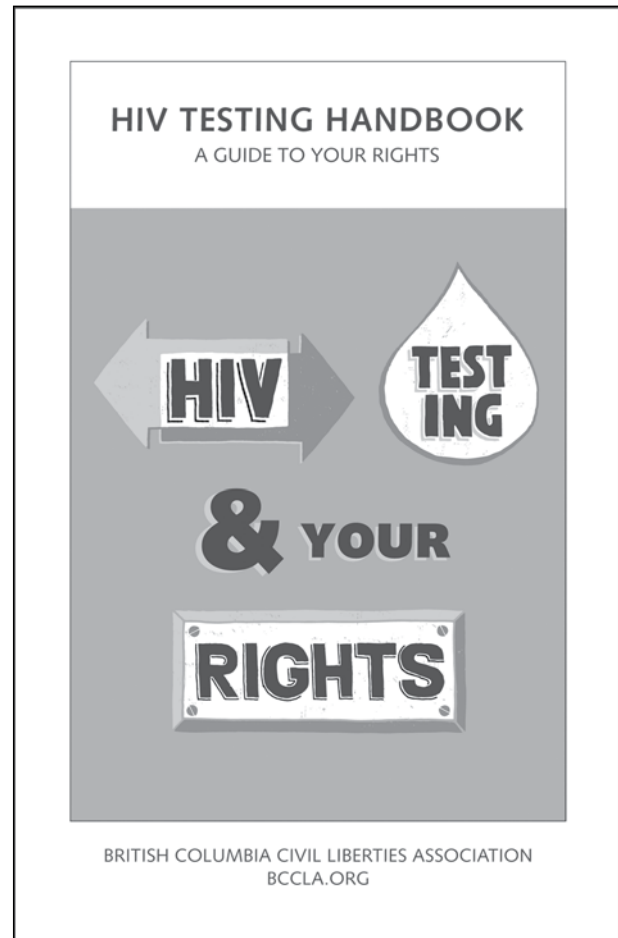
The problem is that the government's program is not just to computerize the records; it's to gather those records in a giant longitudinal database, take control of the data away from health care providers and give it to the government that can then "share" our personal health information with whomever it chooses without our knowledge or consent.

Not only is this an unprecedented threat to patient privacy rights, it undermines the relationship of trust that is the cornerstone of the patient-doctor relationship. In its 2011 *Principles for the Protection of Patients' Personal Health Information*, the Canadian Medical Health Association concedes that:

Patients should be informed that the treating physician cannot control access and guarantee confidentiality for an electronic health record (EHR) system.

Are patients being informed? Hardly. The information about the extra steps now required for some degree of control over access to our health data is not widely known by health care providers, let alone patients. Your rights don't mean much if you don't know how to exercise them. Our work in patient education includes how to do things like protect your PharmaNet records with a keyword. Without keyword

protection, your prescription records can be accessed by a wide range of health practitioners and support staff across the province.



The BCCLA's recently published *HIV Testing Handbook, A Guide to Your Rights*, is available at [bccla.org](http://bccla.org) and in hardcopy. The BCCLA is grateful to the MAC AIDS Foundation and the Law Foundation of B.C. for providing support for this publication.

### Putting Keyword Protection on Your PharmaNet Records

- 1) Go to any pharmacy and show your identification
- 2) Tell the pharmacist that you would like to lock down your records with a keyword
- 3) When this is done, access to your records will be limited to only those health care providers that you give your keyword to
- 4) In an emergency situation, an ER doctor can override the lockdown if your records are needed and you are not able to give your keyword

For more detail see the website of the College of Pharmacists of British Columbia:

[www.bcpharmacists.org/you\\_your\\_pharmacist/pharmanet\\_patient\\_record/patient\\_keyword.php](http://www.bcpharmacists.org/you_your_pharmacist/pharmanet_patient_record/patient_keyword.php)

# OUR 50TH ANNIVERSARY

On June 1 and 2, 2012, the B.C. Civil Liberties Association celebrated its 50th anniversary with an exciting series of events.

