

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** R. v. Schneider, 2004 NSCA 151

**Date:** 20041214

**Docket:** CAC 213742

CAC 212755

**Registry:** Halifax

**Between:**

Her Majesty the Queen

Appellant

v.

Annie Marthe Schneider

Respondent

**and Between:**

Annie Marthe Schneider

Appellant

v.

Her Majesty the Queen

Respondent

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**Judge:**

The Honourable Justice Elizabeth Roscoe

**Appeal Heard:**

October 4, 2004

**Written Judgment:**

**December 14, 2004**

**Official French Translation  
Released Concurrently**

**Subject:**

Criminal law, new evidence application, Language rights, s. 530  
Criminal Code, s. 16 Charter, Criminal Procedure - adjournments

**Summary:**

Ms. Schneider was convicted in Provincial Court of assault and causing a disturbance. On appeal to the summary conviction appeal court, her appeal was allowed on the basis that her language rights accorded by s. 530 of the Criminal Code and s. 16 of the Charter had been violated because she was not able to present her pretrial application for an adjournment to a French speaking judge. A new trial was ordered. Both the Crown and Ms. Schneider appealed.

- Issues:**
1. Was there a breach of Ms. Schneider's constitutional language rights?
  2. Was there a breach of s. 530 of the Criminal Code?
  3. Did the trial judge properly exercise his discretion to dismiss the application to adjourn the trial in the circumstances of this case?
  4. Did the summary conviction appeal court judge err by not dealing with all the issues raised by Ms. Schneider on the summary conviction appeal?
  5. Should a new trial be ordered?

**Result:** Both appeals allowed.

The Crown's appeal was allowed on the basis that there was no breach of Ms. Schneider's language rights pursuant to either s. 16 of the **Charter** or s. 530 of the **Criminal Code**.

Ms. Schneider's appeal was allowed on the ground that the trial judge did not exercise his discretion to dismiss the adjournment application judicially.

A new trial was ordered.

<p><b>This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 20 pages.</b></p>
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