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Kootenay Ice Hockey v. Slovak Ice Hockey, 2001 BCSC 51 (CanLII)

Date: 2001-01-11

Docket: 11171

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Registry: Cranbrook

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**KOOTENAY ICE HOCKEY CLUB LTD.
MAREK SVATOS, an infant by his Guardian ad litem
DONALD MacMILLAN**

PLAINTIFFS

AND:

**SLOVAK ICE HOCKEY ASSOCIATION
KOSICE HOCKEY CLUB
CANADIAN HOCKEY ASSOCIATION**

DEFENDANTS

REASONS FOR JUDGMENT
OF THE
HONOURABLE MR. JUSTICE MACZKO

Counsel for Plaintiffs

D. Paolini

No one appearing for the
Defendants

Date and Place of Hearing:

January 10, 2001
Cranbrook, BC

[1] This is an application for an interlocutory injunction to prohibit the defendants from interfering with the right of the plaintiff, Marek Svatos ("Svatos"), from playing for the plaintiff, Kootenay Ice Hockey Club ("Kootenay") of the Western Hockey League ("WHL"). The application was originally made *ex parte*. The defendants have now been served pursuant to an order by Mr. Justice Melnick made January 2, 2001 as extended by Mr. Justice Maczko on January 8, 2001.

[2] The plaintiff, Svatos, is a hockey player from Slovakia. He wishes to play hockey in the Canadian Hockey League ("CHL") with the hope of being drafted into the NHL.

[3] In February 2000 the plaintiff was 17 years old. He was approached by the Kosice Hockey Club ("Kosice") in Slovakia with the view to playing for that team. He told them he was hoping to be drafted into the CHL but would like to play for Kosice if he were not drafted. He was told that if he wanted to play in Slovakia he had to sign the contract in February 2000. He was told that if he was drafted into the CHL he would be given a release but he was required to sign the Kosice contract immediately. The plaintiff was drafted by Kootenay on July 4, 2000. The plaintiff obtained immigration authorization to play in Canada. He moved to Cranbrook in August 2000 and enrolled in a local college. Kosice refused to provide the necessary release to allow him

to play hockey in the CHL and the CHL would not let him play without that release.

[4] Later Kosice provided a temporary release and the plaintiff played 11 games and he apparently played well. Kosice has refused to provide any further release unless it is paid \$10,000 US. The CHL rules prohibit payment for a release.

[5] The urgency of this injunction is that Kootenay must finalize its roster by 11:59 p.m. January 10, 2001. If the plaintiff is not included in the roster, he will not be able to play hockey for the balance of the season. If he is not able to play for the balance of the season, it will seriously limit his chances of being drafted into the NHL.

[6] I have concluded that an interlocutory injunction should be granted to allow the plaintiff, Marek Svatos, to play the balance of the season for Kootenay.

[7] There is a fair question to be tried.

[8] The plaintiff was 17 years old when he signed the contract without the benefit of legal advice and no guardian signed on his behalf. The contract was for three years with virtually no remuneration. Counsel has obtained an opinion from a Slovak lawyer that by Slovak law the plaintiff is a minor and the contract is probably void.

[9] There may also be a breach of contract by Kosice in that the contract was signed on the representation that he would be given a release if he were drafted into the CHL.

[10] The contract may well be void.

[11] The balance of convenience favours the granting of the injunction. Svatos will not be playing for Kosice this year no matter what happens. No harm will be done to Kosice by allowing Svatos to play the balance of the season for Kootenay. If Svatos is not permitted to play for Kootenay, it may damage his career by limiting his opportunity to be drafted by the NHL. He will lose playing time experience and exposure.

[12] Damages are not an adequate remedy.

[13] Nothing can be gained by prohibiting him from playing the balance of the season but much can be lost.

[14] The future of Svatos's contract with Kosice can be litigated later and this decision will in no way affect the outcome of the litigation. The injunction will go in the terms requested.

"F. Maczko, J."

The Honourable Mr. Justice F. Maczko

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