

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: *R. v. Creelman*, 2005 NSSC 353

Date: 20051228
Docket: CR 223675
Registry: Halifax

Between:

Her Majesty the Queen
v.

Paul Kenneth Creelman

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Judge: The Honourable Justice Walter R.E. Goodfellow

Heard: November 22, 23, 24, 30, December 1, 2005,
in Halifax, Nova Scotia

Subject: *Warrant Criminal Code - Charter*

Summary: Motion to strike warrant and exclude evidence obtained by warrant. Series of warrants - main one authorized police to intercept luggage of Mr. Creelman and anyone travelling with him on arrival at Halifax International Airport. Affidavit and information in support of issuing warrant failed to indicate previous unsuccessful warrant approximately three months earlier and information in some respects not entirely clear. Report following warrant mandated by *Criminal Code* filed late. Warrant resulted in seizure of approximately 65 pounds of marihuana in Mr. Creelman's luggage and subsequent search of residence seized \$9,000 cash, scales, etc.

Issues: (1) Did the failure to advise issuing authority of previous unsuccessful warrant along with other alleged deficiencies and extreme lateness in filing report individually or collectively establish the onus on Creelman to show on a balance of probabilities that the issuing authority could not conclude reasonable and probable grounds existed to justify the issue of the warrants?

(2) Was Mr. Creelman's Charter Right to contact counsel denied?

(3) Would the admission of the evidence constitute action that would bring the administration of justice into disrepute?

Result: Ample before the issuing authority to meet the test that he could, even with the deficiencies noted determine reasonable and probable grounds existed.

Mr. Creelman had, and exercised two opportunities, to call and speak to legal counsel

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and denial of third opportunity did not constitute a breach of his Charter Right to retain counsel.

Concluded that the admission of the evidence would not bring the administration of justice into disrepute and, if fact, its exclusion would, in the opinion of the court, bring the administration of justice in disrepute.

Mr. Creelman's application is dismissed. The trial will recommence January 9, 2006 at 9:30 a.m.

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