

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Canadian Broadcasting Corporation v. Nova Scotia (Attorney General)  
2010 NSSC 295

**Date:** 20100727

**Docket:** Hfx No. 319522

**Registry:** Halifax

Between:

Canadian Broadcasting Corporation

Applicant

and

The Attorney General of Nova Scotia representing Her Majesty  
the Queen in right of the Province of Nova Scotia

Respondent

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**Judge:** The Honourable Justice Gerald R. P. Moir

**Heard:** June 24, 2010

**Subject:** Constitutional Law; Courts, Judicial Independence;  
Judicial Review; Decision Maker as Party.

**Summary:** The CBC is applying for "an order directing the provincial court to index its records of search warrants" so that the broadcaster can have access to those records. It named only the provincial Attorney General as a respondent. The Attorney General says the application is fatally flawed because the executive branch cannot tell the judiciary what to do.

**Issues:** (1) Whether the Provincial Court of Nova Scotia could have status in this proceeding independent of the Attorney General? (2) Does the principle of judicial independence preclude proceeding against the Attorney General rather than the Provincial Court? (3) Was there a decision that is reviewable under Rule 7 - Judicial Review and Appeal?

**Result:**

(1) The *Rules* allow for the Provincial Court, or the Chief Judge as representative of all the judges, to be named as a party. (2) The institutional dimension of judicial independence requires that the judiciary controls access to court records. The Provincial Court or Chief Judge has to be a party, but this can be done without dismissing this proceeding. (3) The decision not to index the search warrant records is reviewable under the *Charter*.

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