



THE *CHARTER* CHALLENGE

Ontario Justice Education Network

CASE SCENARIO Spring 2016

ROBERTA ALOMAR AND GEORGE BELL

v.

HER MAJESTY THE QUEEN

ONTARIO COURT OF JUSTICE
(TORONTO REGION)

Date: 20160306
Court File No: 2311988-28

BETWEEN:

ROBERTA ALOMAR and GEORGE BELL

Applicants

and

HER MAJESTY THE QUEEN

Respondent

**RULING ON APPLICATION TO EXCLUDE EVIDENCE
PURSUANT TO SECTION 24(2) of the CHARTER**

ANTHOPOLOUS J.

Introduction

1. On October 14, 2015, in response to an anonymous tip, two police officers attended at a parking lot near a high school and observed activity they believed to be consistent with drug trafficking. As a result, they detained the vehicle, and questioned the Applicants concerning the activity prior to the stop. The police seized marijuana and cash and one of them examined the photos on Ms. Alomar's cell phone.

2. The police arrested the Applicants for possession of marijuana for the purpose of trafficking. Ms. Alomar was also charged with unauthorized possession of a restricted firearm. The Applicants apply under Section 24(2) of the *Charter* to exclude all of the evidence seized as well as utterances made by each of them. For the reasons that follow, I would exclude the

statement made by Mr. Bell and the photographs from Ms. Alomar's cell phone, but I would admit the marijuana and cash seized from Ms. Alomar's purse.

The Facts

3. The police involvement in this matter began with an anonymous tip received by police through its Crime Stoppers hotline. As the hotline operates based on a promise of anonymity, the identity of the caller is not known by the police. The information provided by the caller was that every afternoon after Toronto high school Paul Beeston Collegiate ("PBC") is let out, a high-end black vehicle is parked at a nearby convenience store from which students can purchase marijuana. There was no further information concerning the vehicle, its occupants or the nature of the alleged drug operation.

4. As a result of this information, on October 12, 2015, two days before the arrest of the accused, Det. Cst. Christina Colabello and her partner, Det. Cst. Russ Martin, conducted surveillance of the area surrounding PBC. They were dressed in plain clothes and driving an unmarked squad car. They did not know the exact timing or location of the alleged drug transactions and vehicle. They spent approximately an hour driving around the area looking for the alleged vehicle without result.

5. However, both officers returned two days later, at the same time, and at 3:30 p.m. noticed a dark Honda Civic parked outside a small plaza that contained a bank, a small drug store and a pizza restaurant. They drove by slowly and Det. Colabello observed a male in the driver seat and another person in the passenger seat. She was not able to observe the passenger in any detail. We now know that the driver was the accused Mr. Bell and the passenger was Ms. Alomar. The police ran the license plate of the Honda Civic and it came back as being registered to a Riana Gomes. The information indicated Ms. Gomes was 55 years old and resided in Brampton and that she had a dated criminal record for drugs and fraud.

6. After driving by the vehicle, the officers took up an observation point across the street and over the course of the next twenty minutes observed four people – all of whom appeared to

be students from PBC – attend at the vehicle for a brief moment and then leave. Both police officers testified that what they observed was in their experience consistent with drug trafficking.

The Alleged Drug Activity

7. Specifically, after just a few minutes of surveillance, the officers testified they observed two white females attend the vehicle, one of whom leaned into the vehicle for about 5-10 seconds before leaving. Det. Martin could not see what if anything happened when the female leaned the vehicle. He did not see any exchange of items. He did, however, observe that the second female, the one who remained outside of vehicle, looked around several times as if she was looking to see if anyone was watching. Det. Martin noted this appeared to him to be a form of “counter surveillance.” Det. Martin did not agree with the assertion that she may have simply been looking for someone as he did not see her meet, speak or gesture to anyone else in the parking lot.

8. About five minutes later, a tall black male with a backpack approached the vehicle. There was a brief conversation through an open window between this male and the passenger of the vehicle. The male got into the back passenger seat. He was in the vehicle for less than thirty seconds. Neither officer could see what if anything happened when he was in the vehicle. However, when the male exited, he reached back into the vehicle and appeared to give something to Ms. Alomar. On cross-examination. Det. Martin confirmed he did not see any item exchanged and he further agreed that the male could have simply been shaking Ms. Alomar’s hand in a friendly manner of saying good-bye.

