

CASE NO.

VOL. NO.

CANADA
PROVINCE OF NOVA SCOTIA

IN THE SUPREME COURT OF NOVA SCOTIA

HER MAJESTY THE QUEEN

- against -

FREDERICK WILLIAM LOGAN BLACK

Justice John D. Murphy

Halifax, Nova Scotia

Cr. No. 145665

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[Cite as R. v. Black, 2002 NSSC 26]

HEARD: in Halifax, Nova Scotia, on December 4, 2001

DECISION: December 4, 2001, Orally.

SUBJECT: Criminal Law - Charter Motion, Application to quash subpoena

SUMMARY: Accused, charged with fraud contrary to s. 380(1)(a) of Criminal Code, brought motions to stay charges on basis that his rights under *Canadian Charter of Rights and Freedoms* were violated during investigations by RCMP and/or Office of Superintendent of Bankruptcy ("OSB"). Accused subpoenaed former Superintendent of Bankruptcy, who applied to quash subpoena.

ISSUE: Whether accused met burden of establishing on balance of probabilities that person subpoenaed likely to give material, relevant evidence.

RESULT: Subpoena was quashed.

Other personnel from OSB had testified concerning any relevant

activities at that Office, and had been examined concerning documents generated there. The involvement of OSB in all matters relevant to the issues arising from the Charter motions can be assessed without the attendance of the former Superintendent. Accused did not establish that the former Superintendent is likely to be able to provide material or relevant evidence with respect to issues raised by the motions.

If a proportionality test were applied, the difficulties related to bringing the witness, who had not been associated with OSB for several years, who would have to review documents already thoroughly canvassed by other witnesses, and who would have to travel from Ottawa to Halifax, substantially outweigh any very marginal benefit which might result from his testifying.

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