

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Wiles*, 2004 NSCA 3

Date: 20040108

Docket: CAC 200952/200951

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Philip Neil Wiles

Respondent

JUDGE: Bateman, J.A.

APPEAL HEARD: November 28, 2003

JUDGMENT DELIVERED: January 8, 2004

SUBJECT: Offender convicted of two offences of producing marijuana contrary to s. 7 of the **Controlled Drugs and Substances Act**, R.S.C. 1996, c. 19, as amended (“**CDA**”). Offender challenged constitutionality of the mandatory firearms prohibition required by s. 109(1)(c) of the **Criminal Code of Canada**, R.S.C. 1985, c. C-46.

SUMMARY: Trial judge found, on application by the offender, that the mandatory firearms prohibition, as applied to s. 7 **CDA** offenders, constituted cruel and unusual punishment in contravention of s. 12 of the **Charter**. Judge declined to impose the firearms prohibition.

ISSUE: Crown appealed constitutional ruling.

RESULT: Appeal allowed. Section 109(1)(c) of the **Code** as applied to the **CDA** does not constitute cruel and unusual punishment. Firearms prohibitions imposed for each offence in accordance with s. 109(2) and (3) of the **Code**.

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 21 pages.