

CANADA / JUDGMENT

R. v. Moore

[1992] 1 SCR 619**COURT**

Supreme Court of Canada

DECIDED

28 February 1992

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R. v. Moore Collection Supreme Court Judgments Date 1992-02-28 Report

[1992] 1 SCR 619 Case number 22169 Judges La Forest, Gérard V.; L'Heureux-Dubé, Claire; Sopinka, John; Gonthier, Charles Doherty; Cory, Peter deCarteret; McLachlin, Beverley; Stevenson, William On appeal from Prince Edward Island Subjects Constitutional law Criminal law Notes SCC Case Information: 22169 Decision Content R. v. Moore, [1992] 1 S.C.R. 619 David Paul Moore Appellant v. Her Majesty The Queen Respondent Indexed as: R. v. Moore File No.: 22169. 1992: February 28. Present: La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin and Stevenson JJ. on appeal from the prince edward island supreme court, appeal division Constitutional law -- Charter of Rights -- Court of competent jurisdiction -- Preliminary inquiry -- Judge presiding at preliminary inquiry having no jurisdiction to decide whether legislation violates Canadian Charter of Rights and Freedoms -- Criminal Code, R.S.C., 1985, c. C-46, s. 279(3) . Criminal law -- Preliminary inquiry -- Jurisdiction -- Judge presiding at preliminary inquiry having no jurisdiction to decide whether legislation violates Canadian Charter of Rights and Freedoms -- Criminal Code, R.S.C., 1985, c. C-46, s. 279(3) . Criminal law -- Committal for trial -- Some evidence upon which accused could be committed for trial on charge of unlawful confinement -- Accused's application to quash committal order properly dismissed -- Criminal Code, R.S.C., 1985, c. C-46, s. 279(3) . Cases Cited Applied: R. v. Seaboyer, [1991] 2 S.C.R. 577. Statutes and Regulations Cited Canadian Charter of Rights and Freedoms . Criminal Code, R.S.C., 1985, c. C-46, s. 279(3) . APPEAL from a judgment of the Prince Edward Island Supreme Court, Appeal Division (1990), 86 Nfld. & P.E.I.R. 115, 268 A.P.R. 115, 60 C.C.C. (3d) 286, dismissing the accused's appeal from a judgment of McQuaid J. (1989), 78 Nfld. & P.E.I.R. 284, 244 A.P.R. 284, 51 C.C.C. (3d) 566, dismissing his application to quash an order that he stand trial on a charge of unlawful confinement. Appeal dismissed. Marc Rosenberg, for the appellant. Darrell E. Coombs, for the respondent. //La Forest J.// The judgment of the Court was delivered orally by La Forest J. -- It will not be necessary to hear from you Mr. Coombs. The Court is ready to hand down judgment. The judgment will be pronounced by Mr. Justice Sopinka. //Sopinka J.// Sopinka J. -- The judge at the preliminary hearing was correct in holding that he did not have jurisdiction to decide whether s. 279(3) violates the Canadian Charter of Rights and Freedoms . In this regard, this case is

governed by this Court's decision in *R. v. Seaboyer*, [1991] 2 S.C.R. 577. Accordingly, it is not necessary for this Court to deal with the constitutional question. Furthermore, we are of the opinion that there was some evidence upon which the appellant could be committed for trial, and the preliminary court judge, therefore, did not exceed his jurisdiction. The appeal is, therefore, dismissed. Judgment accordingly. Solicitors for the appellant: Greenspan, Rosenberg and Buhr, Toronto. Solicitor for the respondent: Darrell E. Coombs, Charlottetown.

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