

I N D E X

VOLUME 27

CORRESPONDENCE RE PAYMENT  
OF ARONSON'S FEES -----PAGES 1 - 58

**MEDIA COPY COPY**

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SA 2

# Aronson, MacDonald Barristers & Solicitors

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre · Suite 305 · 277 Pleasant Street · Dartmouth, N.S. Canada B2Y 4B7 · (902) 463-9131

---

April 13, 1982

Attorney General of Nova Scotia  
Post Office Box 7  
Halifax, Nova Scotia

ATTENTION: Gordon Gale, Q.C.

Dear Mr. Gale:

Re: Donald Marshall, Jr.

Subsequent to our meeting of March 31, 1982, I met in Ottawa with Ronald Fainstein, of the Department of Justice. After reviewing the facts of the case Mr. Fainstein and I discussed the possible remedies available to Mr. Marshall.

As you are aware it is the Minister of Justice who has the powers provided for in Section 617 of the Criminal Code. In addition, a very real possibility exists that Marshall will be granted a free pardon. A free pardon is given only when the innocence of the convicted person is established and it may be granted under the Royal Prerogative of Mercy contained in the letters patent constituting the office of Governor General of Canada. A free pardon is quite different from a pardon under the provisions of the Criminal Records Act. In this particular case the Minister of Justice will be responsible for looking into the matter of a free pardon and will draw on the Solicitor General's Department as and only if necessary.

It is my understanding that both the Attorney General and myself ~~will be~~ asked for our views by the Minister of Justice. It might also be pointed out that the Minister of Justice, the Solicitor General of Canada and the Minister of Indian and Northern Affairs have each received memorandums respecting the facts of the Marshall case. They are, to say the least, most concerned about the implications of this case.

...2

Attorney General of  
Nova Scotia

- 2 -

April 13, 1982

I have only recently received from Frank Edwards copies of the transcript of the trial and Factums on Appeal. Copies of this material will be sent by me to Ottawa today for review by the Department of Justice. The report of the R.C.M.P. investigation has also been reviewed by the Department of Justice.

It would be most appreciated if you might keep me advised as to your Department's position. In particular, I have expressed and continue to express my concern over the leaks to the press of information relating to the Marshall investigation. I do not believe that such leaks serve the interests of justice. This is particularly true as the source of the leaks appear to come from the Sydney City Police and officers of your own Department, including the Attorney General himself. I appreciate that it is difficult for you to stem the flow of information; however, I am also of the belief that you agree with the view I have expressed.

The Marshall family has requested that I seek payment of my legal fees from your Department. This request is made largely on the basis that Mr. Marshall is not in a financial position to pay me. I would anticipate that these fees and expenses will be of a substantial nature, no account having been sent as yet to anyone. My instructions are not to apply for legal aid or financial assistance from legal aid. I would most appreciate your response to this particular request at your earliest convenience and we shall govern ourselves accordingly.

Finally the matter of compensation for Mr. Marshall must be addressed. Once Mr. Marshall has been found not guilty of the murder of Sandy Seale, Mr. Marshall will be looking to the Attorney General of Nova Scotia for compensation for 11 years in prison for an act which he did not commit. The Attorney General has already made some comments to the press regarding compensation. I would appreciate receiving from you your Department's position on this particular point, in order to avoid any misunderstanding as the case unfolds.

I trust we shall continue to co-operate and I look forward to hearing from you on the issues raised in this letter, all at your earliest convenience.

Yours very truly,

Stephen J. Aronson

SJA:md

C.C. - Department of Justice

*Dept. of Indian &  
Northern Affairs.*



ATTORNEY GENERAL  
NOVA SCOTIA

Our File No. 09-82-0236-0

April 23, 1982

Mr. Stephen J. Aronson  
Aronson, MacDonald  
Barristers & Solicitors  
Dartmouth Professional Centre  
277 Pleasant Street  
Dartmouth, Nova Scotia  
B2Y 4B7

APR 27 1982

Dear Mr. Aronson:

Re: Donald Marshall, Jr.

Mr. Gale has copied to me your letter of April 13th since it seemed appropriate that I should reply to your request that this Department pay your legal fees and your notice that Mr. Marshall will be looking to the Attorney General of Nova Scotia for compensation in respect to his commitment to prison should he be found not guilty of the offence for which he was sentenced.

In respect to the first request, you will understand that Mr. Marshall is undoubtedly eligible for legal aid. Although there may be a question whether the proceedings which you contemplate would entitle Mr. Marshall to a choice of counsel under the provisions of the Canada-Nova Scotia Agreement in respect to legal aid in criminal matters, I understand from Mr. Gordon Murray, Q. C., that in the present circumstances he would be prepared to recommend that Mr. Marshall have a choice of counsel. Accordingly, I suggest that you acquaint Mr. Marshall of this and take the necessary steps to establish his eligibility and right to a choice of counsel. In this manner legal fees and disbursements in accordance with the scale approved by the Legal Aid Commission will be paid.

In respect to the question of possible compensation in the event that Mr. Marshall should be found not guilty of the offence for which he was convicted, I can only say in the event of such a happening, Mr. Marshall, or counsel on his

Mr. Stephen J. Aronson

- 2 -

April 23, 1982

behalf, may make such submissions in the matter of compensation as are thought appropriate. There is no authority for this Department to entertain any such claim, although the Attorney General has indicated that if such an event should come to pass he is prepared to present any such representations to his cabinet colleagues for their consideration.

Yours very truly



Gordon F. Coles  
Deputy Attorney General

AGREEMENT FOR LEGAL REPRESENTATION

THIS AGREEMENT made under Nova Scotia Civil Procedure Rule 63.17 this 25<sup>th</sup> day of ~~May~~<sup>April</sup>, A.D. 1982.

BETWEEN:

DONALD MARSHALL, JR., of Membertou Indian Reserve, in the County of Cape Breton, Province of Nova Scotia;  
(hereinafter called the "Client")

- and -

STEPHEN J. ARONSON, of 277 Pleasant Street, Dartmouth, in the County of Halifax, Province of Nova Scotia, Barrister and Solicitor of the Supreme Court of Nova Scotia;  
(hereinafter called the "Solicitor")

WHEREAS the Client desires to institute and either prosecute or settle the claim for damages suffered by the Client by reason of his wrongful conviction for the murder of Sanford William (Sandy) Seale and subsequent imprisonment.

IT IS HEREBY AGREED AS FOLLOWS:

1. That the Client retain the Solicitor and his Agents to institute and either prosecute or settle the claim and agrees to pay the Solicitor for professional services rendered the remuneration specified below.
2. That the Solicitor agrees to act for the Client in instituting and either prosecuting or settling the claim for the remuneration specified below.
3. The Client agrees to pay the Solicitor for his services to be rendered in this matter an amount equal to 25% of whatever monies may be collected for the Client in this matter by suit or otherwise together with whatever reasonable and necessary expenses the Solicitor may pay out or incur on behalf of the Client.
4. If the Client dismisses the Solicitor before the Solicitor has settled the claim, the Client shall pay the Solicitor 100% of the Solicitor's costs, taxed as between the Solicitor and his own Client plus 100% of the costs and disbursements.
5. This Agreement may be reviewed by a Taxing Officer

at the Client's request, and may either at the instance of the Taxing Officer or the Client be further reviewed by the Court, and either the Taxing Officer or the Court may vary, modify or disallow this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

SIGNED, SEALED AND DELIVERED )

- in the presence of - )

715 Provost Street )  
New Brunswick, N.J. 07102 )  
Linda M. Whitaker )  
Witness )

Donald Marshall, Jr )  
DONALD MARSHALL, JR. )

Linda M. Whitaker )  
Witness )

Stephen J. Aronson )  
STEPHEN J. ARONSON )

I should like to establish Mr. Marshall's eligibility for Nova Scotia Legal Aid and his right to office of counsel. I would ask that you confirm his eligibility for Nova Scotia Legal Aid.

