

## Canada



### **No guaranteed right to a lawyer, top court rules**

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CTV.ca News Staff

Canada's highest court ruled Friday that citizens don't have a constitutional right to a lawyer in every legal case they are involved in.

The Supreme Court of Canada ruled unanimously to reject a motion by late Vancouver lawyer Dugald Christie to do away with a B.C. tax on legal services.

Christie argued the 7 per cent tax acted as a barrier for low-income Canadians who sought access to the justice system.

"Access to legal services is fundamentally important in any free and democratic society," says the ruling.

"But a review of the constitutional text, the jurisprudence and the history of the concept does not support the respondent's contention that there is a broad general right to legal counsel."

Christie was killed by a minivan during a cross-country cycle to deliver a petition to the Harper government on the high cost of justice last year.

He argued that the tax, which the B.C. government imposed in 1993, inhibited people from retaining his services.

British Columbia's Social Service Tax Amendment Act was meant to fund legal aid within the province, however it has been difficult to ascertain how much of the revenue collected has gone to legal aid in the province.

The legal profession is the only one in British Columbia taxed in this manner.

Christie won his case in the B.C. Supreme Court and again when the provincial government appealed the decision.

By the time Christie's case made it to the nation's top court, the argument stated all people had a general right to a lawyer in virtually every case rather than only low-income Canadians seeking counsel.

The Supreme Court of Canada contended the right to legal counsel was historically understood to be a limited right that only extended to criminal cases.

"We conclude that the text of the constitution, the jurisprudence and the historical understanding of the rule of law do not foreclose the possibility that a right to counsel may be recognized in specific and varied situations," says the ruling.

"But at the same time, they do not support the conclusion that there is a general constitutional right to counsel in proceedings before courts and tribunals dealing with rights and obligations."

While the court was sympathetic to Christie's argument, it ruled a change to the existing tax would be too much of a burden for Canadian taxpayers.

"What is being sought is not a small, incremental change in the delivery of legal services. It is a huge change that would alter the legal landscape and impose a not inconsiderable burden on taxpayers," says the ruling.

As a result, the tax in British Columbia stands, along with similar levies in other provinces.