

IN THE PROVINCIAL COURT OF NOVA SCOTIA

Citation: MacLean v. F.B, 2010 NSPC 28

Date: 2010-01-25

Docket: 2095677

2100386

2095689

2095641

2102778

2095627

Registry: Halifax

Between:

Harvey MacLean

v.

F.B.

M.B.

S.G.

M.S.O.

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Judge: The Honourable Associate Chief Judge R. Brian Gibson

Heard: December 11, 2009 in Dartmouth, Nova Scotia

Written Decision: January 25, 2010

Subject: Application under S.507.1 of the Criminal Code seeking issuance of a summons in a private prosecution.

Summary:

Issue: Whether any of a total of 36 counts set out on six Informations, laid by the Informant, sufficiently met the requirements of S.581 of the Criminal Code to establish the existence of a valid Information or Informations, and thus jurisdiction consider to consider the application for the issuance of process pursuant to S.507.1(2).

Result:

All counts on all Informations were found to be so lacking in detail regarding the circumstances of various alleged offences that all Informations were found to be void *ab initio* for want of sufficient details as required by S.581(3) of the Criminal Code. Also considered: the nature of the act and extent of the assessment required to receive an Information under S.504; applicability of the words “But otherwise the absence or sufficiency of details does not vitiate the count” found in S.581(3); the degree to which the Court is required to assist in the prosecution of criminal charges where the prosecution is by a private prosecution; the location where Informations are to be laid and disclosure of identity of individuals named as an accused prior to the issuance of process.

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