



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

Citation: *R. v. Lecuyer*, 2017 NLCA 72

Date: December 8, 2017

Docket: 201601H0071

BETWEEN:

HER MAJESTY THE QUEEN

APPELLANT

AND:

ANDRE LECUYER

RESPONDENT

Coram: Harrington, Hoegg and O'Brien JJ.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador
Trial Division (G) 201504G0184
(2016 NLTD(G) 123)

Appeal Heard: December 8, 2017

Decision Rendered (Orally): December 8, 2017

Memorandum of Disposition Filed: December 13, 2017

Counsel for the Appellant: Lisa Stead

Counsel for the Respondent: Derek Hogan

Corrected Decision: The text of the original judgement was corrected on December 18, 2017. A description of the correction is appended.

MEMORANDUM OF DISPOSITION

Hoegg J.A.:

[1] Andrew Lecuyer was charged with unlawful confinement, armed robbery, having his face masked with intent to commit an indictable offence and break and entry. After he was committed to stand trial, he filed a pre-trial application alleging breaches of his *Charter* rights and requesting evidence be consequentially excluded. The trial Judge allowed the application, finding that Mr. Lecuyer's section 8 and 9 *Charter* rights had been breached and excluding evidence under section 24(2).

[2] The Crown appealed on the basis that there was insufficient evidence upon which the trial judge could find the breaches and also that he failed to analyze and decide the issues according to law. Mr. Lecuyer agreed that the appeal should be allowed.

[3] After considering the record and the written and oral submissions of Crown and defence counsel, the panel agreed to allow the appeal on the basis that the trial judge's rulings on the *Charter* breaches are without foundation in fact and law. Accordingly, the trial judge's rulings respecting breaches of Mr. Lecuyer's section 8 and 9 *Charter* rights and his consequential ruling to exclude evidence under section 24(2) are vacated and the matter is remitted to the Supreme Court Trial Division for a new trial.

Correction Notice:

Correction made on December 18, 2017:

1. On the title page the names of counsel were transposed and have been corrected to read:

Counsel for the Appellant: Lisa Stead

Counsel for the Respondent: Derek Hogan

L. R. Hoegg J.A.