At our *50 Years of Freedom Speakers Symposium* on June 1st, our speakers **Dr. Michael Geist**, **Dr. Cindy Blackstock**, **Kim Pate**, **Maureen Webb** and **Alex Neve** spoke to a standing room only crowd, delivering thought provoking and often moving calls to act now in defence of our most basic rights and freedoms. The weekend continued with our legal conference, *The Law Protecting Liberty*, on June 2, and culminated with our *Golden Anniversary Gala and Liberty Awards* in the evening.

We were thrilled that so many of our friends and supporters could join us. More than 300 people celebrated our 50th anniversary gala event honouring the recipients of the annual

Reg Robson Award – **Robyn Gervais** and **Cameron Ward** – and inaugural Liberty Awards winners **Jamie Haller**, **Susan Musgrave**, **Joseph Arvay** and **John Dixon**. Acclaimed human rights lawyer **Clayton Ruby** and *Toronto Star* publisher **John Cruickshank** concluded the evening with their keynote speeches.

We couldn't have asked for a better anniversary and we can't thank our members enough for making it so special. The support we received from the community over this weekend will enable us to grow as we move into our next 50 years of advocating for and defending civil liberties and freedoms in Canada.



Alyssa Stryker, Margaret Dudgeon and Charlotte Kingston, in front of a full house at the Speaker's Symposium.



Maureen Webb, author of *Illusions of Security: Global Surveillance and Democracy in the Post 9-11 World*.



Alex Neve, Secretary General of Amnesty International.



2012 Reg Robson Award Recipients Robyn Gervais and Cameron Ward with President Rob Holmes.



Margaret Sasges, Chair of the Law Foundation of BC, welcoming guests to the Gala.



President-elect Lindsay Lyster, Liberty Award Recipient Joseph Arvay, Q.C., President Rob Holmes, Q.C., the Right Honourable Kim Campbell, Liberty Award Recipient John Dixon, Board Member Eric Wyness, Liberty Award Recipient Susan Musgrave, 2011 Reg Robson Award Recipient Grand Chief Stewart Phillip.



Founder Michael Audain welcomed attendees with a toast to the next 50 years of freedoms.



BCCLA caseworker, Alyssa Stryker at registration desk.



BCCLA members Bob Turner and Rowena Jones.



BCCLA Interns helped make this event possible: Charlotte Kingston, Robyn Gifford, Krista Nerland, Rachel Gamboa, Tasneem Karbani. Missing: Avnish Nanda, Hillary Cheung.



Liberty Award Winner Jamie Haller and mother Martina Jeff.

**MORE ONLINE!**  
 For videos of talks given at our Symposium, and more pictures from the Gala, please visit:  
[www.bccla.org/upcoming-events/50th-anniversary/](http://www.bccla.org/upcoming-events/50th-anniversary/)

## A Special Thank You to our Outgoing President

On an indeterminate date between October 4 and November 15, 1982, a law student named Robert Holmes was invited to become part of the B.C. Civil Liberties Association Board of Directors.



Within three years of his appointment to the BCCLA board, Rob had become secretary of the BCCLA

Executive Committee. By 1985, a year and a half after becoming a lawyer, his paper on electoral boundaries became the philosophical underpinning of one of the BCCLA's major litigation successes, and he had regular involvement in all manner of civil liberties issues in the province and nationally.

With such a debut, it's perhaps not hard to understand how predictable the remainder of Rob's time with the BCCLA has been.

When Secretary Robert Holmes became President Robert Holmes, Q.C., of the B.C. Civil Liberties Association, nobody who knew his work or his long track record with the Association was surprised.

When Rob's work with the BCCLA and the Trial Lawyers' Association earned Rob their 2012 lawyer of the year award for the entire province, the entire BCCLA Board and staff understood the many hours of hard work and donated time that earned Rob that award. Such an award could be described in one word: inevitable.

When Rob stepped down from his many years as President of our Board at a Board meeting in June, he had been quoted in hundreds of BCCLA press releases, and thousands of resulting media stories in print, on TV, on the radio, and online. His work chairing our Board ensured contentious issues were debated and respectfully resolved. He oversaw and stick handled our successful

50th anniversary celebrations, and our high-profile work during the Olympic period in Vancouver. How could it have been any other way?

