

**CASE NO.**

**VOL. NO.**

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ALEXANDER P. McDONALD,  
JASON MARR, CARL SACK,  
GREGORY C. FRANCIS, DONALD  
JEANS, JOHN PETER-PAUL and  
WILLIAM NEVIN

- and -

HER MAJESTY THE QUEEN

(Appellants)

(Respondent)

CA 178332

Halifax, N.S.

CROMWELL, J.A.

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[Cite as: *R. v. McDonald*, 2002 NSCA 135]

**APPEAL HEARD:** September 25, 2002

**JUDGMENT DELIVERED:** November 1, 2002

**SUBJECT:** Fisheries Act - detention of seized articles

**SUMMARY:** An application was made to the Chief Judge of the Provincial Court on behalf of persons who had articles seized from them pursuant to the **Fisheries Act**, R.S.C. 1985, c. F-14. Their position on the application was that the Crown was required to apply for a court order to justify detention of the goods seized beyond 90 days whether or not charges had been laid under the **Act**. The Chief Judge dismissed the application holding, in effect, that the Crown only needed to apply for an extension beyond 90 days if charges had not been laid within that period. The applicants then unsuccessfully sought *certiorari* in the Supreme Court and then appealed to the Court of Appeal.

**ISSUE:** Where charges have been laid within 90 days of a seizure under the **Fisheries Act**, is it necessary for the Crown to apply to justify detention of the seized items beyond the 90 day period?

**RESULT:** Appeal dismissed. The Chief Judge had correctly interpreted the legislation and it was neither necessary nor desirable to address in the context of this appeal a number of subsidiary procedural arguments that had been advanced.

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 8 pages.