

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Buckley*, 2018 NSSC 1

Date: 2018 01 19

Docket: CRBW No. 461375

Registry: Bridgewater

Between:

Her Majesty the Queen

v.

John Buckley

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Judge: The Honourable Justice Joshua M. Arnold

Heard: October 16, 30, 31, 2017; November 1, 2, 3, 6, 8, 9, 10, 2017; January 2, 2018, in Bridgewater, Nova Scotia

Written Decision: February 14, 2018

Subject: Criminal Law, Mr. Big, Confession, *Hart* analysis, Disclosure

Summary: John Buckley was originally charged with the second-degree murder of his mother on March 13, 2012. He received Crown disclosure. The Crown withdrew that charge on December 18, 2012.

In 2015-2016, the police conducted a Mr. Big operation during which Mr. Buckley confessed to the murder of his mother.

Mr. Buckley was arrested on April 8, 2016. During his police interview in April 2016, the police played an excerpt of the Mr. Big confession for Mr. Buckley and he later confessed to the murder of his mother. He was subsequently charged with first-degree murder.

This decision deals with the admissibility of the Mr. Big confession. On this application, Mr. Buckley relied solely on the first prong of *Hart*, whereby the Mr. Big confession is considered presumptively inadmissible and the onus is on the Crown to prove on a balance of probabilities that the probative value of the Mr. Big confession outweighs the prejudicial effect. It was not necessary in this case to consider the second prong of *Hart*, involving abuse of process.

Issues: Is the Mr. Big confession admissible?

Result: The Mr. Big confession is inadmissible as the probative value does not outweigh the prejudicial effect.

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