

**IN THE SUPREME COURT OF NOVA SCOTIA**

Citation: R. v. Farler - 2007 NSSC 380

Date: 20071129  
Docket: CR. No. 272602  
Registry: Halifax

**Between:**

**Her Majesty the Queen**

**-and-**

**Timothy Charles Farler**

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**Judge:** The Honourable Justice Robert W. Wright

**Heard:** November 26, 2007 in Halifax, Nova Scotia

**Oral**

**Decision:** November 29, 2007

**Written**

**Decision:** January 21, 2008

**Subject:** Section 11(b) of **Charter of Rights and Freedoms** - application for stay of proceedings.

**Summary:** In April of 2002, the accused was charged with various sexual offences, most of which he was convicted of in his jury trial held in December, 2003. The accused successfully appealed his conviction in April, 2006 when the Court of Appeal ordered a new trial. The Court of Appeal also at that time dismissed the accused's s. 11(b) application which he made before that court in the first instance.

It was October, 2006 before the Crown started the retrial process with a new indictment and a Crownside summons. When the matter ultimately came before the Crownside judge, the next available dates for a four week jury trial were in January of 2008, another 13 months later. In November, 2007 the accused brought another s. 11(b) application before the new trial judge, again seeking a stay of proceedings.

**Issue:** Was the accused's s. 11(b) Charter right to be tried within a reasonable

time violated and if so, should a stay of proceedings be granted?

**Result:** In deciding whether proceedings against an accused person should be stayed, the task of the judge is to balance the societal interest in seeing that persons charged with an offence are brought to trial against the accused's interests in prompt adjudication.

Although the delay here of an additional 20 months from the time a new trial was ordered until it was to be held was inordinate, largely attributable to the actions of the Crown and institutional delay, and the accused had shown some degree of prejudice to his security and liberty interests, the accused was unable to demonstrate any prejudice to his right to a fair trial. Where the accused suffers comparatively little prejudice, the important interest of bringing those charged with criminal offences to trial (especially serious offences) outweighs the interest of the accused and society in obtaining a stay of proceedings on account of delay. The application was therefore dismissed.

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DECISION. QUOTES MUST BE FROM THE DECISION, NOT THE COVER  
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