

NOVA SCOTIA COURT OF APPEAL

Citation: *Briand v. Nova Scotia (Public Prosecution Service)*, 2003 NSCA 8

Date: 20030116

Docket: CA 177599

Registry: Halifax

Between:

Troy Briand

Appellant/Applicant

v.

Public Prosecution Service

Respondent

Judge: The Honourable Justice M. Jill Hamilton, in Chambers

Application Heard: January 16, 2003, in Halifax, Nova Scotia

Written Decision: January 16, 2003

Held: Application dismissed

Counsel: Mr. Troy Briand, Appellant/Applicant, in person
Mr. Edward Gores, for the Respondent

Decision:

- [1] Mr. Briand applied to have the court appoint a lawyer to represent him on this appeal. I dismissed his application in court on January 16, 2003, and indicated I would provide reasons later. These are my reasons.
- [2] Mr. Briand is appealing the decision of Justice Glen McDougall, dated February 20, 2002, wherein Justice McDougall dismissed Mr. Briand's application to set aside notices issued pursuant to the ***Protection of Property Act***, R.S.N.S. 1989, c. 363, as amended. These notices prevent him from attending at certain offices where people were dealing with claims relating to Cezar Lalo.
- [3] It appeared Mr. Briand was relying on ***Civil Procedure Rule 5.17*** as authority for his application for me to appoint a lawyer. An application pursuant to s.684 of the ***Criminal Code*** was not available to him since this is a civil matter.
- [4] As indicated in court, I dismissed Mr. Briand's application for two reasons. The first was that ***Rule 5.17*** does not authorize me to appoint counsel for Mr. Briand.
- [5] The second reason was that even if ***Rule 5.17*** did authorize such an appointment, Mr. Briand did not meet the conditions set out in the ***Rule***. For instance under ***Rule 5.17(2)(c)***, Mr. Briand is required to provide a legal opinion that sets out the material facts in issue and establishes that he has reasonable grounds for commencing the proceeding. He did not file such an opinion. Without this condition being met, I have no authority to make the order Mr. Briand seeks. ***LeBrun v Woodward***, [2001]N.S.J. No.17.
- [6] For these reasons I dismissed Mr. Briand's application to have the court appoint a lawyer to represent him on this appeal.

Hamilton, J.A.