Case I have received from you confirmed. I shall be in touch with you with regard to fees and disbursements. I would ask that you also consider this as an unusual application insofar as the procedure involved. There is a possibility that it will be necessary for me to appear in a Criminal Court on his behalf. However, there has been a substantial amount of time and effort already put on this matter to bring it to the present stage.

I look forward to hearing from you.

Yours very truly,

Stephen J. Aronson

Enclosures

May 5, 1982

R. Gordon Murray, Q.C.  
Executive Director  
Nova Scotia Legal Aid  
215 Provost Street  
New Glasgow, N.S. B2H 2R2

Dear Mr. Murray:

Re: Donald Marshall, Jr.

I enclose a copy of a letter from Gordon P. Coles of April 23, 1982, together with an Application for Legal Aid on behalf of Donald Marshall, Jr.

I should like to establish Mr. Marshall's eligibility for Nova Scotia Legal Aid and his right to choice of counsel. I would ask that you confirm his eligibility for Nova Scotia Legal Aid.

Once I have received from you confirmation, I shall be in touch with you with regard to fees and disbursements. I would ask that you also consider this as an unusual Application insofar as the procedures involved. There is a possibility that it will be necessary for me to appear in a Criminal Court on his behalf. However, there has been a substantial amount of time and effort already put on this matter to bring it to the present stage.

I look forward to hearing from you.

Yours very truly,

Stephen J. Aronson

SJA:md  
Enclosures



Lawyer's Use Only	NOVA SCOTIA LEGAL AID Application for Legal Aid		Office Use Only	
	Your Name: <u>Donald Marshall Jr.</u>		Accepted	
	Full Address: <u>College St. Halifax</u>		Rejected	
	Telephone: _____		Referred	
(Where advice only required)			Reasons: _____	
			Office: _____	
			Staff Lawyer: _____	

STATUS: Male  Female  Age  Married  Not Married  Widowed  Separated  Deserted  Divorced  Common Law Dependents  No Dependents  Employed  Unemployed  Unable to Work

Name of Husband or Wife N.A.

Address of Husband or Wife N.A.

Have you ever received legal aid services before? Yes  No

Do you receive Social Assistance or other Public Assistance? Yes  No

Dependents living at home  (Spouse, child or person supported by Applicants) DEPENDENTS

Names: N.A. Relationship \_\_\_\_\_

Describe purpose of application or problem: Overturning conviction for murder

If criminal matter or court or court proceeding. What is the charge or proceeding? \_\_\_\_\_

Next Court Appearance? \_\_\_\_\_

Was bail granted? Yes  No

Have you elected? Yes  No

Did you plead? Yes  No

Did you have preliminary? Yes  No

Did you have a trial? Yes  No

Were you sentenced? Yes  No

Are you in custody? Yes  No

Name of person who can assist: Stephen Anonson

Can be contacted Yes - 463-9131

Court or Judge S.C. with jury - Nov. 1971

Financial Data:		Name of Person who can verify: <u>Jack Stewart</u>		Address: <u>College St., Halifax</u>	
Weekly Monthly Income:	Weekly Monthly Expenses:	Motor Vehicle - None	Home Ownership - None	Year	Model
Salary, Wages, Tips	Rent	Make	Value \$	Value \$	No. Rooms
Unemployment Ins. (Dept. of Ind. Affairs)	Payments on home	Financed at	Condition	Total Debt \$	Name of Mortgagee
Social Assistance <u>26.00</u>	Heat/Fuel	Amount Owning \$	Total Value or Amount of Assets \$ <u>2</u>	Cash \$	Bonds \$
Other Public Asst.	Taxes/Ins.	Securities \$	Real Estate \$	Other (specify) \$	
Family Allowance	Electric				
Old Age Asst.	Water				
Pension	Telephone				
Other Income	Food <u>55.00</u>				
<u>Corrections Canada 63.00</u>	Clothing <u>34.20</u>				
	Babysitter/Hsehd				
	Medical/Drugs				
Total Income <u>89.00</u>	Total Expenses <u>89.00</u>				

**READ DECLARATION AND AUTHORIZATION CAREFULLY**

Applicant Declares: Information herein is true and complete. Applicant will furnish additional information as required. Applicant consents to have information investigated for verification and will notify of any change.

Applicant Authorizes: Nova Scotia Legal Aid to represent and act for Applicant in the matter mentioned or any related matter and further authorize Nova Scotia Legal Aid to take any necessary action or obtain required assistance.

Signature of Applicant: D Marshall Jr. Date: May 4/82

Please Ask for Assistance Do Not Complete if Unsure.



MAY 19 1982

## NOVA SCOTIA LEGAL AID

5212 SACKVILLE STREET, SUITE 301, HALIFAX, NOVA SCOTIA, B3J 1K6 PHONE 423-1291

May 18, 1982

Mr. Stephen J. Aronson  
Aronson, MacDonald  
Barristers and Solicitors  
Suite 305  
277 Pleasant Street  
Dartmouth, Nova Scotia  
B2Y 4B7

Dear Mr. Aronson:

RE: Donald Marshall, Jr.

Enclosed please find two copies of our Certificate authorizing you to act for Mr. Marshall and to request payment from the Nova Scotia Legal Aid Commission. I trust this is to your satisfaction. Would you kindly sign one copy of the Certificate and return it to me at your earliest convenience.

Please call me if you have any questions.

Yours very truly,

A handwritten signature in cursive script that reads "William B. Digby".

William B. Digby  
Deputy Director  
Nova Scotia Legal Aid Commission

WBD/rr  
Enclosures

CERTIFICATE

SA 44

This is to certify that the Nova Scotia Legal Aid Commission accepts responsibility for payment of the account, commencing on the effective date and on the terms and conditions set out below, for legal services to be performed by the named practising member of the Nova Scotia Barristers' Society.

CLIENT: Donald Marshall, Jr.

MATTER: Application for Special Pardon

MEMBER: Stephen J. Aronson  
Aronson, MacDonald  
Barristers and Solicitors  
Suite 305  
277 Pleasant Street  
Dartmouth, Nova Scotia B2Y 4B7

TERMS: (a) Effective Date: 4th May, 1982

(b) Fees: \$35.00 per hour to a maximum of \$1,500.00  
\$250.00 per day appearances before court,  
board or commission.

(c) Disbursements: Up to \$200.00 per item without prior written approval, any item over \$200.00 with prior written approval. Meals - Maximums Breakfast \$4.00; Lunch \$5.00; and Dinner \$10.00. Travel distance - 34¢ per mile, 21.1¢ per km.

REASONS FOR CERTIFICATE: Special circumstances of case.

*William B. Digby*  
WILLIAM B. DIGBY  
ON BEHALF OF THE NOVA SCOTIA LEGAL AID  
COMMISSION

I agree to act as counsel in the above matter on the terms and conditions stated.

STEPHEN J. ARONSON  
Barrister and Solicitor

# Aronson, MacDonald Barristers & Solicitors

SA 49

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre · Suite 305 · 277 Pleasant Street · Dartmouth, N.S. Canada B2Y 4B7 · (902) 463-9131

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June 18, 1982

Michel Bouliane  
Department of Indian & Northern Affairs  
Les Terrasses de la Chaudiere  
Ottawa, Ontario K1A 0H4

Dear Mr. Bouliane:

Re: Donald Marshall, Jr.

