

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *R. v. Creelman*, 2007 NSCA 51

**Date:** 20070501

**Docket:** CAC 262402

**Registry:** Halifax

**Between:**

Paul Kenneth Creelman

Appellant

v.

Her Majesty The Queen

Respondent

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**Judge:** Honourable Justice Linda Lee Oland

**Appeal Heard:** January 25, 2007

**Subject:** *Search Warrants*

**Summary:** The appellant was charged with possession of marijuana for the purpose of trafficking. A police search of his luggage at the airport, pursuant to a search warrant, found several kilograms of the drug. The police had also obtained warrants for the search and seizure of airline records. A *voir dire* was held at the commencement of his trial on the validity of the search warrants. The reviewing judge reviewed the Information to Obtain upon which the issuing judge who authorized the warrants had relied, as amplified by the testimony of several witnesses, including the officer who swore the Information. He refused the appellant's application to quash the search warrants, and to exclude from his trial evidence obtained as a result of the execution of those warrants. The appellant appeals his conviction.

**Issue:** Whether the reviewing judge erred in dismissing the appellant's application to quash the search warrants.

**Result:**

Appeal dismissed. The reviewing judge correctly instructed himself that he should not quash a warrant unless satisfied, on the totality of the circumstances, after taking into account weaknesses and deficiencies that had been identified, that there was no basis for that authorization. He referred to the correct law and tests with regard to the grounds for belief in an Information to Obtain necessary for the authorization of a search warrant, including that pertaining to the assessment of information from police informers. While the appellant argued that the officer who swore the Information failed to disclose critical information, the reviewing judge, found that the officer gave his evidence in a fair, honest and credible manner and that his failure to mention an earlier unsuccessful search was not fatal by itself. His inference that the particulars of the appellant's travel as set out in the Information had derived from an airline employee was reasonable. In the circumstances of this case, an examination of the Information and evidence presented at the *voir dire* discloses sufficient information and sufficiently reliable information to authorize a search warrant of the appellant's luggage.

**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 24 pages.**