

NOVA SCOTIA COURT OF APPEAL

Citation: *Patient X v. College of Physicians & Surgeons*, 2015 NSCA 41

Date: 20150430

Docket: CA 428606

Registry: Halifax

Between:

Patient X

Appellant

v.

College of Physicians and Surgeons of Nova Scotia

Respondent

and

Dr. Y

Intervenor

Restriction on Publication: Under Inherent Jurisdiction

Judge: The Honourable Justice Cindy A. Bourgeois

Appeal Heard: April 2, 2015, in Halifax, Nova Scotia

Subject: Apprehension of judicial bias; Procedural fairness;
Sufficiency of reasons

Summary: In 2011, Patient X filed a complaint with the College of Physicians and Surgeons about Dr. Y. She alleged that during a chest examination in 2009, Dr. Y had touched her right breast in a sexual manner, and further, had made racially inappropriate remarks in referencing her lung capacity. Patient X self-identifies as being “African-Canadian”. Dr. Y used the term “black” to describe her ethnicity.

The College struck an Investigation Committee under the *Medical Act*, S.N.S. 1995-96, c. 10. After investigating the complaint, including meeting separately with both Patient X and Dr. Y, the complaint was dismissed. Patient X sought judicial review of the decision to dismiss her complaint. Represented by legal counsel, Patient X argued before the Supreme Court that she was denied procedural fairness by not having had the opportunity to cross-examine Dr. Y. She also argued that the Investigation Committee's reasons were insufficient. The hearing judge rejected both arguments, and dismissed Patient X's application. Patient X brought an appeal of the hearing judge's decision. She was self-represented.

Issues:

- (1) Was the hearing judge racially prejudiced?
- (2) Did the hearing judge err in finding Patient X was afforded procedural fairness?
- (3) Did the hearing judge err in concluding the reasons of the Investigation Committee were sufficient, and the decision fell within the range of reasonable outcomes?

Result:

The appeal was dismissed. There was nothing in the record before the Court which gave rise to a reasonable apprehension of bias on the part of the hearing judge. With respect to the remaining two issues, the Court concluded that the hearing judge had identified the correct standard of review for each, and had applied it appropriately to the record before her. Her analysis on both was thorough and adopted by the Court.

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 25 pages.