I trust that you and Mr. Munro are aware of the decision on the case made by Jean Cretien. Although I am personally somewhat disappointed in the decision I remain optimistic that the outcome will be favourable.

Frankly, my major problem at this point in time is payment of fees. I have enclosed a copy of the Certificate from the Nova Scotia Legal Aid Commission containing the fees which they are willing to pay for services rendered on this particular case. It is something but will in all likelihood apply to only 10% to 15% of any final billing. Even at this point in time it is difficult to estimate except in the most general way. Suffice to say that to this point in time a bill could easily be sent for \$15,000.00.

In any event I have several discussions with you and Mr. Munro in which you advised that you would be willing to pay my legal fees. I have made a call to Gordon Coles, the Deputy Attorney General of Nova Scotia, who advised me that he would be unwilling to make any recommendation to the Attorney General for payment of my legal fees in relation to this case. May I therefore have a note confirming Mr. Munro's commitment to pay my legal fees.

I do not anticipate that the Court of Appeal will hear the matter much before the end of October but would estimate that I am looking at approximately six to eight weeks of

...2

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Michel Bouliane,  
Dept. of Indian & Northern Affairs

- 2 -

June 18, 1982

time for all preparation and appearances in Court to and including the decision of the Nova Scotia Court of Appeal.

May I therefore hear from you in reply.

Yours sincerely,

Stephen J. Aronson

SJA:md

August 4, 1982

Mr. Michel Bouliane  
Department of Indian  
and Northern Affairs  
Les Terrasses de la Chaudiere  
Ottawa, Ontario K1A 0H4

Dear Mr. Bouliane:

Re: Donald Marshall, Jr.

Since my last writing to you on June 18, the preparation for the reference to the Nova Scotia Court of Appeal has occupied the bulk of my time. We have successfully made an Application on behalf of Donald Marshall, Jr. for his release from custody and have arranged to have a hearing before the full Court of Appeal on October 5, 1982.

On this last date, the Court of Appeal will hear and determine whether or not it will admit as evidence the information obtained by the recently completed R.C.M.P. investigation. Once the Court has determined what evidence it will admit, it will then set another date for the hearing of oral evidence taken from such witnesses as the Court will order.

At this latter hearing which will not be much before the end of the present calendar year, the Court will hopefully make its decision.

I have enclosed a Statement of Account for the period August 27, 1981 to July 31, 1982, which I trust you will find in order. I would anticipate that the final billing ~~wálbebe~~ made after the decision of the Court of Appeal, will approach the amount in the enclosed Statement of Account. It would, however, be appreciated if you might arrange to have the enclosed account paid as soon as possible.

...2

Mr. Michel Bouliane

- 2 -

August 4, 1982

If you have any questions in relation to this matter please do not hesitate to call me.

Yours very truly,

Stephen J. Aronson

SJA:md  
Enclosure

# Aronson, MacDonald Barristers & Solicitors

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre • Suite 305 • 277 Pleasant Street • Dartmouth, N.S. Canada B2Y 4B7 • (902) 463-91

AG 241

July 31, 1982

Department of Indian  
and Northern Affairs  
Les Terrasses de la Chaudiere  
Ottawa, Ontario K1A 0H4

ATTENTION: Mr. Michel Bouliane

Re: Statement of Account - File #1646;  
Donald Marshall, Jr.

For Professional Services Rendered:

From August 27/81 to July 31, 1982

August 27 - Conference with client at Dorchester; review of Transcript and related material; conference with client at Dorchester; correspondence and conferences with Sydney City Police and R.C.M.P.; conferences and correspondence with Department of the Attorney General of Nova Scotia; conferences with Carlton Centre and staff; telephone conferences and letters to Minister of Justice; conference with John Munro; conferences and correspondence with Crown Prosecutor - Frank Edwards; attendances in Sydney to interview witnesses; to drafting all Court Notices, Affidavits and attendances in Court on July 8, 1982 and July 29, 1982; to all legal research and preparation for hearing; to all telephone conversations, letters, meetings and attendances.

OUR FEE:

\$37,500.00

...2



Dept. of Indian and  
Northern Affairs

- 2 -

July 31, 1982

**UNPAID FEES (Carried Forward):**

**\$37,500.00**

**DISBURSEMENTS:**

Long Distance Calls;	\$390.91	
Travel;	86.90	
Courier;	22.26	
Prothonotary;	41.00	
Post Office;	9.15	
Parking;	4.30	
Xeroxing;	389.20	943.72

**TOTAL FEES & DISBURSEMENTS:**

**\$38,443.72**

:.:1.21

# Aronson, MacDonald **Barristers & Solicitors**

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre • Suite 305 • 277 Pleasant Street • Dartmouth, N.S. Canada B2Y 4B7 • (902) 463-9131

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September 17, 1982

CONFIDENTIAL

John Munro, M.P.  
House of Commons  
Ottawa, Ontario

Dear Mr. Munro:

Re: Donald Marshall, Jr.

I spoke with Mike Bouliane recently regarding the bill for fees on this case which had been sent to the Department early last month. From our conversation it appears that it is unlikely that your Department will pay these fees, contrary to the understanding you and I had reached in April in Ottawa.

For my part, I can only ask that you meet the undertakings in our gentleman's agreement and request the Department pay the legal fees to date. It may very well be that payment can be arranged indirectly through a third party, e.g. the Union of Nova Scotia Indians. However to suggest, as Mr. Bouliane has, that Justice is "looking into it", is tantamount to indicating that the fees will not be paid.

It might also be pointed that in excess of four months of my professional time has been expended to date on this case and that no financial support has been received from any other source.

I therefore look to you to honour our understanding and would appreciate the opportunity of discussing this matter with you personally, if you wish. May I therefore hear from you.

Yours sincerely,

  
Stephen J. Aronson

SJA:md



Office  
of the Minister

Cabinet  
du Ministre

Indian and Northern  
Affairs Canada

Affaires indiennes  
et du Nord Canada

Ottawa, Canada  
K1A 0H4

SEP 30 1982

September 24, 1982

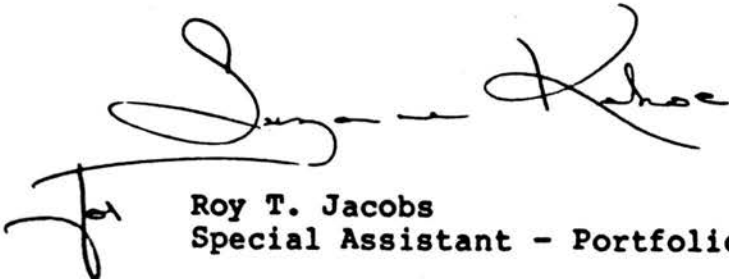
Stephen J. Aronson, Esq.  
Aronson, MacDonald  
Barristers & Solicitors  
Dartmouth Professional Centre  
Suite 305  
277 Pleasant Street  
Dartmouth, N.S.  
B2Y 4B7

Dear Mr. Aronson:

On behalf of the Honourable John C. Munro, I wish to acknowledge receipt of your letter dated September 17, 1982, concerning Mr. Donald Marshall, Jr.

Please be assured that your correspondence will be brought to the Minister's personal attention.

Yours sincerely,



Roy T. Jacobs  
Special Assistant - Portfolio

Dec. 13/82

Mtg - E

J.C.M.

N.D.

Ray Jacobs - E.A. - John Munno.

