

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Buckley*, 2018 NSSC 3

Date: 2018 01 17

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: January 9, 2018, in Bridgewater, Nova Scotia

Written Decision: February 14, 2018

Subject: Criminal Law, Section 11(b) and 24(1) of the *Charter*, Delay, Gap period

Summary: John Buckley was originally charged with the second-degree murder of his mother on March 13, 2012. 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 and provided a cautioned statement on April 8, 2016. On that same day, he was charged with the first-degree murder of his mother.

This decision deals with a s. 11(b) *Charter* application made by the defence. Defence counsel says that the time for

calculating the delay in this case runs from the laying of the initial second-degree murder charge on March 13, 2012, includes the gap period between the charge being withdrawn on December 18, 2012 and the first-degree murder charge being laid on April 8, 2016, through to the scheduled completion of the trial on February 23, 2018.

Issues:

- (1) Can the gap period between the withdrawal of the second-degree murder charge and the laying of the first-degree murder charge be used in calculating delay?
- (2) How much delay is attributable to the defence?

Result:

The gap period between the withdrawal of the second-degree murder charge and the laying of the first-degree murder charge cannot be used in calculating the overall delay that occurred in this case.

Once defence delay is subtracted from the total delay, this case is in compliance with the 30-month guideline established by the Supreme Court of Canada in *R. v. Jordan*.

Mr. Buckley's s. 11(b) *Charter* right has not been violated. His application for a s. 24(1) *Charter* stay of proceedings due to delay is dismissed.

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