

Case Brief

Case Name & Citation

R v Stinchcombe, [1991] 3 SCR 326.

Procedural History

This is an appeal by the accused to the Supreme Court of Canada. The trial judge dismissed the accused's application and the accused was convicted of breach of trust and fraud. The Court of Appeal affirmed the convictions.

Facts

The accused, a lawyer, was charged with breach of trust, fraud and theft. The accused's former secretary was a witness for the Crown at the Preliminary Inquiry, where she gave favourable evidence for the defence. After the Preliminary Inquiry, but prior to the trial, the former secretary was interviewed by an RCMP officer and a tape-recorded statement was created. During the trial, the witness was interviewed again by a police officer, and a written statement was taken. Defence counsel was told about the existence of the statements, but not provided with the contents of the statements. Defence counsel's requests for disclosure were refused. Defence counsel learned that the Crown was no longer going to call that witness to the stand during the trial. Defence counsel sought an order that the witness be called at trial or that the Crown disclose the contents of the statements.

Issue(s)

Was the Crown under an obligation to disclose the contents of the statements to the defence?

Decision

Appeal allowed. A new trial was ordered.

Reasons

The Crown has a legal duty to disclose all relevant information to the defence. The Crown cannot use its investigation for securing a conviction. The disclosure is the property of the public

to be used to ensure that justice is done. Discretion must be exercised with respect to the timing and relevance of information. The Crown's discretion is reviewable by the judge, who should be guided by the general principle that information should not be withheld if there is a reasonable possibility that this will impair the right of the accused to make full answer and defence. If there is failure on the part of the Crown to comply with its duty to disclose, Counsel for the accused must bring this to the attention of the trial judge as soon as possible, so that the judge can remedy any prejudice, and avoid a new trial. Initial disclosure should occur before the accused is called upon to elect the mode of trial or plead. Crown counsel was not justified in refusing to provide disclosure here on the ground that the witness was not worthy of credit. Whether the witness is credible is for the trial judge to determine after hearing the evidence.

Ratio

The Crown has a legal duty to disclose all relevant information to the defence. The Crown does have discretion with respect to timing and relevance of information.