Karl ~~Frang~~ Feige - E.A. Mark MacCrimmon

Dony Rutherford - says no funds in Justice

J. Munno - If Henry have no payment of Marshall legal fees  
- administration of justice - gov. should pay.



DEC 21 1982

Aronson, MacDonald,  
Barristers and Solicitors,  
Dartmouth Professional Centre,  
Suite 305,  
277 Pleasant Street,  
Dartmouth, N.S.  
B2Y 4BY.

DEC 14 1982

Dear Mr. Aronson:

This refers to your letter to me of September 17, 1982, concerning the payment of your fees in respect to your work on behalf of Mr. Donald Marshall Jr.

I have written to the Attorney General for Nova Scotia in this regard and I will be in touch with you as soon as I have heard back from him on the matter.

Yours sincerely,

  
John C. Munro.

December 17, 1982

The Honourable John C. Munro  
House of Commons  
Room 401, Confederation Building  
Ottawa, Ontario K1A 0A6

Dear Mr. Munro:

Re: Donald Marshall, Junior

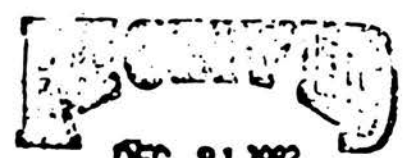
Further to Noel Doucette and I meeting with you on Monday, December 13, 1982, it would be most appreciated if you would advise me as to the results of the discussions with the Department of Justice and provide me with copies of any correspondence which we had spoken of during our meeting.

Your sincere and kind attention to this matter is most appreciated.

Yours very truly,

Stephen J. Aronson

SJA:md



AG 24

DEC 21 1982

ATTORNEY GENERAL

The Honourable Harry W. How, Q.C.  
Attorney General for Nova Scotia  
Provincial Building  
Halifax, Nova Scotia  
B3J 2L6

Dear Mr. How:

Donald Marshall Jr.

I am writing to request an exercise of discretion by the Province with respect to the payment of Mr. Stephen Aronson's legal fees and disbursements in connection with his work on behalf of Donald Marshall Jr.

I understand that the Nova Scotia Legal Aid Commission has indicated a willingness to pay Mr. Aronson's account, effective May 4, 1982. Mr. Aronson has written to me that this will cover only 10% to 15% of his final billing in this matter because, among other things, it will not cover his initial investigatory work leading up to the present appeal. He has accordingly submitted his account to my Department for payment.

I think you will agree with me that despite Mr. Marshall's Indian status, the crux of this matter does not relate to a question of federal jurisdiction but to the provincial administration of justice. Because of this fact, and the fact that I feel Mr. Aronson has represented the legal interests of Mr. Marshall, as a citizen of the Province, in the finest tradition, I would urge you to consider exercising your discretion with respect to the payment of Mr. Aronson's account. His payment according to the terms and conditions set out by the Legal Aid Commission will result in his receiving no compensation for a great deal of his professional time and effort on Mr. Marshall's behalf. While I am not necessarily suggesting that he be reimbursed for the full amount submitted by him in his account (copy attached), nevertheless, I would strongly urge you to consider a more realistic and, I believe, just reimbursement of Mr. Aronson for the professional services he extended, and with good cause, to a resident of Nova Scotia in the weeks and months prior to May 4, 1982.

I look forward to hearing from you on this matter.

Yours sincerely,

John C. Munro

Tape

A3239

09-82-0236-07  
Marshall, Donald

P. O. Box 7  
Halifax, Nova Scotia  
B3J 2L6

December 31, 1982

The Honourable John C. Munro  
Minister  
Indian and Northern Affairs Canada  
Les Terrasses de la Chaudiere  
OTTAWA, Ontario  
K1A 0H4

Dear Mr. Munro:

I have your letter of December 14th which reached me on December 21st. In reply, I will have my Deputy discuss Mr. Aronson's account with the Legal Aid Commission and after seeing what the Commission is prepared to contribute, I will give further consideration to the matter in the light of your remarks and respond more fully at that time.

Yours sincerely,

Harry W. Bow, Q.C.





Office  
of the Minister

Cabinet  
du Ministre

Indian and Northern  
Affairs Canada

Affaires indiennes  
et du Nord Canada

Ottawa, Canada  
K1A 0H4

JAN 11 1983

January 4, 1983

Stephen J. Aronson, Esq.  
Aronson, MacDonald  
Barristers & Solicitors  
Dartmouth Professional Centre  
Suite 305  
277 Pleasant Street  
Dartmouth, N.S.  
B2Y 4B7

Dear Mr. Aronson:

On behalf of The Honourable John C. Munro, I wish to acknowledge receipt of your letter dated December 17, 1982, concerning Mr. Donald Marshall, Junior.

Please be assured that your correspondence will be brought to the Minister's personal attention.

Yours sincerely,

Roy T. Jacobs  
Special Assistant - Portfolio

January 7, 1983

Mr. R. Gordon Murray, Q. C.  
Executive Director  
Nova Scotia Legal Aid Commission  
5212 Sackville Street  
Halifax, Nova Scotia  
B3J 1K6

Dear Gordon:

Re: Statement of Account -  
Donald Marshall, Jr.

You may recall our earlier discussion when Mr. Stephen J. Aronson contacted me to ascertain whether the Province would underwrite his account in representing the above noted. I informed Mr. Aronson of the legal aid provisions for choice of counsel and that in my opinion his client should apply and if found eligible, if he chose Mr. Aronson as his counsel, Mr. Aronson would be eligible to be paid in accordance with the tariffs prescribed for legal aid. I believe I confirmed with you that in the circumstances you were prepared to consider Mr. Marshall entitled to a choice of counsel under the Canada/Nova Scotia agreement.

I do not know whether an application was ever made by Mr. Marshall but suspect not since Mr. Aronson indicated that he was not prepared to accept the tariff provided by legal aid.

Mr. Aronson has now submitted the enclosed account to the Department of Indian Affairs and the Honourable John C. Munro has written to the Attorney General asking him to entertain this account.

Mr. How has asked me to ascertain from you how much you

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Mr. R. Gordon Murray, Q. C. - 2 - January 7, 1983

AG 25

would estimate could be paid to Mr. Aronson if he had been acting in a choice of counsel situation, having regard to the legal aid tariff. I do not know whether you can do other than give a ballpark figure since the enclosed account is not in a taxable form. However, your advice in this matter will oblige.

Yours very truly

Gordon F. Coles  
Deputy Attorney General

encl. (1)

09-82-0236-09

January 17, 1983

The Honourable John C. Munro  
Minister  
Indian and Northern Affairs Canada  
Les Terrasses de la Chaudière  
OTTAWA, Canada  
K1A 0H4

Dear Mr. Munro:

Further to my reply, of December 31st, regarding the Aronson Account, I have learned from my Deputy, Gordon Coles, Q. C. that in the early stages of the reference of this matter to our Appeal Court, Mr. Aronson, had spoken to Mr. Coles requesting the Province to underwrite his fees, representing Mr. Marshall. Mr. Coles advises that he told Mr. Aronson that he would understand his client to be eligible for choice of counsel in these circumstances pursuant to the Canada/Nova Scotia Agreement and that he should make application accordingly. Mr. Coles says that he had confirmed with the Executive Director of Legal Aid that they would respond to such an application. My Deputy advises that Mr. Aronson replied that he was not prepared to go this route because, in his opinion, the tariff of fees payable were not adequate. Mr. Coles replied that unless Mr. Aronson were to pursue such a course, he would have to look to his client for his fee or continue to act on the same basis that he agreed with his client at the time when he undertook to act on his behalf.

Despite the fact that Mr. Aronson chose not to apply under the Canada/Nova Scotia agreement and Legal Aid services, I would be prepared to ask the Legal Aid Commission here to consider retroactively an application from Mr. Aronson to provide a payment according to our scale. At the present time, at least, I do not think that I can do anything further to accommodate Mr. Aronson without setting a precedent by going outside the Canada/Nova Scotia Legal Aid Agreement which I am naturally reluctant to do.

