

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Hurley*, 2006 NSCA 104

Date: 20060908

Docket: CAC 246575

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Larry Kevin Hurley

Respondent

JUDGE:

MacDonald, C.J.N.S.

APPEAL HEARD:

May 25, 2006, in Halifax, Nova Scotia

SUBJECT: **Criminal Law, Confessions, Voluntariness**

SUMMARY: The trial judge refused to admit the accused's warned statement into evidence, having a reasonable doubt as to its voluntariness. The Crown appealed citing error in law.

ISSUE: Did the judge commit reversible error by refusing to admit the statement?

RESULT: Appeal allowed and new trial ordered.

The trial judge refused to admit the statement only because he was troubled by the poor quality of the video recording. This is not one of the established legal principles upon which such statements may be excluded. [**R. v. Oickle** [2000], S.C.J. No. 38.]

Furthermore, it could not be said that the verdict would have necessarily been the same had the statement been admitted. [**R. v. Sutton**, [2000] 2 S.C.R. 595.]

