

**SUPREME COURT OF NOVA SCOTIA**

Citation: R. v. Reddick, 2011 NSSC 235

Date: 20110616  
Docket: CR. No. 341059  
Registry: Halifax

**Between:**

**Alexander John Reddick**

**-and-**

**Her Majesty the Queen**

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**LIBRARY HEADING**

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

**Heard:** May 26, 2011 at Halifax, Nova Scotia

**Written**

**Decision:** June 16, 2011

**Subject:** Voir dire - Lawfulness of arrest (s.495(1)(a)) - reasonableness of search and seizure (s.8 of the Charter).

**Summary:** While under police surveillance, the accused was observed engaging in a hand to hand transfer of some small object late at night in a well-known drug neighbourhood which was suspected to be a street level drug transaction. About five to ten minutes later, the transferee was arrested by other police officers, the search of whom yielded two pieces of crack cocaine wrapped in tinfoil. When this information was radioed to the police officers conducting the surveillance, they formed the belief that they then had the requisite reasonable grounds to arrest the accused for trafficking in cocaine.

After carrying out the arrest of the accused, the police searched him whereby they seized the sum of \$20 in cash and a cell phone. One of the arresting officers also attributed to the accused a verbal utterance of an inculpatory nature of having engaged in a drug transaction.

Defence counsel ultimately brought a Charter motion alleging that the accused's arrest was unlawful which in turn resulted in an unlawful search and seizure.

**Issues:**

(A) Was the arrest unlawful?

(B) If the arrest was unlawful and his s.8 Charter right thereby violated, should the two items seized from him on arrest, and the verbal utterance attributed to him by police, be excluded from evidence under a s.24(2) analysis?

**Held:** When considering all the surrounding circumstances, there were reasonable grounds for effecting the arrest of the accused (the subjective belief of the police officers being justifiable from an objective standpoint). Since the arrest of the accused was lawfully made, it follows that the search of his person incidental to that arrest was a lawful search. Accordingly, the two items seized were ruled to be admissible in evidence at trial.

No Charter breach was alleged with respect to the utterance of inculpability attributed to the accused. Rather, the position of the defence was that such an utterance was never made (as the accused testified on his voir dire). Because the arrest was lawfully made (and no Charter violation was alleged) the evidence of the police officer was also ruled to be admissible at trial and it would then be left to the jury to decide whether or not such an inculpatory utterance had actually been made.

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