Very sincerely,

Harry W. How, Q. C.



NOVA SCOTIA LEGAL AID

1510 BROADVILLE STREET SUITE 301 HALIFAX NOVA SCOTIA B3J 1K6 PHONE 423-1291

44  
Deputy General  
**RECEIVED**  
JAN 27 1983  
Nova Scotia

January 26, 1983

Mr. Gordon F. Coles  
Deputy Attorney General  
P.O. Box 7  
Halifax, Nova Scotia  
B3J 2L6

Dear Mr. Coles:

RE: Statement of Account - Donald Marshall, Jr.

It is difficult to provide a meaningful estimate of the amount that Mr. Aronson could have billed Legal Aid for the work performed as he has not given enough detail in his account. It is not set out by item as would be required and there is no indication of the number of hours. Also, there is no reference to any sort of hourly rate or maximum.

In any event, it may be helpful to refer to our tariff where the preparation for a first degree murder charge is \$35.00 per hour to a maximum of \$1,500.00. Even if the hours allowed were doubled to allow for the unusual type of case, it would be \$3,000.00 plus \$250.00 per day for actual days in Court. Perhaps this could be estimated at \$1,000.00 as there are two court appearances and other work that might be considered equivalent to court appearances for billing purposes. There would be no problem with disbursements and so our estimate would be \$4,943.72, noting that a lot of work is still necessary before the case is complete.

Trusting this is of some assistance in determining an equitable amount that should be paid.

Yours very truly,

R. Gordon Murray, Q.C.,  
Executive Director

RGM/rr

DELIVERED BY HAND

March 2, 1983

Mr. Donald Marshall, Jr.  
Halifax, N.S.

Dear Junior:

Re: Reference Re R. v. D. Marshall, Jr. - S.C.C. No. 00560

For your information only I am enclosing a photocopy of our Statement of Account dated February 28, 1983, together with a photocopy of the letter to Wayne Abram which included the account. It might be helpful if you would personally write a letter to the Minister of Indian Affairs in the next day or two to request that his Department pay the account. If you wish to talk about the matter further please give me a call.

Yours very truly,

Stephen J. Aronson

SJA:md  
Enclosure

March 2, 1983

Mr. Wayne Abram  
Union of Nova Scotia Indians  
Post Office Box 961  
Sydney, Nova Scotia B1P 6J4

Re: Statement of Account - File #1646;  
Reference Re R. v. Donald Marshall, Jr. - S.C.C. 00580

Dear Mr. Abram:

Further to your request please find enclosed an itemized account with reference to the Marshall case. I would greatly appreciate any and all efforts you and Noel might give to seeing that the account is paid as soon as possible.

Yours very truly,

Stephen J. Aronson

SJA:md  
Enclosure

# Aronson, MacDonald ~~Barristers & Solicitors~~

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre · Suite 305 · 277 Pleasant Street · Dartmouth, N.S. Canada B2Y 4B7 · (902) 463-9131

---

February 28, 1983

Union of Nova Scotia Indians  
Post Office Box 961  
Sydney, N.S. B1P 6J4

ATTENTION: Mr. Wayne Abram

Re: Statement of Account - File #1646;  
Reference Re R. v. Donald Marshall, Jr. - S.C.C. No. 00580

For Professional Services Rendered:

August 27, 1981: Long distance telephone call from S. Killen (UNSI) and taking instructions;

September 3, 4, 10, 11, 22, 23, 1981: Attendance at Dorchester Penitentiary for conference with client; to review of Preliminary Transcript, Trial Transcript and Appeal; telephone conversation with J. Stewart (Correction Service Canada); letter to client with copy to D. Paul (UNSI); letter to Melinda MacLean; letter from Melinda MacLean; letter to S. Killen with enclosures;

October 1, 1981: Attendance at Dorchester Penitentiary for conference with client and M. Hoady (National Parole Board);

November 18/81: Letter from client;

December 23, 31, 1981: Long distance telephone conference with client and letter from client;

January 25, 26, 1982: Long distance telephone conference with client; letter to Sydney City Police with copy to client;

...2



Union of N.S. Indians,  
Mr. Wayne Abram

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February 28, 1983

February 8, 11,  
1982:

Long distance telephone conversation with Staff Sergeant H. Wheaton (R.C.M. Police); conference with S/S Wheaton and Cpl. J. Carrol in Sydney;

March 11, 15,  
16, 22-31, 1982:

Long distance telephone conversation with client; long distance telephone conversation with Cpl. J. Carrol; long distance telephone conversation with S/S H. Wheaton; letter to Attorney General of Nova Scotia; conference with J. Stewart and D. Moore (Correctional Service of Canada); letter to Carlton Centre; long distance telephone conversation with D. Marshall, Sr.; telephone conversation with Gordon Gale; telephone conference with J. Stewart; letter to client; long distance telephone conversation with M. Casey (National Parole Board); telephone conversation with J. Stewart; long distance telephone conversations with client; telephone conversations with J. Stewart, M. Hoady, A. MacDonough, Roy Gould; conference with J. Stewart; telephone conferences with N. Doucette (UNSI), Roy Gould, J. Stewart, M. Hoady; long distance telephone conversations with Mr. & Mrs. D. Marshall, Sr.; telephone conversations with media representatives; conference with J. Stewart; telephone conversations with J. Sullivan, M. Flanagan (CSC); long distance telephone conversations with C. Pressault (Dept. of Justice); letter to Minister of Justice with enclosures; conference with Donald Marshall, Sr. and J. Munro (Dept. of Indian Affairs); attendances at Carlton Centre and conferences with client and numerous telephone conversations and conferences with media representatives; telephone conversations with G. Gale (AGNS), W. Shortt (Dept. of Indian Affairs); conferences with client and staff at Carlton Centre;

April 1, 5, 7,  
8, 10, 11, 13,  
20, 22, 23,  
26-30:

Attendance in Ottawa for conferences with

Union of N.S. Indians,  
Mr. Wayne Abram

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February 28, 1983

R. Fainstein (Dept. of Justice); J. Munro and M. Bouliane; long distance conversations with S/Sgt. H. Wheaton; conferences with client and C. Gould (UNSI), J. Stewart, T. Hatcher, J. Smith and V. MacDonald (CSC); telephone conversations with S/Sgt. H. Wheaton and M. Casey; long letters to H. Howe (Attorney General, N.S.); long letter to Dept. of Justice with enclosures; letter to M. Bouliane with enclosures; conferences with client, N. Doucette, D. Marshall, Senior; long distance telephone conversations with R. Fainstein; letter from G. Coles (AGNS); to all other conferences, telephone conversations and attendances with media representatives;

May 3-7, 10, 11,  
20, 25-28:

Letter to M. Bouliane with enclosures; letter from M. Casey with enclosures; long distance telephone conversations with R. Fainstein; telephone conversation with J. Stewart; conferences with client and C. Gould; conference with W. Digby (N.S. Legal Aid); long distance telephone conversations with M. Bouliane, J. Demers (Dept. of Justice); conferences with staff at Carlton Centre, R. Clark (National Parole Board) and J. Stewart; to research; letter from W. Digby with enclosures; to all other conferences, conversations and attendances with media and Dept. of Justice, Attorney General of N.S. and National Parole Board;

June 1-4, 7,  
9-18, 21, 23,  
28-30:

