

IN THE FAMILY COURT OF NOVA SCOTIA

Citation: R. v. C. L. , 2005 NSFC 21

Date: 20051206

Docket: 1542628

Registry: Yarmouth

Between:

Her Majesty the Queen

v.

C.L.

accused

Judge: The Honourable Chief Judge John D. COMEAU

Heard: September 13, 2005 , in Digby, Nova Scotia

Written Decision: December 13, 2005

Counsel: Pierre Muise, Esq., for the Crown
Accused - unrepresented

The Charge:

[1] The accused is charged with an offence under the Protection of Property Act on school property, Section 3 (1) (e).

The Issue:

[2] Whether the decision of this Court in R. v. N.F., 2004, NSFC 3 is applicable to the charge against the accused (see attached decision).

The Facts:

[3] On March 2, 2004 this Court ruled that the definition of premises in the Protection of Property Act was narrowed based on statutory interpretation. That a school was not a premises as defined by the Act.

[4] The Crown in the case before the Court has asked that the statutory interpretation be revisited so as to render R. v. N.F. inapplicable to this case.

[5] **The Law:**

Protection of Property Act (relevant sections)

Interpretation

2. In this Act:

(d) “premises” means lands and structures, or either of them and includes trailers and portable structures designed or used for residence, business or shelter.”

[6] The Court found that a school was not a premises as defined in the Protection of Property Act.

Conclusion/Decision:

[7] The Crown has referred the Court to Dreidger on the Construction of Statutes, Third Edition by Ruth Sullivan, Associate Professor of Law, University of Ottawa. Particular reference is made to punctuation (see p. 277).

“ A comma before the qualifying words ordinarily indicates that they are meant to apply to all antecedents while the absence of a comma indicates that they are meant to apply to the last antecedent alone.”

[8] It appears that the Crown is arguing that there is a common syntactic ambiguity in the definition of premises in the Protection of Property Act and the qualifying phrase or clause may either apply to all prior antecedents or to the last antecedent alone.

[9] As the Court understands it the Crown argues because there is a comma after “structures” in the definition of “premises” the words following do not just define structures in a narrow sense but all these words apply to the word structures. The word “structure” is defined in Blacks Law Dictionary, 4th Edition, at page 1592 as “an edifice or building of any kind.”

[10] With respect the Court rejects the Crown's submission on two grounds. The first is that there is a question as to whether the Court can review its own decision in a criminal matter. Secondly the Court arrived at its decision in R. v. N.F. supra. by using a number of methods of statutory interpretation described therein. Punctuation is but one tool to help in the determination of legislative intent.

[11] In *Caridnal, V.R.* {1980} F.C. 149 at 154-55 Mahoney J. Wrote:

“ Punctuation cannot render a single interpretation so certainly correct as to obviate the need to refer to the entire enactment in the interpretation of one of it’s provisions but it is certainly to be considered.”

[12] The Court is bound by its decision in *R. v. N.F. supra.* and the charge against the accused is declared to be a nullity and this matter is dismissed for that reason.

John D. Comeau
A Judge of the Youth Justice
Court of Nova Scotia