During his time as President, the Association grew even during a period of economic downturn, in membership, profile, donations, and – most importantly – impact on the pressing issues of the day. Of course.

The BCCLA thanks you, Rob, for your years of predictable work with the Association as President and on our board, and for making us bigger, better and stronger than ever before, as if your work with us would have resulted in anything else. We look forward to working with you for years to come.

Rob Holmes resigned his role as President of the Association in June of 2012. He remains on our Executive Committee as a *Member at Large*.

### SUPPORT THE BCCLA / BECOME A MONTHLY CONTRIBUTOR

As a monthly supporter, you will help make sure that challenges to our rights and freedoms do not go unanswered. For a monthly contribution of \$25, \$20 or even as little as \$15, you can make sure that the BCCLA can rely on the resources it needs to continue to fight for all our freedoms.

Your monthly pledge also means you are giving more to support vital BCCLA programs throughout the year, and helping us spend less on administrative costs. It means your membership will automatically renew, and that you will receive your annual charitable tax receipt in the mail in February. This way, your contribution to defending human rights and freedoms in your community and across Canada is convenient, automatic, affordable, and effective. To join, you simply fill out the attached form in this newsletter, along with a voided cheque or your credit card information.

For more information, please call Stefanie at 604.630.9750 or email [stefanie@bccla.org](mailto:stefanie@bccla.org)



# Your Rights on Trial

The BCCLA is engaged in a variety of litigation aimed at protecting rights and freedoms. Here are just some of the cases we're working on.

## ENSURING GOVERNMENT ACCOUNTABILITY

The Afghanistan Public Interest Hearing / *Military Police Complaints Commission*

The work of the Military Police Complaints Commission ("MPCC") in the Afghanistan Public Interest Hearing finally concluded in June, more than five years after the BCCLA and Amnesty International Canada first filed their complaints.



On June 27, the MPCC issued its Final Report. Following a federal court challenge launched by the Department of Justice to the MPCC's jurisdiction, the scope of the Commission's work was ultimately limited to the narrow question of whether certain members of the military police had personally failed in their duty to investigate potential misconduct related to the transfer of detainees to Afghan custody. In its report, the MPCC found the complaints unsubstantiated

with respect to the eight named individuals. Nonetheless, the Commission also uncovered some troubling failures and shortcomings in military police operations that would have hampered efforts to respond thoroughly and effectively to concerns about detainee transfers.

While the report makes clear that there was information available documenting the risk of detainee torture at the hands of Afghan authorities, it also found significant problems with respect to information sharing, reporting, and accountability within the military police, and between the military police and the Canadian Forces, generally. On detainee abuse issues, the Commission found that the Military Police were kept "out of the loop" and "marginalized" by Canadian Forces leadership. The Commission noted, however, that it is ultimately "for others to examine the overall appropriateness of Canada's detainee transfer policies, and the results achieved."

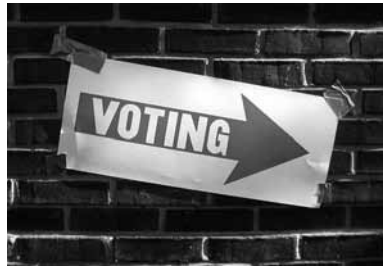
Importantly, the report devoted significant attention to the obstacles faced by the Commission in obtaining relevant documents and witness testimony from the government of Canada. The Commission concluded that the government failed to co-operate with the process, blocking access to witnesses and documents and adopting "an overall attitude of antipathy...towards the Commission and its task". According to the Commission, it also appeared that the government was utilizing national security privilege as a "litigation tool ... whose purpose became at least as much to delay proceedings as to protect truly sensitive information." The Commission observed that it faced the same obstacles as the Somalia Inquiry in 1990s.

The BCCLA is represented by **Paul Champ** and **Khalid Elgazaar** of Champ & Associates and **Grace Pastine** and **Carmen Cheung** of the BCCLA.