Attendance in Ottawa for conferences with M. Bouliane, J. Demers and D. Rutherford (Dept. of Justice); to all conferences, telephone conversations with client and C. Gould; long distance telephone conversations with M. Bouliane, J. Demers, Marshall family; telephone conversations with client and various media representatives; conference with client, telephone conversation with L. Sturgeon (Dept. of Indian Affairs); telephone conversations with

Union of N.S. Indians,  
Mr. Wayne Abram

- 4 -

February 28, 1983

various media representatives; long distance telephone conversations with D. Rutherford; telephone conferences with client; long distance telephone conversation with J. Demers and conversations with media representatives; telephone conference with client, long distance telephone conversation with D. Rutherford; long distance telephone conversations with various media representatives; conferences with Carlton Centre staff; long distance telephone conversations with Inspector Scott (R.C.M. Police), F. Edwards (Attorney General - N.S.), J. Bentley (Dept. of Justice) and various telephone calls from media representatives; to research at Prothonotary's Office and conference with D. Morrison (Prothonotary); telephone conference with Gordon Coles (AGNS), long distance telephone conversations with media representatives; long distance telephone conversations with F. Edwards; to research; attendance in Sydney and conference with F. Edwards; conference with E. Van der Voort (Appeal Court Clerk); telephone conference with E. Van der Voort, M. Herschorn (AGNS), C. Morris (Prothonotary's Office), telephone conference with client; long distance telephone conversation with F. Edwards; telephone conversation with E. Van der Voort;

July 2, 5-9, 11,  
12, 14-16, 19-23,  
27-30:

Letter to F. Edwards; telephone conversations with J. Stewart, P. Jewers (CSC), N. Doucette, Marshall family; telephone conversations with J. MacNeil (Dept. of Indian Affairs); conference with J. Stewart, T. Hatcher, C. Gould and client at Carlton Centre; conference with client; attendance at Supreme Court Appeal Division Chambers, conference with F. Edwards; letter to J. Stewart; to drafting Affidavits of M.V. Chant, J.L. Pratico, G. Khattar, J.W. MacNeil, M. Ebsary, G. Ebsary, B. Floyd, S. Cotie, T. Gushue, Dr. M.A. Mian; attendance in Sydney, Louisbourg and New

Union of N.S. Indians,  
Mr. Wayne Abram

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February 28, 1983

Waterford for the purpose of interviewing witnesses and taking the Affidavits of M.V. Chant, J.L. Pratico, G. Khattar, J.W. MacNeil, M. Ebsary, G. Ebsary, B. Floyd, S. Cotie, T. Gushue, Dr. M.A. Mian; conferences with Cpl. J. Carroll; long distance telephone conversations with A.J. Evers (R.C.M. Police), telephone conversation with S/Sgt. H. Wheaton, drafting Affidavit of A.J. Evers; conference with client, to drafting Notice of Application to Supreme Court, Appeal Division and drafting Affidavits of S.J. Aronson, D. Marshall, Jr. and J. Stewart, long distance telephone conversation with F. Edwards; conference with J. Stewart, long distance telephone conversation with F. Edwards, long distance telephone conversation with A. Dixon (potential witness); conference with P. Harriss and drafting Affidavit of P. Harriss; letter to J. Stewart, to drafting Affidavits of G. MacNeil and D. Marshall, Jr.; letter to F. Edwards with enclosures; telephone conferences with C. Gould, J. Stewart; long distance telephone conversation with A.J. Evers; conference with J. Stewart and telephone conversations with client; attendance in Supreme Court, Appeal Division Chambers on Bail Application and setting down date for Hearing; all conversations with representatives of media; to all research and preparation for Hearings and review of R.C.M. Police Report and Statements;

Aug. 3-5, 7-11,  
16-18, 20, 23-  
27, 30, 31:

Letter to M. Bouliane with enclosures, attendance at Law Courts to take out Bail Order; to re-drafting Affidavits of G. Khattar and M. Rosenbloom and letters to G. Khattar and M. Rosenbloom; long distance telephone conversation with F. Edwards; letter and enclosures from G. Khattar and M. Rosenbloom; to research and drafting Brief for Supreme Court, Appeal Division, letter and enclosures to C.M. Rosenbloom; telephone conversation with client; attendance in Sydney and conferences with

Union of N.S. Indians,  
Mr. Wayne Abram

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February 28, 1983

L. Wintermans (N.S. Legal Aid), conferences with R.N. Ebsary, N. Doucette and Donald Marshall, Sr.; telephone conversation with R. Anderson (Dept. of Justice); to drafting Affidavit of S/Sgt. H. Wheaton and D. Marshall, Jr.; letter to S/Sgt. H. Wheaton with enclosures; to research and preparation for drafting Brief to Appeal Division; to drafting Affidavit of D. Ebsary and letter to D. Ebsary with enclosures; to all telephone conversations and conferences with media representatives;

Sept. 1, 3, 8,  
13-17, 28-30:

Letter and enclosures to F. Edwards, conference with client; telephone conversation with H. Wheaton; conference with client and taking Affidavit; long distance telephone conversation with F. Edwards, letter from F. Edwards, telephone conference with Mr. Justice G.L.S. Hart, letter to F. Edwards with enclosures, letter to Prothonotary with enclosures; attendance at Prothonotary's Office to file documents, telephone conference with client; long distance telephone conversation with M. Bouliane; letter to J. Munro; letter from R. Jacobs (Dept. of Indian Affairs); to all other conferences and attendances; to all telephone conversations with media representatives;

Oct. 3-8, 12-15,  
18, 20, 22, 24,  
25, 27:

To all preparation for Hearing and attendance in Supreme Court, Appeal Division for motion to adduce fresh evidence; telephone conversation with P. Harriss; letter to N.S. Supreme Court, Appeal Division, with enclosures, long distance telephone conversation with F. Edwards and A.J. Evers, letter to D. Ebsary, telephone conversation with E. Van der Voort; letter A.J. Evers, conference with D. Morrison (Prothonotary); telephone conversation with E. Van der Voort; letter to D. Ebsary; telephone conversation with client; long distance telephone conversations with F. Edwards; letters to M.V. Chant, J.W. MacNeil, G. Ebsary, letter to Sheriff Magee



Union of N.S. Indians,  
Mr. Wayne Abram

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February 28, 1983

with enclosures; conference with A.J. Evers in Sackville, N.B.; letter to Sheriff-Massachusetts with enclosures; conversation with H. Wheaton re Exhibits; attendance and travel to Sydney and Louisbourg and conferences with J.W. MacNeil, M.V. Chant, G. Ebsary; attendance in Boston and conference with D. Ebsary; to all other conferences and conversations with media representatives;

Nov. 1, 2, 8-10,  
12, 15, 17-19,  
22-30:

Conference with J. Munro; telephone conversation with client; telephone conversations with client and F. Edwards; conference with client; telephone conversation with G. North, telephone conversation with J. Stewart, long distance telephone conversations with F. Edwards; telephone conversations with M. Herschorn, letter and enclosures to D. Ebsary; to preparation and research for Hearing on December 1-2; letter to G. Ebsary with enclosures; conference with G. North and P. Harriss; long distance telephone conversations with Sheriff in Sydney; telephone conversation with client, conference with J. W. MacNeil's representative, long distance telephone conversation with M. Bouliane; letter and enclosures from Sheriff-Sydney; long distance telephone conversation with F. Edwards; conference with client; to preparation for Hearing; telephone conversation with Sheriff-Halifax, long distance telephone conversation with A.J. Evers, telephone conversation with S/Sgt. H. Wheaton; to preparation for Hearing; telephone conversation with Sheriff-Halifax, long distance telephone conversations with F. Edwards, telephone conversation with G. North, conference with client; to all telephone conversations with media representatives;

