

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. Awad , 2014 NSSC 44

**Date:** 20140121

**Docket:** SYDJC: SN419992-SN419995; SN419988-SN419998

**Registry:** Sydney

**Between:**

Her Majesty the Queen

Plaintiff

v.

Karim Mossam Mohamed Awad et al

Defendant

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**Judge:** The Honourable Justice Frank Edwards

**Heard:** January 21, 2014 in Sydney, Nova Scotia

**Written Decision:** February 3, 2014

**Subject:** **Criminal Law** - quashing and amending defective Informations - Crown Appeal to require Trial Judge to allow Informations to be re-sworn and to hear the cases on their merits.

**Facts:** The Trial Judge found 11 Informations, sworn without reasonable and probable grounds, to be nullities and quashed them.

**Issue:**

1. Were the Informations nullities?
2. Were the Informations amendable?

**Result:** Appeal allowed. Trial Judge directed to allow Informations to be re-sworn and to hear the cases on their merits. The Informations were not nullities, they gave fair notice to each accused of the offence charged.

As such, absent a finding of injustice or irreparable prejudice to the Accused, (and there was no basis for such a finding here), the Trial Judge was obliged to allow the Informations to be amended.

2. The only possible curative amendment was to have the Informations re-sworn. This was possible even though the 6 month limitation period had expired. (The Crown had proceeded summarily in each instance). Re-swearing the Informations would not constitute a new proceeding but rather the continuation of the proceeding under the original Information as amended,

**Cases Noted: R. v. Moore** [1988] 1 SCR 1097 (S.C.C.); **R. v. Kamperman** [1981] N.S.J. 494 (N.S.S.C.); **R v. Peavoy** (1974) 15 CCC(2d) 97 (Ont H.C.J.); **Wilmot v. Ulnooweg Development Group Inc.**, (2007) N.S.C.A. 49; **Canadian Industries Ltd.** (1982), 69 C.C.C. (2d) 553 (N.B.C.A.); **R v. Whitmore** (1987), 41 C.C.C. (3d) 555 (Ont. H.C.J.) aff'd 51 C.C.C. (3d) 294 (Ont. C.A.).

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