9. Nothing happened over the next ten to fifteen minutes. The police observed the passenger exit the vehicle and enter the pizza shop. They were able to confirm at this point that the passenger was female and dressed in black pants and a black leather jacket. Ms. Alomar returned to the vehicle a few minutes later with two drinks and a large slice of pizza. A few minutes later, Ms. Alomar exited the vehicle again, placed a few items into the garbage and answered a call on her phone. The call lasted no more than a few seconds. As the call was ending, Ms. Alomar took

the phone away from her ear, looked around the parking lot and then motioned towards a short white male approaching from across the parking lot. They talked for a brief moment and then Ms. Alomar went into the car and the male approached the window. He leaned into the window. Again, neither officer could see what if anything happened inside the vehicle. However, as the male left, he appeared to look down into his hand before putting it into his pocket.

10. The vehicle remained in the parking lot for another five minutes and then left without any further activity. Det. Colabello and Det. Martin followed the vehicle until it was a safe distance to pull it over, at which point they activated their emergency lights and the vehicle pulled over and complied immediately.

The Stop of the Vehicle

11. At this point, Det. Martin testified he believed they had witnessed the possible sale of narcotics and, in his mind, this confirmed the information the police had received through Crime Stoppers. Although Det. Martin admitted that he did not have grounds to arrest either individual in the vehicle, he testified he and Det. Colabello decided to detain to the vehicle and its occupants. The officers were candid that there was no *Highway Traffic Act* purpose stopping the vehicle and this was not a traffic stop – although Det. Martin did note in his evidence that he did want to ensure the vehicle was not stolen.

12. The police officers approached the vehicle and made a demand of the driver for his license and the registration and insurance documents. Mr. Bell provided a valid driver's license and Ms. Alomar was able to provide the registration and insurance documents from the glove compartment. Det. Martin, who was on the driver's side of the vehicle, reviewed the documents and noted that the insurance and registration were in the name of Riana Gomes with the same Brampton address. At this point, Det. Martin asked who Ms. Gomes was and why they had the car. Ms. Alomar answered that Riana Gomes was her mother but that this was her car and that she always drove it. As a result, Det. Martin asked Ms. Alomar for identification, which she located in her purse and provided to Det. Martin. While Ms. Alomar was looking for

identification, Det. Colabello, who was on the passenger side, observed in her purse a quantity of loose cash she estimated as being a few hundred dollars.

13. Det. Martin then asked both of them where they were coming from. Mr. Bell responded by asking Det. Martin if there was something wrong. Det. Martin responded that “not answering my questions is something wrong.” Mr. Bell then told Det. Martin that Ms. Alomar had picked him up at school and he was driving them both back to his house.

14. At this point, both officers returned to their police car and proceeded to check both Mr. Bell and Ms. Alomar on the police database. Neither had a criminal record nor were they on any releases. They each had provided valid driver’s licenses. However, Det. Martin noted that Mr. Bell was nearly 20 years old and, in his view, could not be a student at this age. The officers both agreed that the answer provided about picking Mr. Bell up from school was not truthful given their observations of the vehicle in the parking lot and made no sense given Mr. Bell’s age. As a result, they decided to continue their investigative detention further.

15. The officers returned to the vehicle. Det. Martin told both accused that they were being detained for a drug investigation, that he believed they had been selling drugs near PBC and asked them to exit the vehicle. Mr. Bell and Ms. Alomar complied with this demand. However, of some significance, Ms. Alomar brought her large purse with her when she was asked to exit the vehicle. Once they were outside of the vehicle, Det. Martin provided both of them with their rights to counsel and caution regarding making statements. There is no issue that the content of these cautions was complete. Both of the accused said they understood and requested to speak with counsel.

16. Det. Martin conducted a pat-down search of Mr. Bell for officer safety purposes. While he felt a number of objects in Mr. Bell’s pockets, there were not significant and did not impact officer safety. None of the objects were removed from Mr. Bell’s pockets.

17. Det. Colabello performed a pat down search of Ms. Alomar that was also non-resultant. However, she also pulled Ms. Alomar's purse open. Det. Colabello testified she did this just to make sure there were no weapons in the purse and that she did not "rummage through" or search the purse. There were no weapons. However, Det. Colabello noted a smell of marijuana and observed a Ziploc bag that appeared to contain other smaller bags. While Det. Colabello did not see the contents of those bags, she testified that at this point she believed she had formed the necessary grounds to arrest both accused. She informed her partner and the Applicants were each arrested and searched again.

