

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *R. v. Gareau*, 2012 NSCA 41

**Date:** 20120425

**Docket:** CAC 237588

**Registry:** Halifax

**Between:**

Steven Gerald Gareau

Appellant

v.

Her Majesty The Queen

Respondent

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**JUDGE:** MacDonald, C.J.N.S.

**APPEAL HEARD:** February 15, 2012

**SUBJECT:** **Criminal Law. Murder. Conspiracy to Commit Murder.**

**SUMMARY:** The appellant was convicted of first degree murder and conspiracy to commit murder by a Supreme Court of Nova Scotia judge with a jury. Several co-accuseds were earlier convicted in the same plot. The appellant challenged the judge's charge to the jury on a number of fronts. He also challenged the admissibility of certain evidence and alleged that his trial counsel was ineffective.

**ISSUES:** Did the judge commit reversible error in her charge to the jury?  
Did the judge err by improperly admitting evidence?  
Was the appellant denied a fair trial as a result of ineffective counsel?

**RESULT:** Appeal allowed; new trial ordered. Of the appellant's numerous complaints about the charge to the jury, one was fatal

and commanded a new trial. Another was of concern, but not on its own, fatal. The fatal error involved the fact that others were convicted in the same plot. Specifically the judge told the jury that they could use this evidence against this appellant when considering his guilt or innocence. In the circumstances, this error was significant enough to command a new trial. The second troubling (but not fatal) error involved the judge's inaccurate accounting of a key witness's evidence.

In the circumstances there was no need to consider the alleged errors regarding the admissibility of evidence; nor the assertion that the appellant's trial counsel was ineffective.

**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 32 pages.**