## PROTECTING VOTING RIGHTS

Henry, et al. v. A.G. Canada and the Chief Electoral Officer of Canada / BC Court of Appeal

This case involves a challenge to the constitutional validity of amendments to the *Canada Elections Act* that require voters to prove their identity and residence by certain means before casting a ballot in a federal election. The BCCLA intervened at the B.C. Supreme Court, arguing that the new voter identification rules impose a barrier to voting that disproportionately affects homeless, Aboriginal, and rural



voters, and that there is little evidence to suggest there was a voter fraud problem to justify changes to the legislation. The trial court upheld the constitutionality of the

identification requirements, however, so the case was appealed to the B.C. Court of Appeal. The BCCLA was granted leave to intervene at the B.C. Court of Appeal in July. The BCCLA will argue that the trial court erred in holding that the impugned provisions are justifiable under s. 1 of the *Charter*.

The BCCLA is represented by **Daniel Burnett** of Owen Bird LLP and **Mathew Good** of Hordo, Bennett, Mounteer LLP.

## DEFENDING THE RIGHTS OF THE VULNERABLE

BobbyLee Worm v. Attorney General of Canada – Solitary Confinement in Canadian Prisons / BC Supreme Court

The BCCLA continues its litigation challenging the use of prolonged and indefinite solitary confinement in Canadian prisons. The BCCLA's lawsuit seeks to ensure that solitary confinement in Canada is applied only as a last resort, for limited periods, and with robust

oversight. This case is brought on behalf of BobbyLee Worm, a 25-year old aboriginal woman originally from Saskatchewan. BobbyLee is a first time offender who has served the majority of her sentence in solitary confinement. While in solitary confinement, BobbyLee was confined to a cell 10 by

8 feet in size and deprived of meaningful human contact for up to 23 hours a day, for months at a time.

Ms. Worm is represented by **Robert Janes** and **Elin Sigurdson** of Janes, Freedman Kyle and **Grace Pastine**, **Carmen Cheung** and **Raji Mangat** of the BCCLA.

Bedford v. Canada / Ontario Court of Appeal

In March, the Ontario Court of Appeal issued its decision in this case, which was brought by a group of sex workers challenging the criminal prohibitions concerning prostitution. The BCCLA was an intervener in this case, and argued that the prohibitions deprive sex workers of liberty and security of the person in violation of s. 7 of the *Charter*. This case challenged the constitutionality of three provisions of the *Criminal*

*Code*: s. 210, which prohibits the operation of common bawdy-houses; s. 212(1)(j), which prohibits living on the avails of prostitution; and s. 213(1)(c), which prohibits communicating for the purpose of prostitution in public. The Court of Appeal struck down the "common bawdy-houses" provision, and found that the "living on the avails" provision is unconstitutional to the extent that it criminalizes non-exploitative commercial

relationships, such as those who act as bodyguards or receptionists. It did not find the "communications" provision to be unconstitutional, however. This case is being appealed to the Supreme Court of Canada.

The BCCLA is represented by **Brent Olthuis** of Hunter Litigation Chambers and **Megan Vis-Dunbar**, Barrister and Solicitor.

## FIGHTING FOR DRUG POLICY REFORM

### R. v. Mernagh / Ontario Court of Appeal

This case concerns the *Marihuana Medical Access Regulations* (“MMAR”). The Ontario Superior Court of Justice determined that the MMAR sections of Canada’s *Controlled Drugs and Substances Act* (“CDSA”) that bar marijuana possession and cultivation are unconstitutional because they deprive Mr. Mernagh of his right to access medical marihuana for his serious and debilitating illness. Canadian courts have

repeatedly found that failing to provide patients genuine access to medical marihuana is unconstitutional.

The BCCLA is an intervener in this case and argues that the exception in the CDSA permitting a physician to prescribe marihuana is “illusory” for Mr. Mernagh and other individuals like him. The exception operates erratically because the availability of the exception depends entirely

on the judgment of an individual’s doctor, and for a variety of reasons, doctors in Canada are unable to exercise their judgment with sufficient reliability and consistency to make the exception carved out by the MMAR consistent with fundamental justice.

