

NOVA SCOTIA COURT OF APPEAL
Cite as R. v. Forrayi, 1997 NSCA 11

BETWEEN:

BRADLEY RODERICK FORRAYI

Appellant

- and -

HER MAJESTY THE QUEEN

Respondent

) Appellant in person

) Dana W. Giovannetti
) for the Respondent

) Application Heard:
) February 13, 1997

) Decision Delivered:
) February 13, 1997

BEFORE THE HONOURABLE JUSTICE HALLETT IN CHAMBERS

HALLETT, J.A.: (Orally)

This is an application under s. 684 of the **Criminal Code of Canada**, R.S.C. 1985, c. C-46 for the assignment of counsel to represent the appellant on the appeal of his conviction for first degree murder.

I must determine, if it is desirable in the interest of justice, that he should have legal assistance on the appeal. This involves more than simply the interests of the appellant.

The appellant was convicted at a trial by jury. He was ably represented by counsel at trial.

I have heard the submissions of the appellant and the Crown and, at the invitation of the appellant, I heard the executive director of Legal Aid speaking as to his decision not to fund counsel to represent the appellant on the appeal. In short, the executive director of Legal Aid was not persuaded there was merit to the appeal.

Likewise, I am not persuaded that the interests of justice require that the appellant be represented by counsel in order to have a fair hearing of the appeal. The first two grounds of appeal are, in my opinion, without any merit. The third and fourth grounds are not, in my opinion, likely to be successful. However, they raise issues that will require the panel that hears the appeal to carefully consider evidentiary issues raised. In particular, the Court has a duty with respect to the fourth ground of appeal to re-examine and reweigh the evidence at trial to be satisfied that the evidence supports the guilty verdict. If the panel concludes, after a review of the trial record, that the interests of justice make it desirable that the panel assign counsel to provide the appellant with legal assistance, the appeal hearing can be adjourned so as to allow counsel so assigned to prepare for argument on the relevant issues. This is in accordance with the decision in **R. v.**

Grenkow (1994), 127 N.S.R. (2d) 355.

Furthermore, this application was not made in a timely manner. It could have been made many months ago. The appeal has been scheduled for months for hearing on February 19th, less than a week from now.

Based on the submissions I have heard I am not satisfied that interests of justice make it desirable that counsel be assigned to the appellant. The application is dismissed.

Hallett, J.A.

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