

CANADA / JUDGMENT

Neal v. A.G. (Sask.)

[1977] 2 SCR 624**COURT**

Supreme Court of Canada

DECIDED

10 May 1977

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Neal v. A.G. (Sask.) Collection Supreme Court Judgments Date 1977-05-10 Report

[1977] 2 SCR 624 Judges Laskin, Bora; Martland, Ronald; Judson, Wilfred; Ritchie, Roland Almon; Spence, Wishart Flett; Pigeon, Louis-Philippe; Dickson, Robert George Brian; Beetz, Jean; de Grandpré, Louis-Philippe On appeal from Saskatchewan Subjects Action Decision Content Supreme Court of Canada Neal v. A.G. (Sask.), [1977] 2 S.C.R. 624 Date: 1977-05-10 Lyle Neal Appellant; and The Attorney General of Saskatchewan and His Honour P.J. Dielschneider Respondents. 1977: May 10. Present: Laskin C.J. and Martland, Judson, Ritchie, Spence, Pigeon, Dickson, Beetz and de Grandpré JJ. ON APPEAL FROM THE COURT OF APPEAL FOR SASKATCHEWAN Practice—Accused acquitted on summary conviction charge—Failure of Crown to pursue appeal by way of trial de novo within prescribed period—Ex parte order for extension of time—District Court judge deprived of jurisdiction to make extension order. APPEAL from a judgment of the Court of Appeal for Saskatchewan denying an application to quash an ex parte order for extension of time granted by Dielschneider D.C.J. Appeal allowed. M.C. Shumiatcher, Q.C., and E.J. Neufeld, for the appellant. S. Kujawa, Q.C., for the respondents. The judgment of the Court was delivered orally by THE CHIEF JUSTICE—We are all of the opinion that this appeal should be allowed and the order for extension of time obtained ex parte by the Crown set aside. In this case, the accused was acquitted on a summary conviction charge and the Crown failed to pursue its appeal by way of trial de novo within the prescribed thirty-day period. It moved thereafter ex parte, for an extension of time, which was granted. In our view, the accused should have been given notice of the application for extension, and the failure to do this deprived the District Court judge of jurisdiction to make the extension order. The appeal is accordingly allowed with costs but with one counsel fee only. Judgment accordingly. Solicitors for the appellant: Shumiatcher, Findlay & Neufeld, Regina. Solicitor for the respondents: H.M. Ketcheson, Regina.

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