

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Hope, 2007 NSCA 103

Date: 20071030

Docket: CAC 279514

Registry: Halifax

Between:

John Hope

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Fichaud

Appeal Heard: September 24, 2007

Subject: **Lawfulness of Arrest - assault by police officer**

Summary: Police officer arrested suspect at her doorway. Suspect retreated into her home and police officer followed her into the home and apprehended her. Officer was charged with assault. Provincial Court acquitted. Supreme Court as Summary Conviction Appeal Court allowed the Crown's appeal and ordered a new trial.

Issue: Was the arrest at the doorstep lawful? If so, the Crown acknowledged that the officer could enter the home in "hot pursuit" of escapee from custody and the officer would have a defence of lawful execution of duty under s. 25 of the *Criminal Code*.

Result: Trial judge found arrest at door to be lawful. The Crown did not appeal factual issues to the Summary Conviction Appeal Court. Subject to one issue, the prerequisites for lawful arrest at the door existed. The only issue was factual - whether the arresting touch occurred inside or outside the home. That factual matter was not appealed to the SCAC. So the SCAC erred in setting aside the acquittal. The Court of Appeal allowed the appeal and reinstated the acquittal.

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 13 pages.

