

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Hobbs, 2010 NSCA 62

Date: 20100715

Docket: CAC 316120

Registry: Halifax

Between:

Kevin Patrick Hobbs

Appellant

v.

Her Majesty the Queen

Respondent

Judges: The Honourable Justice Duncan R. Beveridge, Bateman and Oland JJ.A, concurring.

Appeal Heard: June 3, 2010

Subject: Criminal Law. Jury selection.

Summary: The Crown requested the police to carry out criminal record checks on the individuals set out in the list of potential jurors. The police supplied information on 100 out of 323 potential jurors. This information was not disclosed to the defence. During the jury selection process, jurors were randomly chosen for possible jury duty. The defence utilized all of its 12 peremptory challenges. The Crown exercised its right to peremptorily challenge a juror five times. For all of these, the information obtained by the police was a factor.

Issue: Did the conduct of the Crown impact on trial fairness, and if so, what was the appropriate remedy ?

Result: At the hearing of the appeal, the Crown conceded that not only should the information should have been disclosed to the defence, but had the information been provided, it was probable the defence would have exercised its peremptory challenges differently and an order for a new trial was appropriate. The

jury selection process is an integral part of the trial. It must be fair, and to maintain respect for the administration of justice, appear to be fair. In the circumstances of this case, the failure to disclose gave the Crown an unfair advantage. However, the conduct of the Crown did not amount to an abuse of process. An order for a new trial is the appropriate remedy.

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 15 pages.