

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Howe*, 2018 NSSC 156

Date: 2018-06-22

Docket: CRH No. 441632

Registry: Halifax

Between:

Her Majesty the Queen

v.

Duayne Jamie Howe, Patrick Michael James, and
David John Pearce

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- Judge:** The Honourable Justice Peter P. Rosinski
- Heard:** April 4; May 19; May 24; May 25; May 27; May 30; June 1; November 21 – 25; November 28 – 29; December 2, 5, 7 8, 2016; July 10 – 14; July 31 – August 4; December 4 – 7, 2017; May 7, 2018, in Halifax Nova Scotia
- Written Decision:** July 18, 2018
- Subject:** Section 467.1 Criminal Code - “criminal organization”; including Sections 264(2) harassment, 264.1, threats to cause serious bodily harm, 346 extortion, and 423 intimidation.
- Summary:** RM was a motorcycle enthusiast who wished to have his own motorcycle club. He believed the best course of action was to seek the approval of the perceived “dominant” 1% Bacchus Motorcycle Club (BMC). His contacts were with Mr. James, Sgt-At-Arms for the only BMC chapter in Nova Scotia. Over months in 2012, Mr. James criminally dissuaded him from starting his own three-piece patch motorcycle club and from

bringing an existing (not - 1% MC) three-piece patch Brotherhood MC chapter to Nova Scotia.

RM persisted in spite of Mr. James's statements. He then received official approval from the Brotherhood MC for his club's members to wear on the back of their vests/jackets one-piece Brotherhood MC patches.

Mr. James demanded that RM: destroy all the vests/jackets and produce the destroyed remains thereof to him; and ensure that the Brotherhood MC Post on their Facebook page that no chapter of theirs was coming to Nova Scotia. RM and the Brotherhood MC complied within a day.

Two weeks later, when RM drove his motorcycle to a local Bikers Down event, he was threatened, harassed, extorted and intimidated by Messrs. Howe and Pearce, who were present and wearing their BMC regalia. They demanded that he never again ride a motorcycle or attend any motorcycle events in Nova Scotia.

As a result, RM and his wife sold their motorcycles, and did not (to the date of trial) ride a motorcycle again.

Within a day, RM contacted the police. Search warrants were executed at the Nine Mile River, Hants County, Nova Scotia BMC clubhouse, and residences of Messrs. Howe, James and Pearce.

Charges were laid against them individually pursuant to ss. 264(2), 264.1, 346, and 423 of the *Criminal Code*.

Charges were also laid pursuant to s. 467.12 *Criminal Code* alleging that these offences had been committed "for the benefit of, in association with, and at the direction of" a criminal organization, the Bacchus Motorcycle Club.

Issues:

(1) Is the Bacchus Motorcycle Club a "criminal

organization”? [It was in 2012]

(2) Has the Crown proved beyond a reasonable doubt that Mr. James is guilty of the predicate offences pursuant to ss. 264(2), 264.1, 346 and 423? [Yes, on all counts]

(3) Has the Crown proved beyond a reasonable doubt that on September 14, 2012, Messrs. Howe and Pearce committed the predicate offences pursuant to ss. 264(2), 264.1, 346, and 423? [Yes, on all counts]

(4) Has the Crown proved beyond a reasonable doubt that Messrs. James, Howe and Pearce committed those offences “in association with, for the benefit of, or at the direction of” the BMC, a criminal organization? [Yes, on all counts]

(5) Significant discussion of the law regarding expert evidence in the context of examining whether the BMC is a “criminal organization”, including the extent to which an expert can rely on second-hand information, and present such evidence for the truth of its contents.

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