

SUPREME COURT OF NOVA SCOTIA

Citation: *Nova Scotia (Public Prosecution Service) v. Howe*, 2016 NSSC 207

Date: 2016-08-09

Docket: *Halifax* No. 453774

Registry: Halifax

Between:

Nova Scotia Public Prosecution Service

Applicant

v.

Lyle Howe, the Nova Scotia Barristers' Society, and a Hearing Panel appointed pursuant to the *Legal Profession Act*, SNS 2004, c. 28, as amended SNS 2010, c.

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Respondents

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Restriction on Publication: See Order of July 29, 2016

Judge: The Honourable Justice James L. Chipman

Heard: July 28 and 29, 2016, in Halifax, Nova Scotia

Written Decision: August 9, 2016

Subject: Subpoenas
Interlocutory decision of a Hearing Panel
Prematurity/"ripeness"

Summary: The Nova Scotia Public Prosecution Service made an application in Special Chambers to quash seven Crown Attorney subpoenas authorized for issuance by the Hearing Panel in *The Nova Scotia Barristers' Society v. Lyle Howe*. The parties to the proceeding, Lyle Howe and the Nova Scotia Barristers Society, opposed the application. In particular, Mr. Howe argued the Hearing Panel was in lawful exercise of its authority when it authorized the subpoenas to be issued. The

Nova Scotia Barristers' Society, in addition to arguing that absent exceptional circumstances the Court should refrain from intervening in an interlocutory decision of the Hearing Panel, took the position that (argued by way of a preliminary motion) that the application was premature.

Issue: Was the PPS's application premature?

Result: The Court determined that the PPS's concerns have yet to manifest themselves and it remains to be seen if they will. The matter for which the PPS seeks judicial intervention is not ripe and the Court therefore declined their request for judicial intervention.

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