

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Chisholm*, 2014 NSSC 345

Date: 20140612

Docket: CRAT No. 422077

Registry: Antigonish

Between:

Grace Chisholm

Appellant

v.

Her Majesty the Queen

Defendant

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Judge: The Honourable Justice Patrick J. Murray

Heard: May 12, 2014, in Antigonish, Nova Scotia.

Oral Decision: June 12, 2014

Subject: Summary Conviction Appeal. Section 24(2) of Charter:
Blood Samples.

Summary: Blood samples taken pursuant to warrant. Warrant found to be defective. Samples admitted into evidence on *voir dire*.

Issues: Did trial judge err in admitting evidence that was obtained by a search warrant that was struck?

Result: Appeal dismissed. Trial Judge did not err when he admitted the blood samples of the accused. His conclusions were reasonably supported by the evidence and there was no palpable and overriding error on the facts.

Cases cited: **Criminal Code of Canada**, R.S.C., 1985, c. C-46; **Housen v. Nikolaisen**, 2002 SCC 33; **R. v. L(RH)**, 2008 NSCA 100

(NSCA); **R. v. Nickerson**, 1999 WSJ No. 210; **R. v. MacEachern**, 2007 NSCA 69 (NSCA); **R. v. West**, 2012 NSCA 112; **R. v. Harrison**, 2009 SCR 494; **R. v. Grant**, [2009] 2 SCR 353; **R. v. Timmons**, 2011 NSCA 39; **R. v. Silk**, 1989 O.J. 671; **R. v. Dymment**, 2 R.C.S. No. 417; **R. v. Dersch**, [1993] 3 S.C.R. No. 768; **R. v. Dignum**, [2012] O.J. No. 5074; **R. v. Haut**, [2010] A.J. No. 113; **R. v. Waters**, [2010] A.J. No. 1120; **R. v. Wiebe**, [2011] S.J. No. 282; **R. v. Hillgardener**, [2010] A.J. No. 257; **R. v. Taylor**, [2013] A.J. No. 1079; **R. v. Brick**, 19 M.V.R., (2d) 158; **R. v. Erickson**, 72 C.C.C. (3d) 75;

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