

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Spinney, 2010 NSCA 4

Date: 20100121

Docket: CAC 311297

Registry: Halifax

Between:

Cecil Lorne Spinney

Appellant

v.

Her Majesty the Queen

Respondent

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- Judge:** The Honourable Justice Duncan R. Beveridge
- Appeal Heard:** December 2, 2009
- Subject:** Criminal Law- Powers of a Summary Conviction Appeal Court to order a new trial on appeal from an acquittal.
- Summary:** The appellant was acquitted at trial after the trial judge permitted the defence to reopen its case to call the defendant. The Crown appealed to the Summary Conviction Appeal Court. That court concluded the trial judge had erred in law in his ruling there was no implied waiver of solicitor-client privilege and ordered a new trial.
- Issue:** What is the test the Crown must meet before an acquittal is overturned based on error of law.
- Result:** Assuming the Summary Conviction Appeal Court was correct in its conclusion that the trial judge had erred in law in ruling there had been no implied waiver of privilege, it erred in law in concluding the Crown had met its heavy burden that there was a reasonable degree of certainty in the concrete reality of the case the verdict would not necessarily have been the same.

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.