18. The police seized approximately \$250 dollars and a bag containing approximately 10 smaller "dime bags" of marijuana from Ms. Alomar's purse. There was also a marijuana "grinder" and a pack of rolling papers. In addition, a cell phone from Mr. Bell's person was seized as well as a cell phone from Ms. Alomar's purse.

The Cell Phone Search

19. Mr. Bell's cell phone had a password and he refused to provide it to police when he was asked. Ms. Alomar's phone, however, had no password. Det. Colabello immediately went into the call log and noted the last two or three calls in her note book. She also looked at the text messages and noted them as well. There was nothing of significance in either. Det. Colabello then decided to open the photos on Ms. Alomar's phone. Det. Colabello testified the first photo she saw was of Ms. Alomar holding what appeared to be a silver hand gun. The next slide contained a short video that Det. Colabello played showing Ms. Alomar firing what appeared to be the same hand gun at a glass bottle somewhere in a remote field. Det. Colabello determined that Ms. Alomar did not have a valid certificate for a firearm and then placed her under arrest for the unauthorized possession of a loaded firearm.

The Legal Issues

20. This application raises four issues for my determination:
- i. Was the detention of the vehicle and its occupants lawful or did it violate section 9 of the *Charter*?
 - ii. Did the officers violate the Applicants' rights to counsel as guaranteed in sections 10(a) and (b) of the *Charter* in questioning them?
 - iii. Was the search of Ms. Alomar's cell phone done in violation of her rights under section 8 of the *Charter*?
 - iv. Should the marijuana, the utterances made and/or the photos from the cell phone be excluded from evidence pursuant to section 24(2) of the *Charter*?

Issue One: The Investigative Detention

21. Section 9 of the *Charter* guarantees that everyone has the right not to arbitrarily detained or imprisoned. The police may detain a person for investigative purposes if they have reasonable grounds to suspect that the person is connected to particular criminal activity and that such a detention is reasonably necessary in the circumstances: *R. v. Mann*, 2004 SCC 52 at para. 45. The standard "reasonable grounds to suspect" requires that the police have a "reasonable suspicion" or a suspicion that is grounded in objectively discernible facts, which could then be subjected to independent judicial scrutiny: *R. v. Williams*, 2013 ONCA 772 at paras. 22-23.

22. The police may also conduct a safety search of any person lawfully detained in order to ensure police officer safety: *R v. Mann, supra* at para. 45. However, *Mann* does not authorize a search for evidence, or anything beyond a pat-down search. The purpose of the search and its scope must be related to and confined to the reasons and purpose of the investigative detention.

23. The Applicants submit that the police did not have grounds to detain the accused and the vehicle. While the police have long had the ability to lawfully detain vehicles and their occupants for purposes related to the enforcement of the *Highway Traffic Act*, both officers made clear in their evidence that the detention of the vehicles was not for any such purposes but rather was to further their investigation of possible drug activity. The Respondent submits that the combined

effect of the anonymous tip and the police observations of the vehicle and accused in the parking lot provided grounds for an investigative detention. For the following reasons I agree with the Respondents.

24. In any case where the police rely on information from an outside source that information must be assessed according to the criteria from *R v. Debot*, [1989] 2 SCR 1140:

First, was the information predicting the commission of a criminal offence compelling? Second, where a "tip" [originated] from a source outside the police, was that source credible? Finally, was the information corroborated by police investigation prior to making the decision to conduct the search? Each factor does not form a separate test. Rather, it is the "totality of the circumstances" that must meet the standard of reasonableness. Weaknesses in one area may, to some extent, be compensated by strengths in the other two.

25. As this was an anonymous tip, there is no suggestion – and indeed it could never be established – that the source was credible. Furthermore, the Applicants are correct in pointing out that the tip was not compelling and there was no indication as to the source of the informant's knowledge – i.e. whether it was first-hand information or simply based on rumor or gossip. That being said, the Respondent submits the information was otherwise compelling, including a description of the vehicle, a location and a purpose. With respect, I do not accept that this was compelling information, as the description of the vehicle and its location was general and generic.

