

EXTRACT FROM *R. v. HARRISON*, 2009 SCC 34, [2009] 2 S.C.R. 494

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Constitutional law — Charter of Rights — Enforcement — Exclusion of evidence — Police officer stopping and searching accused's rental vehicle — Cocaine found and accused charged with trafficking — Trial judge finding breaches of accused's constitutional rights against arbitrary detention and unreasonable search and seizure, but concluding that evidence should not be excluded — Accused convicted — Where admission of evidence bringing administration of justice into disrepute — Revised framework for determining whether evidence obtained in breach of constitutional rights must be excluded — Canadian Charter of Rights and Freedoms, s.24(2).

The accused and his friend were driving a rented sports utility vehicle from Vancouver to Toronto. In Ontario, a police officer on highway patrol noticed that the vehicle had no front licence plate. Only after activating his roof lights to pull it over did he realize that, because it was registered in Alberta, the vehicle did not require a front licence plate. The officer was informed by radio dispatch that the vehicle had been rented at the Vancouver airport. Even though he had no grounds to believe that any offence was being committed, the officer testified at trial that abandoning the detention might have affected the integrity of the police in the eyes of observers. The officer's suspicions seem to have been aroused from the beginning of this encounter. He arrested the accused after discovering that his driver's licence had been suspended. The officer then proceeded to search the vehicle. He found two cardboard boxes containing 35 kg of cocaine. On a *voir dire*, the trial judge held that the initial detention of the accused was premised on a mere hunch or suspicion rather than reasonable grounds and therefore constituted an arbitrary detention.