

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Lewis, 2007 NSCA 2

Date: 20070110

Docket: CAC 264778

Registry: Halifax

Between:

Marlon Dwight Lewis

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Fichaud

Appeal Heard: November 28, 2007

Subject: Detention - right to counsel - search - ss. 8 and 10(b) of *Charter*

Summary: Appellant was arrested at a train terminal after RCMP dog sniffed a narcotic in his backpack and after he was questioned by police. Appellant was informed of his right to counsel after the arrest. Before he was able to phone counsel, a search of his backpack located cocaine. Trial judge convicted him of possession for purpose of trafficking. Trial judge held there was no *Charter* breach in the arrest and search, and he was not detained before the arrest.

Issue: Was the appellant detained - triggering his right to counsel - before the arrest? Did the search violate ss. 8 and 10(b) of the *Charter*?

Result: Trial judge made no appealable error in his ruling that appellant was not detained before his arrest. The search did not violate ss. 8 or 10(b). Appeal was dismissed.

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.