

PROVINCIAL COURT OF NOVA SCOTIA

Citation: R. v. Martin, 2012 NSPC 92

Date: 20121022

Docket: 2276770-2276795

Registry: Pictou

Between:

Her Majesty the Queen

v.

Darren Martin

***DECISION ON APPLICATION BY DARREN MARTIN FOR LEAVE TO
FILE FURTHER MATERIALS***

Judge: The Honourable Judge Del W. Atwood

Written decision: 22 October 2012, in Pictou, Nova Scotia

Charge: 4x sub-s. 239(1) *Income Tax Act (Canada)*; 22 x sub-s.237(1) *Excise Tax Act (Canada)*

Counsel: Constantin Draghici-Vasilescu, for the Public
Prosecution Service of Canada

Darren Martin, on his own behalf

Stephen Robertson, Nova Scotia Legal Aid, *amicus curiae*

By the Court:

[1] Darren Martin stands charged of four violations of para. 239(1) of the *Income Tax Act (Canada)*, and twenty-two violations of para. 327(1) of the *Excise Tax Act*. Trial dates are fixed presently for 23, 24, 25 and 26 October 2012.

[2] Pursuant to my order of 28 August 2012¹ closing pleadings in this matter and requiring an application for leave in order for a party to make further pre-trial applications, Darren Martin filed with the court administration office on 16 October 2012 a document seeking leave to apply to the Court on 19 September 2012 for an unspecified form of judicial remedy in relation to the Crown's onus to prove identity and territorial jurisdiction; additionally, Mr. Martin seeks leave to apply for an order from the Court compelling the Crown to disclose:

documentation from the Crown proving the existence of a TITLE, DEED, BILL OF SALE, and proof of EXPROPRIATION of the land here in Canada from the Native Community as I have proof ALL Crown land IS NATIVE LAND and the Federal Prosecutor does not have legal standing in this case. I intend to ask for this information in the form of a DEMAND FOR DISCLOSURE. Also, I would like to file an Affidavit regarding ownership of the lands in Canada as well as

¹2012 NSPC 76.

case law and other documents, proving the contents of the Affidavit are correct and accurate. *[Sic]*

[3] With respect to submissions regarding identification and jurisdiction, these are elements of the alleged offences, and their proof will, I presume, be offered by the Crown in the course of trial. No pre-trial application is needed; accordingly, leave to file pre-trial materials is not granted.

[4] With respect to the issue regarding title to lands, proof on this point is not required of the Crown, and no admissible defence rests on it. Evidence on this argument will not be admissible at trial. Leave to file documentation on this proposed argument is not granted.

[5] As this trial is scheduled to start tomorrow, and as Mr. Martin is self-represented, I believe it useful to cover certain fundamentals regarding evidence and arguments which this Court will be able to receive in reaching a verdict.

[6] This Court sits within the territorial boundaries of Nova Scotia. Nova Scotia is a province of Canada. Canada is a federation with a constitution. That basic law established the Government of Canada, and reconstituted the

Government of Nova Scotia. The Governments of Canada and Nova Scotia have executive, legislative and judicial branches. Over the years, those various branches of government have done certain things, including:

- the valid enactment of the *Income Tax Act (Canada)*;
- the valid enactment of the *Excise Tax Act (Canada)*;
- the creation of this Court and making me a judge of it with the authority—indeed, the mandatory jurisdiction—to try certain cases, including the one involving Mr. Martin;
- conferred upon the Federal Prosecution Service and its lawyers the authority to prosecute the charges against Mr. Martin that are now before the Court.

[7] The Constitution and other laws recognize that persons charged with offences enjoy an array of civil rights which they may exercise in making full answer and defence in a public prosecution. However, those rights do not extend to challenging the things that I have listed above, or to making the sorts of

arguments that Mr. Martin has sought to advance thus far in his submissions to the Court. Furthermore, this Court, not being a section 96 court, does not have the jurisdiction to make declarations of statute invalidity.

[8] Mr. Martin remains entitled to being represented at his trial by counsel.

But that is something the Court cannot compel him to do, as advisable as it might be.

ORDER ACCORDINGLY

J.P.C.