

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Leggette*, 2015 NSSC 152

Date: 20150415

Docket: CRH No. 430128

Registry: Halifax

Between:

Her Majesty the Queen

v.

Blake William David Leggette and
Victoria Lea Henneberry

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- Judge:** The Honourable Justice Joshua M. Arnold
- Heard:** January 19, 20 & 21; February 12 & 25, 2015, Halifax, Nova Scotia
- Written Decision:** May 21, 2015
- Subject:** Severance of co-accused
- Summary:** Co-accused charged with murder. There was significant evidence incriminating both accused. As part of a book, one accused (Leggette) wrote a confession to the murder, described his own involvement as well as that of his co-accused's (Henneberry), described a plan to blame Henneberry and made disparaging remarks about Henneberry. Once Leggette's writings were admitted into evidence following a pre-trial *voir dire* Henneberry applied for severance. Leggette's writings would only be admissible against Leggette. Henneberry had given a statement to the police blaming Leggette. Henneberry's statement would only be admissible against Henneberry. At trial a classic cut-throat defence situation was likely

to arise where each co-accused would try to blame the other

Issues: Should severance be granted in accordance with s. 592(3) of the *Criminal Code*?

Result: Motion for severance denied. A clear and careful mid trial and final instruction to the jury regarding their inability to use Leggette's writings in determining the guilt or innocence of Henneberry would be sufficient to preserve procedural fairness. There is no risk of a miscarriage of justice if Leggette and Henneberry are tried together in these circumstances.

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