

NOVA SCOTIA COURT OF APPEAL

Citation: *Bevis v. Burns*, 2006 NSCA 56

Date: 20060508

Docket: CA 234039

CA 234852

Registry: Halifax

Between:

Kerry C. Bevis and Rasim Karela

Appellants

v.

Constable Rick Burns and
Constable Bob Kelly

Respondents

JUDGE:

MacDonald, C.J.N.S.

APPEAL HEARD:

February 16, 2006, Halifax, Nova Scotia

SUBJECT:

**Civil Law, Intentional Torts, *Charter* Breaches, s. 24(1) Remedy
Civil Juries, Adequacy of Jury Charge, Standard of Review**

SUMMARY:

The appellants were the victims of unlawful arrest and other intentional torts at the hands of the respondent police officers. Their actions also constituted *Charter* breaches. The trial judge refused to direct the jury to return separate awards for the torts and *Charter* breaches. Instead they were told to return one global award compensating the appellants for their overall experience. The appellants assert that the judge erred by denying them a separate award for the *Charter* breaches. They also took issue with the judge's charge on aggravated damages.

ISSUE: Did the judge err in directing only one award for the intentional torts and *Charter* breaches?

RESULT: While the judge did not necessarily err by instructing one global award for the torts and the *Charter* breaches, his instruction on the *Charter* remedy was inadequate. The jury was unable to meaningfully consider an “appropriate and just” award under s. 24(1) of the *Charter*. A new hearing also including the aggravated damage claims was ordered.

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 32 pages.