## NOVA SCOTIA COURT OF APPEAL Citation: R. v. Reashore, 2002 NSCA 167

**Date:** 20021230

**Docket:** CAC No. 160167

Registry: Halifax

**Between:** 

Paul David Reashore

Appellant

V.

Her Majesty The Queen

Respondent

JUDGE: Hamilton, J.A.

**APPEAL HEARD:** November 25, 2002

**SUBJECT:** Criminal - Selection of Jury - Section 645(5) - Voir Dire

Evidence - Section 686(1)(b)(iii)

**SUMMARY**: *Voir dires* were held with all decisions favouring the appellant.

The appellant did not testify at any of these voir dires. A jury of twelve was selected. The Crown in its opening address to the jury referred to evidence it expected to call, that was then determined by the trial judge to be inadmissible. No evidence was presented before the jury. The trial judge, purporting to continue the trial, discharged the first twelve jurors and selected

a second jury of twelve following the provisions of the

*Criminal Code*. The trial proceeded before the second twelve jurors using the record of the voir dires previously held.

**ISSUES**: On the unusual facts of this case, was the appellant tried by a properly

constituted jury, and, if so, did the judge err in incorporating into the trial before the second twelve jurors, the voir dire record created

pursuant to s.645(5) of the *Criminal Code* in connection with the trial commenced before the first twelve jurors.

**RESULT**: Appeal dismissed. The appellant was tried by a properly constituted jury. If the trial judge erred in admitting the voir dire evidence, it should be cured by the application of s.686(1)(b)(iii) since there was no prejudice to the appellant so that no substantial wrong or miscarriage of justice occurred.

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 7 pages.