

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** Jesty v. Nova Scotia (Chief Firearms Officer), 2003 NSCA 135

**Date:** 20031210

**Docket:** CA 200302

**Registry:** Halifax

**Between:**

Franklyn John Jesty

Appellant

v.

Maarten Kramers, Chief Firearms Officer Nova Scotia  
and Attorney General of Nova Scotia

Respondents

---

**JUDGE:** Cromwell, J.A.

**APPEAL HEARD:** November 18, 2003

**JUDGMENT DELIVERED:** December 10, 2003

**SUBJECT:** **Declaratory judgment - circumstances in which a declaration is appropriate**

**SUMMARY:** The appellant applied for a firearms license and a waiver of the fee. He sought the fee waiver because he is an aboriginal person who requires firearms to hunt or trap in order to sustain himself or his family. The respondent Chief Firearms Officer decided that Mr. Jesty was eligible for a license but not the fee waiver. In so deciding, he applied provincial and federal policies which provide that it is not an acceptable basis for a fee waiver that an applicant hunts or traps for reasons of culture, heritage or tradition.

The appellant applied for *certiorari* and a declaration. The Chambers judge granted *certiorari* quashing the decision but declined to make the declaratory order. The appellant appealed.

**RESULT:** Appeal dismissed. On the record before the Court, there was no error in principle or patent injustice in the judge's refusal of the declaration. The points raised by the appellant in conjunction with the declaration are both fundamental and potentially far reaching. The material before the Court does not afford an appropriate context in which to address definitively by way of a declaratory judgment the interplay between the factors raised by the appellant and the exercise of the Chief Firearms Officer's discretion.

**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 4 pages.**