26. Rather, in my view, this is a case where the police corroboration of the information is what gives rise to a ground to detain. The police attended in the very area where this criminal activity was said to be occurring and found a vehicle matching the description provided. The police then witnessed activity that was consistent with the information provided in the tip. At this point, the constellation of objectively discernible facts aligned – there was a tip of drug sales occurring from a vehicle near a certain school and when the police attended this is what they genuinely believed they saw. While I accept the position that each of these encounters could have had an innocent explanation, in my view in their totality they gave rise to grounds for the police to reasonably believe they had confirmed the tip and they could detain the vehicle and its occupants.

27. The Applicants have not established that their rights under s. 9 of the *Charter* were violated. I find the investigation detention of the Applicants to be lawful and not arbitrary.

28. The Applicants further submit that even if the detention was lawful the search conducted by Det. Colabello exceeded what is permitted pursuant to an investigative detention. In particular, the Applicants submit that opening Ms. Alomar's purse to look for weapons goes beyond the scope of a "safety search" conducted pursuant to an investigative detention. While no evidence was directly seized as a result of this search, it did provide the grounds to arrest the Applicants and in turn conduct a more thorough search pursuant to that arrest. As a result, if it violated the Applicants' rights, there may arguably be insufficient grounds for the arrest, resulting in an unlawful search: *R v. Caslake*, [1998] 1 S.C.R. 51.

29. While this may more properly be dealt with under the s. 8 argument, I will address it now as the authority to search arises from the lawful detention. As I understand the case law, there is no strict rule limiting the safety search to the physical person of the individual detained. Indeed, there are cases where searches beyond the physical person have been permitted provided they are clearly related to the safety of officers or other individuals: see, for example, *R. v. Plummer*, 2011 ONCA 350.

30. The compelling fact in this case is that Ms. Alomar took the purse out of the car with her when she was asked to step out of the vehicle. As a result, the contents of that purse were a legitimate safety concern for the officers. If there was a weapon inside, it would clearly threaten their safety. As an aside, why Ms. Alomar decided to take her purse with her, especially since we know it contained drugs, is beyond me. But in any event by doing so she made it a real and present concern for the two police officers. I further note that Det. Colabello's search of the purse was restrained to a safety purpose – she testified (and I have no evidence to the contrary) that she merely opened it up to inspect it visually and did not conduct a search of its contents. As a result, I find the search was lawful and reasonable.

Issue Two: Breach of Rights to Counsel

31. The *Charter* provides that everyone who is detained by the police have the right to be informed of the reasons for the detention “promptly” and to be informed of the right to counsel “without delay”. Specifically, s 10(a) and (b) of the *Charter* provide that:

Everyone has the right on arrest or detention

- (a) to be informed promptly of the reasons therefore;
- (b) to retain and instruct counsel without delay and to be informed of that right

32. There has been considerable jurisprudence in respect of what the words “promptly” and “without delay” mean in terms of an arrest or detention. It appears now settled law that they mean that the reasons and the rights to counsel are to be provided immediately on an arrest or detention: *R v. Suberu*, 2009 SCC 33.

33. The issue on this Application is whether Det. Martin was obliged to tell the Applicants the reasons for their detention and provide them with their rights to counsel as soon as they reached the vehicle and before asking them any questions. There is no issue in this case that the Applicants were detained for a drug investigation. The problem, they submit, is that they were never told this or that they had a right to counsel before they were questioned regarding the ownership of the car and their activities before being pulled over.

34. In my view, the answer to this issue lies in the nature of the questions asked and the reason Det. Martin asked the questions he did. I have determined that the first question was proper and admissible while the second was not.

35. As Det. Martin explained, the question regarding the ownership of the vehicle was to determine why the accused were driving a vehicle registered to an individual with no obvious connection to the driver. This was the first, “natural” question for a police officer to ask in any context where the information concerning the registered owner does not match the occupants of the vehicle. I accept that is a valid and proper question for an officer to ask anyone they have

pulled over in these circumstances. In other words, while Det. Martin acknowledges his intention was to detain the vehicle for a criminal investigation, his first question was clearly in respect of an issue relating to a traffic stop that was appropriate and does not trigger or require that any of the s. 10 information or cautions be provided.

