

CANADA / JUDGMENT

R. v. Diamond

2016 SCC 46

COURT

Supreme Court of Canada

DECIDED

3 November 2016

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R. v. Diamond Collection Supreme Court Judgments Date 2016-11-03 Neutral citation 2016 SCC 46 Report

[2016] 2 SCR 291 Case number 36816 Judges Karakatsanis, Andromache; Wagner, Richard; Gascon, Clément; Côté, Suzanne; Brown, Russell On appeal from Newfoundland and Labrador Notes SCC Case Information: 36816 Decision Content SUPREME COURT OF CANADA Citation: R. v. Diamond, 2016 SCC 46, [2016] 2 S.C.R. 291 Appeal heard: October 12, 2016 Judgment rendered: November 3, 2016 Docket: 36816 Between: Scott Diamond Appellant and Her Majesty The Queen in Right of Newfoundland and Labrador and Her Majesty The Queen in Right of Canada Respondents Coram: Karakatsanis, Wagner, Gascon, Côté and Brown JJ. Reasons for Judgment: (paras. 1 to 2) Karakatsanis J. (Wagner and Brown JJ. concurring; Gascon and Côté JJ. dissenting) R. v. Diamond, 2016 SCC 46, [2016] 2 S.C.R. 291 Scott Diamond Appellant v. Her Majesty The Queen in Right of Newfoundland and Labrador and Her Majesty The Queen in Right of Canada Respondents Indexed as: R. v. Diamond 2016 SCC 46 File No.: 36816. 2016: October 12; 2016: November 3. Present: Karakatsanis, Wagner, Gascon, Côté and Brown JJ. on appeal from the court of appeal for newfoundland and labrador Constitutional law — Charter of Rights — Search and seizure — Arbitrary detention — Remedy — Exclusion of evidence — Police officer noticing knife in accused's truck when conducting visual inspection during traffic stop — Accused arrested for possession of weapon dangerous to public peace and search incidental to arrest revealing cocaine — Majority of Court of Appeal finding that visual inspection by officer did not constitute search, that seizure of knife justified since in plain view and easily accessible to accused, that officer had reasonable and probable grounds to arrest accused and that seizure of cocaine justifiable incidental to arrest — Accused's convictions upheld. APPEAL from a judgment of the Newfoundland and Labrador Court of Appeal (Welsh, Harrington and White JJ.A.), 2015 NLCA 60, 371 Nfld. & P.E.I.R. 200, 1156 A.P.R. 200, 333 C.C.C. (3d) 61, 25 C.R. (7th) 292, 347 C.R.R. (2d) 43, [2015] N.J. No. 443 (QL), 2015 CarswellNfld 518 (WL Can.), affirming the accused's convictions for unlawful possession of a weapon dangerous to the public peace and for possession of cocaine for the purpose of trafficking entered by Hyslop J. Appeal dismissed, Gascon and Côté JJ. dissenting. Jason Edwards, for the appellant. Lloyd M. Strickland, for the respondent Her

Majesty The Queen in Right of Newfoundland and Labrador. Paul Adams and Robin Fowler, for the respondent Her Majesty The Queen in Right of Canada. The judgment of the Court was delivered by

- [1] Karakatsanis J. — The majority of the Court is of the view that the appeal should be dismissed, substantially for the reasons of Harrington J.A., 2015 NLCA 60, 371 Nfld. & P.E.I.R. 200, at paras. 22-26. Gascon and Côté JJ., dissenting, would have allowed the appeal, substantially for the reasons of White J.A., at paras. 44-48.
- [2] The appeal is accordingly dismissed. Appeal dismissed, Gascon and Côté JJ. dissenting. Solicitor for the appellant: Newfoundland and Labrador Legal Aid Commission, St. John's. Solicitor for the respondent Her Majesty The Queen in Right of Newfoundland and Labrador: Attorney General of Newfoundland and Labrador, St. John's. Solicitor for the respondent Her Majesty The Queen in Right of Canada: Public Prosecution Service of Canada, Halifax.

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