

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Calder*, 2010 NSSC 146

Date: 20100414

Docket: CRH 316393

Registry: Halifax

Between:

Her Majesty the Queen

v.

Anne Calder

LIBRARY HEADING

- Judge:** The Honourable Justice Peter Bryson
- Heard:** April 13, 2010, in Halifax, Nova Scotia (**Charter Application**)
- Subject:** Civil Rights. Canadian *Charter of Rights and Freedoms*, s. 7 and 24(1). Right to make full answer and defence. Exclusion of evidence. Mistrial.
- Summary:** Crown made late disclosure of important evidence two days into trial. Late disclosure was inadvertent. Accused claimed her right to make “full answer and defence” was compromised, denying her right to fundamental justice under s. 7 of *Charter*. Accused applied for exclusion of evidence or mistrial under s. 24(1) of *Charter*.
- Issue:** Should evidence be excluded or mistrial ordered?
- Result:** Mistrial ordered. Owing to pre-trial steps taken by accused, including not re-electing trial by judge alone until Crown disclosure was thought to be complete, accused had been prejudiced. Not appropriate to exclude highly relevant evidence. This would frustrate truth-seeking function of court

when Crown non-disclosure was inadvertent. Mistrial would allow accused to return to “pre-prejudice’ position, while preserving the interest of Crown and public in having all relevant evidence presented at trial.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***