

IN THE PROVINCIAL COURT OF NOVA SCOTIA

Citation: R. v. Durling, 2006 NSPC 1

Date: 20060116

Docket: 1532283-84, 86-87

Registry: Kentville

Between:

Her Majesty the Queen

v.

Jennifer Cynthia Durling
Sean Paul Cluett

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Judge: The Honourable Judge Alan T. Tufts

Heard: Dec. 14, 2005, in Kentville, Nova Scotia

Subject: **Sufficiency of Information to Obtain -
Search Warrant - Garafoli Application**

Summary: **Both accused challenge the sufficiency of the grounds to issue a search warrant into a dwelling house. The Information to Obtain (ITO) is based on information received from an anonymous, unproven source. The source's information is corroborated by independent information of the accused's employment and residence. The only corroboration of the presence of a crime - a marihuana grow operation - is from a FLIR test**

Issue: **Does the Information to Obtain contain sufficient**

grounds upon which a justice could issue a search warrant. Particularly, is the corroboration about the accused's employment and residence particulars and the FLIR testing sufficient to overcome the other weaknesses in the Information to Obtain.

Result:

Search warrant quashed. R. v. Plant, [1993] 3 S.C.R. 281 is not authority for the Crown's submission that corroboration of the employment and residence particular support the informant's credibility. The FLIR is not sufficient corroboration. R. v. Zammit, (1993), 81 C.C.C. (3d) 112 (Ont. C.A.) applied.

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