

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. S.T.P.*, 2009 NSCA 86

Date: 20090821

Docket: CAC 304906

Registry: Halifax

Between:

S.T.P.

Appellant

v.

Her Majesty the Queen
as represented by the Director of Public Prosecutions Service of Canada

Respondent

Restriction on publication: Section 110(1) of the *Youth Criminal Justice Act*

Judge: MacDonald, C.J.N.S.

Appeal Heard: June 15, 2009, in Halifax, Nova Scotia

Subject: **Criminal Law; summary conviction offences, s. 495(1)(a) of the *Criminal Code*; powers of arrest; search incidental to arrest.**

Summary: S.T.P., the appellant young person, was searched incidental to his arrest for possession of marijuana. The search resulted in the discovery of cocaine. S.T.P. - by way of a *Charter* application - challenged the legality of the arrest. The trial judge found the arrest to be lawful and denied S.T.P.'s application. He now appeals to this court.

Issue: Was the arrest lawful in the circumstances?

Result: Assuming the arrest was for a summary conviction matter, the arresting officer under s. 495(1)(b) of the *Criminal Code* would have to “find” S.T.P. possessing marijuana. In the circumstances of this case, the trial judge was correct to so conclude.

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 16 pages.