

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Taylor*, 2008 NSCA 5

Date: 20080118

Docket: CAC 280365

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Terry E. Taylor

Respondent

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: October 9, 2007, in Halifax, Nova Scotia
Post-Hearing Supplemental Factums filed by the Appellant,
October 30, 2007; and by the Respondent, December 4, 2007

Subject: **Public interest. Search and seizure. *Certiorari*. Canada Revenue Agency. Canadian Charter of Rights and Freedoms. Inherent jurisdiction. Crown liability for costs in a criminal proceeding.**

Summary: Following an ill-conceived and poorly executed search and seizure of a citizen's private documents by regulatory officials with the Canada Revenue Agency investigating suspected violations of the **Income Tax Act**, a Chambers judge granted an application to quash the search warrants and awarded the applicant costs of \$17,000. The Crown appealed. While not challenging the finding that the agency's conduct was serious and egregious, the Crown claimed that the Chambers judge had erred in fixing the Crown with liability for that behaviour.

Held: Appeal allowed. The judge erred in holding that the impugned

conduct of agency officials was sufficiently tied to the Crown as to make it liable for an additional remedy of costs. There was no evidence upon which the judge could conclude that the exceptional remedy of costs against the Crown in a criminal proceeding was warranted, whether on the basis of a **Charter** violation, or applying the Court's own inherent jurisdiction at common law. The statutory provisions of the **Canada Revenue Agency Act** and the **Crown Liability and Proceedings Act**, were not relevant here.

The Crown's role in this case was limited to responding to a *certiorari* application brought by the suspect to quash the search warrant(s). To impose a costs award against the Crown in this case would deter the Crown from defending such applications, undermine criminal prosecutorial processes generally, and be contrary to the public interest.

Whatever remedies the respondent might have against the agency or its investigator, they did not include a costs order against the Crown.

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 30 pages.