



Case Summary – R v MR, 1998 SCC 393¹

Section 8 was the key defence used by a Nova Scotia High School student who was searched by a Vice-Principal. What follows are the events that led to the Supreme Court of Canada decision in 1998. A few students informed Mr. Cadue, the school's vice-principal, that M., the accused student, would be dealing cannabis at the school dance that night. Mr. Cadue called a plain-clothes officer of the RCMP, Constable Siepierski, to the school. The vice-principal called M. into his office and informed him that he was going to be searched. Mr. Cadue conducted the search in the presence of the officer, however, the officer said and did nothing while the search was carried out. He discovered a small plastic bag full of cannabis in M's sock. After confirming that the contents of the bag were indeed cannabis, Constable Siepierski read M. the police caution, informed him of his right to counsel, and advised him that he had the right to contact a parent or guardian. He then advised him that he was under arrest for possession of a narcotic.

The case then went to court where the trial judge, Judge Dyer J.F.C., dismissed the cannabis as evidence. He ruled that the evidence was discovered after an unlawful search and was therefore inadmissible in a court of law. Dyer J.F.C. held that Mr. Cadue was acting as an "agent of the police" and, therefore, was subject to the same laws as a police officer would be. This means that M's charter rights were infringed upon, specifically his section 8 rights, which state that "Everyone has the right to be secure against unreasonable search or seizure." For Dyer, the presence of Constable Siepierski transformed the search from a search conducted to maintain a safe school environment and uphold school rules, to a search conducted for the purpose of arresting M. for possession of narcotics. The presence of the police officer required a stricter adherence to section 8 of the charter.

The case was appealed to the Nova Scotia Court of Appeal where Judge Pugsley overturned the decision of the trial judge. Judge Pugsley held that mere police presence was insufficient to make Mr. Cadue an agent of the police. Furthermore, the appeal judge held that the search conducted by Mr. Cadue was reasonable because Mr. Cadue acted only after receiving information from what he deemed to be credible sources and the search was "conducted in private and was not overtly intrusive."

In 1998 the student M appealed the case to the Supreme Court. The majority of the Supreme Court agreed with the Nova Scotia Court of Appeal. The Court held that Mr. Cadue was not acting as an agent of the police, that he had reasonable grounds to conduct the search and that M. had a reduced expectation of privacy because of the school setting.

R v MR established the following factors that must be met in order for a student search to be reasonable:

¹ Case summary courtesy of Charter in the Classroom: Students, Teachers and Rights (CC: STAR)



1. School administrators must be authorized to conduct searches by the Code of Conduct and the relevant statute that gives school boards and administrators their legal authority (in BC the School Act, in Ontario the Education Act)
2. The search must be carried out in a reasonable manner, meaning performed sensitively and in a way that is minimally intrusive to the student
3. The extent of the search must be justified by the gravity of the infraction/threat/concern