

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Munkoh, 2012 ONCA 865

DATE: 201201207

DOCKET: C53685

Rosenberg, Cronk and Pepall JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Abraham Munkoh

Appellant

David E. Harris, for the appellant

Thomas C. Lemon, for the respondent

Heard: December 5, 2012

On appeal from the conviction entered on April 21, 2010 by Justice Michael R. Dambrot of the Superior Court of Justice, sitting without a jury.

APPEAL BOOK ENDORSEMENT

[1] We have not been persuaded that the trial judge erred either in his application of the legal principles or his apprehension of the evidence. Fundamentally, this case turned on findings of fact by the trial judge. Those findings are entitled to deference and the appellant has not shown that those findings are unreasonable.

[2] In particular, we are satisfied that it was open to the trial judge to find that the appellant was not detained during the early part of the search of the house in view of *R. v. Suberu*.

[3] On this record, and the facts found by the trial judge, it was not necessary for the police to reiterate the s. 10(b) rights per *R. v. Sinclair*. Contrary to the assertions of the appellant it was also open to the trial judge to find that he did not invoke his s. 10(b) rights at the station and was not questioned by Constable Correa in their initial encounter.

[4] In those circumstances, the challenge to the admissibility of the statements must fail.

[5] Accordingly, the appeal is dismissed.