

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. MacDonald*, 2014 NSSC 218

Date: 20140625

Docket: Halifax No. 416973 and
417017

Registry: Halifax

Between:

Her Majesty the Queen

v.

Michael Victor MacDonald

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Judge: The Honourable Justice Joshua M. Arnold

Heard: January 29, 2014 and February 28, 2014
in Halifax, Nova Scotia

**Written
Decision:** June 25, 2014

Subject: Unreasonable search and seizure; exclusion of evidence

Summary: Based on an Information to Obtain (“ITO”) sworn to by the police a search warrant was issued for a private dwelling. The search resulted in the seizure of drugs and money.

Issues: Was the ITO sufficient to support the issuing authority having granted/issued the search warrant? Was the search conducted in violation of s.8 of the *Charter*? Should the evidence be excluded in accordance with s.24(2) of the *Charter*?

Result: The ITO was carelessly and negligently drafted by the police. Certain paragraphs of the ITO were excised. Following

amplification the ITO was found to be insufficient to support the issuing authority having granted the search warrant. The search warrant was not valid and the search was therefore unconstitutional and in violation of s.8 of the *Charter*. Following a *Grant* -type analysis, the evidence was excluded in accordance with s.24(2) of the *Charter*.

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