

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Riley, 2011 NSCA 52

Date: 20110607

Docket: CAC 312177

Registry: Halifax

Between:

Michael William Riley

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Duncan R. Beveridge

Appeal Heard: May 10, 2011, in Halifax, Nova Scotia

Subject: Criminal law: Ineffectiveness of counsel; Challenge to the validity of a guilty plea on appeal

Summary: The appellant agreed to plead guilty to production of marijuana in exchange for the Crown dropping the charge against his co-accused. Although the trial judge granted the appellant a conditional discharge, the appellant expressed surprise when the trial judge imposed the mandatory minimum 10-year prohibition on possessing firearms. The appellant claimed his trial counsel had not discussed this issue with him. The appellant sought to adduce fresh evidence to demonstrate the circumstances surrounding the entry of his plea, especially his lack of information about the firearms prohibition order. The appellant contended that the failure by trial counsel amounted to ineffectiveness of counsel and tainted the validity of his guilty plea, which he sought leave to withdraw.

Issue: Has the appellant established that his complaints about his trial counsel caused a miscarriage of justice, or were his pleas otherwise invalid?

Result:

Even assuming that his trial counsel had failed to advise him of the mandatory minimum firearms prohibition, the appellant failed to establish that his claimed lack of knowledge, in these circumstances, caused him any prejudice. There was no basis to conclude that the appellant would have done anything different had he been aware of the mandatory firearms prohibition order. Hence, no miscarriage of justice occurred. The motion to adduce fresh evidence was dismissed as was the appeal.

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.