Dec. 1, 2, 3,  
8, 13, 16, 17,  
21, 22, 24:

Attendance at Hearing before N.S. Supreme Court, Appeal Division; letters to J.W. MacNeil and M.V. Chant with enclosures; telephone conference with client; atten-

Union of N.S. Indians,  
Mr. Wayne Abram

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February 28, 1983

dance in Ottawa for meeting with representatives of Dept. of Indian Affairs and Dept. of Justice; letter and enclosures to M. Herschorn; telephone conversations with J. Watson (Court Reporter); conversations with Court Reporter's Office, long distance telephone conversation with F. Edwards, letter to J. Munro; attendance at Law Courts to pick up Transcript, letter from J. Munro, letter from M.V. Chant; letter to F. Edwards with enclosures; to drafting Application to set case down for hearing of arguments; to research on Factum; conference with client; to all telephone conversations and conferences with media representatives;

Jan. 5, 7, 10,  
13, 18-21, 24,  
25, 27:

To review of Transcript of Dec. 1, 2, 1982, conference with client; letter to F. Edwards with copy of Transcript; attendance at Prothonotary's Office to file Transcript; long distance telephone conversations with F. Edwards; attendance in Appeal Court Chambers to obtain date for hearing of final arguments; to all research preparation, drafting and filing of Factum; letter to F. Edwards with enclosures; attendance at Prothonotary's to file Appeal Court Factum; letter to client with enclosures, letter to T. Hatcher with enclosures; to all telephone conversations with media representatives;

Feb. 2, 7, 8,  
11, 15, 16:

Letter and enclosures from M. Herschorn; letter from Frank Edwards with enclosures and review of Respondent's Factum; conference with client; to preparation for hearing of argument; attendance before Supreme Court, Appeal Division for hearing of argument, conferences with client and family; conference with F. Edwards; conference with E. MacNeil (Police Commission Nova Scotia)

Union of N.S. Indians,  
Mr. Wayne Abram

- 9 -

February 28, 1983

OUR FEE: \$37,500.00

DISBURSEMENTS:

Donald Marshall, Jr.;	\$1,082.65	
Witnesses:		
M.V. Chant	340.06	
G. Ebsary	386.32	
J.W. MacNeil	246.95	
D. Ebsary;	301.59	
Travel:		
Ottawa (2), Sydney (2), Boston;	1,050.84	
Sheriff's Fees (Service of Subpoenas);	79.05	
Prothonotary (Filing);	76.00	
Long Distance Call Tolls;	631.25	
Pat Martin-Transcript of Hearing (Dec. 1 & 2, 1983);	237.00	
Postage-Registered and Special Delivery;	19.65	
Purolator Courier;	34.01	
Wee Deliver Courier;	9.50	
Kwik Kopy Printing- Binding;	88.65	
Photocopying;	1,468.10	
George W. MacNeil - Swearing Affidavit;	10.00 =	6,061.62
Balance Owing (Fees) - Aug. 4, 1982;		37,500.00
<u>Sub-Total:</u>		<u>\$81,061.62</u>
<u>Less:</u> Rec'd in trust:		
From Inmates for D. Marshall, Junior;	\$1,082.65	
From Attorney-General N.S.- Witness Fees;	1,274.92	2,357.57
TOTAL AMOUNT DUE & OWING:		<u><u>\$78,704.05</u></u>

SJA:md



# Aronson, MacDonald **Barristers & Solicitors**

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre · Suite 305 · 277 Pleasant Street · Dartmouth, N.S. Canada B2Y 4B7 · (902) 463-9131

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March 23, 1983

The Honourable John C. Munro  
House of Commons  
Room 401, Confederation Building  
Ottawa, Ontario K1A 0A6

Dear Mr. Munro:

Re: Donald Marshall, Junior

I enclose copies of my final account in the Marshall case and in consideration of our numerous discussions would appreciate your prompt and personal attention to paying this account at your earliest possible convenience.

As you are no doubt aware the matter has gone on for about 18 months and I have yet to receive any payment whatsoever. I therefore look to you to honour your undertaking to pay this account.

Yours very truly,

Stephen J. Aronson

SJA:md  
Enclosures  
c.c. - Ron Witt

Suite 305  
277 Pleasant Street  
Dartmouth, Nova Scotia  
B2Y 4B7

March 30, 1983

Hon. Mark MacGuigan  
Minister  
Dept. of Justice  
House of Commons  
Ottawa, Ontario

Re: Donald Marshall Jr.

Dear Sir:

I would appreciate the opportunity of speaking with you at the earliest opportunity in regards to the Marshall Case.

If you would be good enough to let me know of a convenient time, I shall make the arrangements to attend.

Yours very truly,



Steve Aronson  
ARONSON MACDONALD  
Barristers  
Ph. 902 463-9131

SA/bjm

c c: Hon. John Munro, D.I.A.N.D.  
Noel Doucette, U.N.S.I.

DELIVERED BY HAND

April 19, 1983

D.J.A. Rutherford, Q.C.  
Chateau Halifax  
Halifax, Nova Scotia

Dear MR. Rutherford:

Re: Donald Marshall, Junior

At your request I am enclosing copies of my letter to Gordon Gale of April 13, 1982, Gordon F. Coles' response of April 23, 1982, letter of May 18, 1982 from Nova Scotia Legal Aid, together with Certificate of Responsibility. I trust that this will assist in your discussions with the Attorney-General's Department in Nova Scotia. Would you be so kind as to let me know what the result is and I shall govern my future actions accordingly.

Yours very truly,

Stephen J. Aronson

SJA:md  
Enclosures

# Aronson, MacDonald Barristers & Solicitors

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre • Suite 305 • 277 Pleasant Street • Dartmouth, N.S. Canada B2Y 4B7 • (902) 463-9131

---

April 13, 1982

Attorney General of Nova Scotia  
Post Office Box 7  
Halifax, Nova Scotia

ATTENTION: Gordon Gale, Q.C.

Dear Mr. Gale:

Re: Donald Marshall, Jr.

Subsequent to our meeting of March 31, 1982, I met in Ottawa with Ronald Fainstein, of the Department of Justice. After reviewing the facts of the case Mr. Fainstein and I discussed the possible remedies available to Mr. Marshall.

As you are aware it is the Minister of Justice who has the powers provided for in Section 617 of the Criminal Code. In addition, a very real possibility exists that Marshall will be granted a free pardon. A free pardon is given only when the innocence of the convicted person is established and it may be granted under the Royal Prerogative of Mercy contained in the letters patent constituting the office of Governor General of Canada. A free pardon is quite different from a pardon under the provisions of the Criminal Records Act. In this particular case the Minister of Justice will be responsible for looking into the matter of a free pardon and will draw on the Solicitor General's Department as and only if necessary.

It is my understanding that both the Attorney General and myself will be asked for our views by the Minister of Justice. It might also be pointed out that the Minister of Justice, the Solicitor General of Canada and the Minister of Indian and Northern Affairs have each received memorandums respecting the facts of the Marshall case. They are, to say the least, most concerned about the implications of this case.

Attorney General of  
Nova Scotia

- 2 -

April 13, 1982

I have only recently received from Frank Edwards copies of the transcript of the trial and Facts on Appeal. Copies of this material will be sent by me to Ottawa today for review by the Department of Justice. The report of the R.C.M.P. investigation has also been reviewed by the Department of Justice.

It would be most appreciated if you might keep me advised as to your Department's position. In particular, I have expressed and continue to express my concern over the leaks to the press of information relating to the Marshall investigation. I do not believe that such leaks serve the interests of justice. This is particularly true as the source of the leaks appear to come from the Sydney City Police and officers of your own Department, including the Attorney General himself. I appreciate that it is difficult for you to stem the flow of information; however, I am also of the belief that you agree with the view I have expressed.

