

**CASE NO.**

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*[cite: R. v. Russell, 2002 NSPC 018]*

Her Majesty the Queen

Eric Barnett Russell

2002 1123167/1123168

Baddeck, Nova Scotia

Judge A. Peter Ross

<b>LIBRARY HEADING</b>
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**DATE HEARD:** April 19, 2002

**DECISION:** May 16, 2002

**SUBJECT:** Charter - search and seizure - s. 8 - Moose Hunting Regulations

**SUMMARY:** Conservation Officers received a complaint about a gunshot near the defendant's residence. They attended upon his premises some 7 ½ hours afterwards to investigate the matter. While speaking to the Defendant they noticed a moose carcass in his garage. However they left the premises, believing that the moose had been lawfully taken, and continued their investigation of the gunshot. The next day the Defendant called the Department of Natural Resources to apply for a storage permit. Officials then became aware of a possible violation of the Moose Hunting Regulations and the same officers were dispatched to take a statement. The statement, and the prior events and observations were set out in an Information to Obtain a search warrant under which the moose carcass was subsequently seized.

**ISSUE:**

- (1) Did the initial approach by the Conservation Officers constitute an unreasonable warrantless search?
- (2) If so, and these grounds are excised from the Information to Obtain, was there sufficient basis upon which the Justice of the Peace could issue the warrant?
- (3) Has there been an unreasonable search in breach of the defendant's s. 8 Charter right such that the evidence obtained ought to be excluded pursuant to s. 24(2)?

**RESULT:**

The initial actions of the Officers did not constitute a "search". Even if it could be characterized as such, it was not unlawful nor unreasonable. The Information to Obtain contained sufficient grounds to justify issuance of the warrant. There is no breach of a Charter right in these circumstances, and thus no entitlement to a remedy under s. 24(2)

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet.**