36. The second question Det. Martin asked is more problematic. In my view, any questions regarding the whereabouts and activities of the Applicants immediately prior to the stop was to determine whether they had an explanation for what the police officers had observed or whether they were going to lie about it. The purpose of these questions was to further the investigation of the Applicants. To make matters worse, Mr. Bell's first response to this question was to ask Det. Martin exactly why they were being pulled over – something s.10(a) of the *Charter* requires he tell him – and Det. Martin's response was to ignore the question and press him for a response.

37. Once the officers had an explanation as to the registered owner of the vehicle – and one that seemed reasonable in the circumstances – any further questioning related to the investigation of possible drug activity required that the Applicants be told why they were being detained and that they had a right to consult with counsel before asking questions. It is important to recall that the reason these rights exist is that at the moment where the Applicants are detained, the state has tremendous power and resources over them. It is paramount they understand why they are being detained and that they have an opportunity to legal advice before being questioned. To borrow a phrase, this levels the playing field between the citizen and the state.

38. In the result, I find that there was a breach of the Applicants' rights under ss.10(a) and (b) of the *Charter*.

Issue Three: Search of Ms. Alomar's Cell Phone

39. The law extending the power to search incidental to a lawful arrest is a powerful new development in Canadian law. The power to search incidental to lawful arrest is well-established. Provided that an arrest is lawful and effected with sufficient grounds, the police are entitled to conduct a search of the person and his or her immediate surroundings for safety reasons but also

to look for and seize evidence relevant to the commissions of the offence: *R v. Caslake*, [1998] 1 S.C.R. 51.

40. In *R v. Fearon*, 2014 SCC 77, the Supreme Court of Canada extended this power to the search of cell phones provided four important conditions are met:

First, the arrest must be lawful. Second, the search must be truly incidental to the arrest. This requirement should be strictly applied to permit searches that must be done promptly upon arrest in order to effectively serve the law enforcement purposes. In this context, those purposes are protecting the police, the accused or the public; preserving evidence; and, if the investigation will be stymied or significantly hampered absent the ability to promptly conduct the search, discovering evidence. Third, the nature and the extent of the search must be tailored to its purpose. In practice, this will mean that only recently sent or drafted emails, texts, photos and the call log will, generally, be available, although other searches may, in some circumstances, be justified. Finally, the police must take detailed notes of what they have examined on the device and how they examined it. The notes should generally include the applications searched, the extent of the search, the time of the search, its purpose and its duration. The record-keeping requirement is important to the effectiveness of after-the-fact judicial review. It will also help police officers to focus on whether what they are doing in relation to the phone falls squarely within the parameters of a lawful search incident to arrest.

41. The Applicants submit that the Crown in this case is unable to explain how a search of Ms. Alomar's phone complies with the requirement that the purpose of the search be truly incidental to the arrest. The examination of the recent calls or text messages is clearly within the scope of the kinds of searches that would further a drug investigation of this nature. Indeed, the police saw Ms. Alomar calling someone immediately before conducting what they believed to be a drug sale. The identification of this caller from the phone would be relevant to the trafficking charge.

42. However, it is difficult to understand how the examination of the photos could be in furtherance of the drug trafficking investigation. When questioned about this Det. Colabello simply stated she thought there may be photos of drugs. This answer makes little sense. It is not connected to the investigation they had undertaken and, more importantly, it strikes me as a general answer to a question that she has no explanation for. One could say the same thing on any case in any circumstance. Rather, it strikes me that Det. Colabello just decided to take a look

at Ms. Alomar's photos without any reason other than curiosity. I note that the photographs on anyone's phone have a high expectation of privacy – regardless of the fact that they were not password protected. I am horrified at the thought that in our modern culture the police could have observed all kinds of sensitive and personal photographs Ms. Alomar would hold private.

43. I find that the search of Ms. Alomar's phone as it relates to the photographs was unlawful and breached Ms. Alomar's rights under s. 8 of the *Charter*.

Issue Four: Should the Evidence Be Excluded?

44. Having found a breach of the Applicants' rights under s. 10 of the *Charter* as it relates to the second question by Det. Martin, as well as a breach of s. 8 in respect of the search of Ms. Alomar's phone, I must now determine whether they should be excluded from evidence.