The BCCLA is represented by **Ryan Dalziel** and **Emily Lapper** of Bull, Housser and Tupper and **Jessica Orkin** of Sack, Goldblatt, Mitchell.

## DEFENDING FREE EXPRESSION

### Reference re Amendments to the B.C. Election Act / BC Court of Appeal

This reference pertains to amendments to the *B.C. Election Act* establishing new third-party spending limits prior to a provincial election. The BCCLA is an intervener in this case, and argues that the proposed amendments to the

*Election Act* unconstitutionally infringes on free expression. In this regard, the BCCLA will make submissions concerning the vagueness and overbreadth of the definition of “election advertising” and the impact the legislation has on the rights

of public interest organizations and members of the public to engage in free expression.

The BCCLA is represented by **Robert Holmes, Q.C.**, of Holmes & King.

## PROTECTING DUE PROCESS

### R. v. Yumnu, et al. / Supreme Court of Canada

These companion cases were heard at the Supreme Court of Canada in March, and involve the Crown practice of requesting police assistance in vetting potential jurors prior to jury selection. At issue is the accused’s right to an impartial jury and the fairness of the jury selection process. Also at stake are the privacy interests

of potential jurors. The BCCLA was an intervener in these cases. The BCCLA argued that the out-of-court discovery of prospective jurors using police databases to gain a tactical advantage in jury selection creates a pervasive air of unfairness or bias. The BCCLA also provided the Court with a contextual background on the

importance of the appearance of fairness, why such vetting is unlawful, and the importance of the principle of randomness in the Canadian jury system.

The BCCLA is represented by **Gerald Chan** and **Nader Hasan** of Ruby Shiller Chan Hasan.

*R. v. Agraira / Supreme Court of Canada*

This case involves a Libyan national who was deemed inadmissible to Canada based on his purported affiliation with a group engaged in the overthrow of the Gaddafi regime. He sought an exemption to inadmissibility via an application for ministerial relief, which was denied. Among the issues raised in this case is the proper exercise of ministerial discretion, the meaning of “national interest” when

considering the claims of asylum seekers, and the weight that past alleged association with terrorism should have on current assessments of present and future dangerousness.

The BCCLA is an intervener in this case, and will argue that the exercise of ministerial discretion, in this case, should include a thorough assessment and balancing of all factors relevant to the national interest, not just

national security and public safety. A broad interpretation of the ministerial discretion at issue in this case is not only consistent with sound principles of statutory interpretation and *Charter* values, but also best maintains the delicate balance between national security concerns and civil liberties.

The BCCLA is represented by **Jill Copeland** and **Colleen Bauman** of Sack, Goldblatt, Mitchell.

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**BCCLA WINS LANDMARK DECISION ON DEATH WITH DIGNITY** *continued from page 1*

psychological dignity. They restrict the liberty of physicians to deliver compassionate end of life care to incurably ill patients.

The BCCLA is passionate about alleviating suffering and honouring autonomy. The BCCLA has consistently opposed the criminalization of assisted dying because we believe that the principles of liberty, autonomy and equality, as well as the humanitarian commitment to preventing unnecessary suffering and to preserving the dignity of the individual, justify decriminalization.

The B.C. Supreme Court heard from many seriously ill patients and family members, all urging the Court to allow for the right to die with dignity. Their testimony showed the court that choice in dying upholds human rights and prevents suffering. These individuals included:

- A woman who has Stage IIIC anal cancer and has contemplated committing suicide

by asphyxiation, drug overdose or freezing herself to death rather than suffer the end agonies of her disease.

In July, the government of Canada appealed the B.C. Supreme Court’s decision to the B.C. Court of Appeal, including the decision to grant Gloria Taylor a constitutional exemption so she can exercise her right to a physician-assisted death. The BCCLA’s legal team is now working to resist the government’s appeal and to preserve the right of all seriously ill Canadians to choose the manner in which they wish to die.

**Joseph Arvay, Q.C.** and **Alison Latimer** of Arvay Finlay Barristers, **Sheila Tucker** of Davis LLP and **Grace Pastine** of the BCCLA are counsel on this case.

The BCCLA acknowledges the generous support of the following sponsors:



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