



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

Citation: *R. v. Kinsella*, 2020 NLCA 34

Date: October 8, 2020

Docket Number: 201901H0092

BETWEEN:

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA

APPELLANT

AND:

PATRICK KINSELLA

RESPONDENT

Coram: Welsh J.A.

Court Appealed From: Provincial Court of Newfoundland and Labrador,
St. John's

Application Heard: October 8, 2020

Decision Rendered: October 8, 2020 (Orally)

Memorandum of Disposition Filed: October 8, 2020

Counsel for the Appellant: David Schermbrucker

Counsel for the Respondent: Randolph Piercey, Q.C.

MEMORANDUM OF DISPOSITION

Welsh J.A.:

[1] This is an application by Randolph Piercey, Q.C. to withdraw as counsel for Patrick Kinsella in the appeal by the Crown against Mr. Kinsella's acquittal. The application was granted at the hearing.

[2] In July, Mr. Kinsella left a telephone message directing Mr. Piercey not to proceed as his counsel on the appeal. Since that time, Mr. Piercey has been unsuccessful in several attempts to contact Mr. Kinsella by telephone and by mail. Although Mr. Piercey filed the respondent's factum in June, he submitted that it would be unethical for him to proceed with the appeal in light of Mr. Kinsella's message. I agree. In the circumstances, Mr. Piercey's application was not opposed by the Crown.

[3] Accordingly, Mr. Piercey's application to withdraw as counsel was granted. The appeal, which was set to be heard on October 22, 2020, was adjourned to permit the Crown the opportunity to take the steps necessary to proceed with the appeal.

B. G. Welsh J.A.