

IN THE PROVINCIAL COURT OF NOVA SCOTIA

[cite: R. v. Rideout 2003NSPC038]

BETWEEN:

Her Majesty the Queen

v.

Ricky Kenneth Rideout

2003

Sydney, Nova Scotia

Judge A. Peter Ross

LIBRARY SHEET

HEARD BEFORE: The Honorable Judge A. Peter Ross

PLACE HEARD: Sydney, N.S.

DATE OF DECISION: July 9, 2003

SUBJECT: Fisheries - Sentence - Application of forfeiture provisions to illegal catch - s. 72 Fisheries Act of Canada

COUNSEL: Matthew Ryan, Crown
William Burchell, Defence

SUMMARY: The Defendant was convicted of contravening a condition of his license by fishing in an area not specified in the document. The catch, valued at \$35,362.25, was seized. At issue was whether the mandatory forfeiture provision in s. 72 of the Fisheries Act applied. This involved interpretation of the words "offence...that relate to fish seized" in the context of the statute, in light of case authority, and in the factual circumstances of the case. The Court also considered whether it ought to exercise the discretionary power of forfeiture found in the same section.

RESULT:

The mandatory forfeiture did not apply to the particular offence. It was not enough that the fish were caught while an offence was being committed. Neither was the discretionary power exercised, given the apparently honest belief of the Defendant that his actions were legal, the absence of any flagrancy, and the costs incurred by the Defendant during the course of the investigation. Sentence was therefore limited to a monetary penalty, set at \$4000.00.

This information does not form part of the court's decision. Quotes must be from decision not the cover sheet.