Law Society of Ontario | Barreau de l'Ontario

TAB 13

The Six-Minute Criminal Court Judge 2020

Leaney Applications
Identification Evidence: Recognition

The Honourable Nancy Kastner
Ontario Court of Justice

January 25, 2020

LEANEY APPLICATIONS

IDENTIFICATION EVIDENCE: RECOGNITION

JUSTICE NANCY KASTNER

Leaney Applications

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Recognition

- Photographs
- Prior Dealings
- Video Surveillance
- Video Recorded Interview Statements

Legal Threshold Standards of Admissibility

- "Prior Acquaintance"
- "Better Position"

Probative Value vs. Potential Prejudice

References

R. v. Nikolovski, [1996] 3 S.C.R. 1197

Graat v. The Queen, [1982] 2 S.C.R. 819, at p. 836

Leaney v. Regina; Rawlinson v. Regina, [1989] 2 S.C.R. 393

R. v. McKenzie, [2018] O. J. No. 2789 (S.C.J.), at para. 8 to 11

R. v. Brown (2006), 219 O.A.C. 26, 215 C.C.C. (3d) 330 (C.A.), at para. 39

R. v. Berhe, 2012 ONCA 716, 292 C.C.C. (3d) 456, at paras. 13-23

R. v. Dirie, 2013 ONCA 261, [2013] O.J. No. 1873

R. v. Farhan, 2013 ONSC 7094, [2013] O.J. No. 5519, at paras. 33-36

References - Continued

R. v. Brown, 2013 ONSC 6466, [2013] O.J. No. 5036, at paras. 11-13

R. v. Sheikh-Hussein, 2015 ONSC 2888, [2015] O.J. No. 2554, at paras. 57-58

R. v. Farah, 2016 ONSC 2081, 30 C.R. (7th) 148, at paras 6-9

R. v. Barreira, 2017 ONSC 1078, [2017] O.J. No. 2453, at paras. 39-48

R. v. M.B., 2017 ONCA 653, 356 C.C.C. (3d) 234, at paras. 33-37, 46-47

R. v. Panghali, 2010 BCSC 1710, [2010] B.C.J. No. 2729, at para. 42, affirmed, 2012 BCCA 407, [2012] B.C.J. No. 2115, at paras. 70-80

R. v. Benson, 2015 ONCA 827, 333 C.C.C. (3d) 180, at para. 26

R. v. Williams, 2019 ONCJ 442, [2019] O.J. No. 3367