

CANADA / JUDGMENT

R. v. Kearney

[1992] 3 SCR 807**COURT**

Supreme Court of Canada

DECIDED

1 December 1992

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R. v. Kearney Collection Supreme Court Judgments Date 1992-12-01 Report

[1992] 3 SCR 807 Case number 22916 Judges Lamer, Antonio; La Forest, Gérard V.; L'Heureux-Dubé, Claire; Sopinka, John; Gonthier, Charles Doherty; McLachlin, Beverley; Iacobucci, Frank On appeal from New Brunswick Subjects Constitutional law Notes SCC Case Information: 22916 Decision Content R. v. Kearney, [1992] 3 S.C.R. 807 Her Majesty The Queen Appellant v. William J. Kearney Respondent and The Attorney General of Canada Intervener Indexed as: R. v. Kearney File No.: 22916. 1992: December 1. Present: Lamer C.J. and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, McLachlin and Iacobucci JJ. on appeal from the court of appeal for new brunswick Constitutional law -- Charter of Rights -- Abuse of process -- Accused granted stay of proceedings following his dismissal -- No violation of accused's rights under Canadian Charter of Rights and Freedoms or abuse of process -- Accused ordered to stand trial. Cases Cited Applied: R. v. Vermette, [1988] 1 S.C.R. 985. APPEAL from a judgment of the New Brunswick Court of Appeal (1992), 122 N.B.R. (2d) 282, 306 A.P.R. 282, 70 C.C.C. (3d) 507, 13 C.R. (4th) 41, 40 C.C.E.L. 56, dismissing the Crown's appeal from a stay of proceedings granted by the Court of Queen's Bench (1991), 118 N.B.R. (2d) 432, 296 A.P.R. 432, 40 C.C.E.L. 44. Appeal allowed. Michael F. Brown, for the appellant. C. David Hughes, Q.C., for the respondent. Bruce A. MacFarlane, Q.C., and Nancy L. Irving, for the intervener. //Lamer C.J.// The judgment of the Court was delivered orally by Lamer C.J. -- We are all of the view that this appeal should be allowed and the respondent be sent back to stand trial. R. v. Vermette, [1988] 1 S.C.R. 985, governs the appeal. On the facts of this case, we find that there has been no violation of the respondent's Charter rights nor has there been an abuse of process. The appeal is allowed, the judgments below are set aside and a new trial is ordered. Judgment accordingly. Solicitor for the appellant: The Attorney General for Ontario, Toronto. Solicitors for the respondent: Hughes, Campbell, Fredericton. Solicitor for the intervener: The Deputy Attorney General of Canada, Ottawa.

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Prepared on 28 October 2026 · Esheria