45. Section 24(2) of the *Charter* requires me to do so if I find that their admission into evidence would bring the administration of justice into disrepute. As outlined in *R v. Grant*, there are three relevant considerations:

When faced with an application for exclusion under s. 24(2), a court must assess and balance the effect of admitting the evidence on society's confidence in the justice system having regard to: (1) the seriousness of the *Charter*-infringing state conduct (admission may send the message the justice system condones serious state misconduct), (2) the impact of the breach on the *Charter*-protected interests of the accused (admission may send the message that individual rights count for little), and (3) society's interest in the adjudication of the case on its merits. The court's role on a s. 24(2) application is to balance the assessments under each of these lines of inquiry to determine whether, considering all the circumstances, admission of the evidence would bring the administration of justice into disrepute.

The Statement of Mr. Bell

46. I find that the questioning of Mr. Bell by the police in respect of their whereabouts prior to the stop was done in order to investigate them for drugs. I suspect Det. Martin hoped they would lie and that this would be powerful evidence of guilt. This questioning was done without

telling Mr. Bell anything about why he was pulled over or his basic rights as the subject of a criminal investigation. This is very serious state conduct. While I cannot say it was done in bad faith, if this kind of breach occurs, the only other conclusion is that Det. Martin does not understand his most basic obligations. This is very concerning. It goes without saying, as it relates to the second consideration, that the impact on Mr. Bell's rights is significant. He is being stopped and questioned by the state without any idea why or for what purpose and without assistance of counsel. Finally, this piece of evidence is of minimal significance for the Crown. They will be able to proceed on the drug charges against Mr. Bell without it. Moreover, the possession and sale of marijuana is of less importance given our current government's commitment to legalize it. The fact that it was being sold to youth near school is significant. I have not forgotten that, but in the balance, I have determined that this statement must be excluded from evidence.

The Search of the Phone

47. In respect of the search of Ms. Alomar's cell phone, I have already found Det. Colabello's only purpose in examining Ms. Alomar's photos was curiosity. It was not connected to the drug investigation in any material way. In addition, I could not help but note that in her evidence Det. Colabello seemed to have a clear understanding of her authority to search a cell phone incidental to arrest. The fact that she had no sensible reason for looking at the photos underscores for me the seriousness of her conduct. Further to this point, I note that while Det. Colabello did take detailed notes with respect to her search of the call log and text messages, as per *Fearon*, she stopped doing so at the point when she extended the search to Ms. Alomar's photos. As I have already noted, the nature of the sensitive information that may be captured in photographs on a cell phone is incredible. Finally, while I understand the exclusion of these photographs will mean the Crown cannot proceed with the charges, this is the price to be paid for a flagrant breach of highly sensitive and private material. I note that even with the evidence the case for conviction was not strong based on a photo and a video that could have been taken anywhere in the world.

Conclusion

48. In the end, I find that the detention and arrest as well as the search of the purse were lawful. Therefore, the drugs and cash seized are admissible against both accused. I find that the statement of Mr. Bell regarding his and Ms. Alomar's activity was collected through an infringement of his *Charter* rights under s. 10 (a) and (b). The statement is therefore not admissible against either accused. The trial on the drug charges will continue before me. However, given my decision to exclude the photographs, Ms. Alomar is hereby acquitted of all firearm charges.

ANTHOPOLOUS, J.

GROUNDNS FOR APPEAL

For the purposes of the Spring 2016 Charter Challenge, the Crown is appealing to the Court of Appeal for Ontario to reverse Justice Anthopolous' decision to exclude the firearm evidence against Ms. Alomar and the statement made by Mr. Bell. Ms. Alomar and Mr. Bell are cross-appealing the decision and arguing that the detention was unlawful and that the drug and cash evidence should also be excluded. The issues on appeal remain largely as they were stated in the decision:

- i. Did Justice Anthopolous err in finding that the police detention of the Applicants and the vehicle was lawful and not arbitrary under s. 9 of the *Charter*?
- ii. Did Justice Anthopolous err in finding that the officers violated the Applicants' rights to counsel as guaranteed in sections 10(a) and (b) of the *Charter* in questioning them?
- iii. Did Justice Anthopolous err in finding that the search of Ms. Alomar's cell phone was conducted done in violation of her rights under section 8 of the *Charter*?
- iv. If any *Charter*-infringing conduct occurred, should the marijuana, the statements of Mr. Bell or the photo and video evidence of the gun be excluded from the trial pursuant to section 24(2) of the *Charter*?

L'éducation et le dialogue pour une société civile
A civil society through education and dialogue