

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Buoc, 2015 ONCA 341

DATE: 20150513

DOCKET: C59009

Juriansz, Rouleau and Hourigan JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Alam Buoc

Appellant

Diane Condo, for the appellant

David Lepofsky, for the respondent

Heard and released orally: May 7, 2015

On appeal from the conviction entered on February 14, 2014 by Justice Heidi S. Levenson Polowin of the Superior Court of Justice, sitting without a jury.

ENDORSEMENT

[1] The appellant appeals his conviction for several offences including possession of cocaine for the purpose of trafficking and possession of a firearm with ammunition.

[2] While driving he was stopped by a police officer who arrested him for failing to stop and for driving under suspension. After the arrest, the officer

searched his vehicle and found the cocaine and the firearm. The trial judge found the police officer's search of the vehicle infringed the appellant's right under s. 8 of the *Charter*. But after finding the officer had acted in good faith, the trial judge concluded the admission of the evidence uncovered by the search would not bring the administration of justice into disrepute and admitted the seized cocaine and the firearm into evidence.

[3] On appeal, appellant's counsel takes issue with the trial judge's finding that the officer acted in good faith. Counsel's review of the evidence, however, has not persuaded us that the trial judge's finding of good faith was incorrect.

[4] Counsel, while recognizing the trial judge articulated the correct test for whether evidence should be admitted under s. 24(2), goes on to submit the trial judge arrived at the wrong result after applying the s. 24(2) balancing.

[5] We do not accept the submission. Given that the trial judge considered the proper factors, we must accord considerable deference to her ultimate determination. We are not persuaded there is any basis to interfere.

[6] We did not call on the Crown, but we note that in its factum, the Crown takes the position there was no breach of s. 8. In light of our decision, it is not necessary to deal with that argument.

[7] The appeal is dismissed.

"R.G. Juriansz J.A."
"Paul Rouleau J.A."
"C.W. Hourigan J.A."