

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. S.A.M.*, 2006 NSCA 139

Date: 20061219

Docket: CAC 266754

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

S.A.M.

Respondent

Judge: The Honourable Justice Nancy Bateman

Appeal Heard: November 29, 2006

Subject: Firearms prohibition order

Summary: The Crown failed to request and the Judge neglected to impose a mandatory firearms prohibition when sentencing a young person under the **Controlled Drugs and Substances Act**, S.C. 1996, c. 19 for possession for the purposes of trafficking (s. 109(1)(c) of the **Criminal Code of Canada**, R.S.C. 1985, c. C-46 and s.51(1) of the **Youth Criminal Justice Act**, S.C. 2002, c. 1). The Crown appealed seeking imposition of the prohibition order. The young person opposed the order submitting that, like a DNA order, it was discretionary.

Issues: Is the imposition of a firearms order discretionary?

Result: Appeal allowed. Prohibition order directed. There is no statutory exemption to the order. The DNA provisions of the **Criminal Code**, on the other hand, specifically contemplate circumstances where the order will not be made. The mandatory nature of the order is not conditional upon the Crown's request that it be imposed (**R. v Goguen**

(2006), 208 C.C.C. (3d) 181; N.B.J. No. 165 (Q.L.) (C.A.)).

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 4 pages.