The Marshall family has requested that I seek payment of my legal fees from your Department. This request is made largely on the basis that Mr. Marshall is not in a financial position to pay me. I would anticipate that these fees and expenses will be of a substantial nature, no account having been sent as yet to anyone. My instructions are not to apply for legal aid or financial assistance from legal aid. I would most appreciate your response to this particular request at your earliest convenience and we shall govern ourselves accordingly.

Finally the matter of compensation for Mr. Marshall must be addressed. Once Mr. Marshall has been found not guilty of the murder of Sandy Seale, Mr. Marshall will be looking to the Attorney General of Nova Scotia for compensation for 11 years in prison for an act which he did not commit. The Attorney General has already made some comments to the press regarding compensation. I would appreciate receiving from you your Department's position on this particular point, in order to avoid any misunderstanding as the case unfolds.

I trust we shall continue to co-operate and I look forward to hearing from you on the issues raised in this letter, all at your earliest convenience.

Yours very truly,

Stephen J. Aronson

SJA:md

c.c. - Department of Justice

*Dept. of Indian &  
Northern Affairs.*



ATTORNEY GENERAL  
NOVA SCOTIA

Our File No. 09-82-0236-08

April 23, 1982

Mr. Stephen J. Aronson  
Aronson, MacDonald  
Barristers & Solicitors  
Dartmouth Professional Centre  
277 Pleasant Street  
Dartmouth, Nova Scotia  
B2Y 4B7

APR 27 1982

Dear Mr. Aronson:

Re: Donald Marshall, Jr.

Mr. Gale has copied to me your letter of April 13th since it seemed appropriate that I should reply to your request that this Department pay your legal fees and your notice that Mr. Marshall will be looking to the Attorney General of Nova Scotia for compensation in respect to his commitment to prison should he be found not guilty of the offence for which he was sentenced.

In respect to the first request, you will understand that Mr. Marshall is undoubtedly eligible for legal aid. Although there may be a question whether the proceedings which you contemplate would entitle Mr. Marshall to a choice of counsel under the provisions of the Canada-Nova Scotia Agreement in respect to legal aid in criminal matters, I understand from Mr. Gordon Murray, Q. C., that in the present circumstances he would be prepared to recommend that Mr. Marshall have a choice of counsel. Accordingly, I suggest that you acquaint Mr. Marshall of this and take the necessary steps to establish his eligibility and right to a choice of counsel. In this manner legal fees and disbursements in accordance with the scale approved by the Legal Aid Commission will be paid.

In respect to the question of possible compensation in the event that Mr. Marshall should be found not guilty of the offence for which he was convicted, I can only say in the event of such a happening, Mr. Marshall, or counsel on his

Mr. Stephen J. Aronson

- 2 -

April 23, 1982

behalf, may make such submissions in the matter of compensation as are thought appropriate. There is no authority for this Department to entertain any such claim, although the Attorney General has indicated that if such an event should come to pass he is prepared to present any such representations to his cabinet colleagues for their consideration.

Yours very truly



Gordon F. Coles  
Deputy Attorney General



MAY 19 1982

## NOVA SCOTIA LEGAL AID

5212 SACKVILLE STREET, SUITE 301, HALIFAX, NOVA SCOTIA, B3J 1K6 PHONE 423-1291

May 18, 1982

Mr. Stephen J. Aronson  
Aronson, MacDonald  
Barristers and Solicitors  
Suite 305  
277 Pleasant Street  
Dartmouth, Nova Scotia  
B2Y 4B7

Dear Mr. Aronson:

RE: Donald Marshall, Jr.

Enclosed please find two copies of our Certificate authorizing you to act for Mr. Marshall and to request payment from the Nova Scotia Legal Aid Commission. I trust this is to your satisfaction. Would you kindly sign one copy of the Certificate and return it to me at your earliest convenience.

Please call me if you have any questions.

Yours very truly,

A handwritten signature in cursive script that reads "William B. Digby".

William B. Digby  
Deputy Director  
Nova Scotia Legal Aid Commission

WBD/rr  
Enclosures



CERTIFICATE

SP 44

This is to certify that the Nova Scotia Legal Aid Commission accepts responsibility for payment of the account, commencing on the effective date and on the terms and conditions set out below, for legal services to be performed by the named practising member of the Nova Scotia Barristers' Society.

CLIENT: Donald Marshall, Jr.

MATTER: Application for Special Pardon

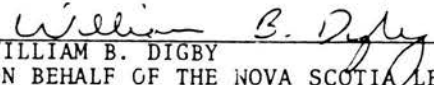
MEMBER: Stephen J. Aronson  
Aronson, MacDonald  
Barristers and Solicitors  
Suite 305  
277 Pleasant Street  
Dartmouth, Nova Scotia B2Y 4B7

TERMS: (a) Effective Date: 4th May, 1982

(b) Fees: \$35.00 per hour to a maximum of \$1,500.00  
\$250.00 per day appearances before court,  
board or commission.

(c) Disbursements: Up to \$200.00 per item without prior  
written approval, any item over \$200.00 with  
prior written approval. Meals - Maximums  
Breakfast \$4.00; Lunch \$5.00; and Dinner \$10.00.  
Travel distance - 34¢ per mile, 21.1¢ per km.

REASONS FOR CERTIFICATE: Special circumstances of case.

  
WILLIAM B. DIGBY  
ON BEHALF OF THE NOVA SCOTIA LEGAL AID  
COMMISSION

I agree to act as counsel in the above matter on  
the terms and conditions stated.

STEPHEN J. ARONSON  
Barrister and Solicitor



Department of Justice  
Canada

Ottawa, Canada  
K1A 0H8

Ministère de la Justice  
Canada

50

SA 12

MAY 9 - 1983

April 29, 1983

Stephen J. Aronson, Esq.  
Aronson, MacDonald  
Barristers & Solicitors  
Dartmouth Professional Centre  
Suite 305  
277 Pleasant Street  
Dartmouth, N.S.  
B2Y 4B7

264580

Re: Donald Marshall Jr.

Dear Mr. Aronson:

Thank you for your letter of April 1983 and the correspondence you have had concerning payment of your legal fees in this matter.

In order that I can inform the Minister's office fully concerning the matter, I wonder if you could let me have some sort of description of the legal services you have provided to Mr. Marshall in relation to the proceedings in the Court of Appeal, both leading up to and during those proceedings, including some indication of the time spent on the various services provided.

Yours truly,

Douglas J.A. Rutherford  
Assistant Deputy Attorney General

Canada



Minister  
Indian and Northern Affairs Canada

Ministre  
Affaires indiennes et du Nord Canada

Ottawa, Canada  
K1A 0H4

MAY 3 1983

MAY 12 1983

Mr. Stephen J. Aronson,  
Aronson, MacDonald,  
Barristers & Solicitors,  
Dartmouth Professional Centre,  
Suite 305, 277 Pleasant Street,  
Dartmouth, Nova Scotia.  
B2Y 4B7

Dear Mr. Aronson:

This is further to my letter of December 14, 1982 concerning the payment of your fees for your work on behalf of Donald Marshall, Jr.

I have recently received a reply from the Honourable Harry W. How, Q.C., Attorney General for Nova Scotia, informing me that he is prepared to ask the Legal Aid Commission to consider retroactively an application from you to provide payment. However, he is unwilling to go outside the Canada/Nova Scotia Legal Aid Agreement.

The Department of Justice recommends that my Department not pay your fees arising from the Marshall case. A precedent would be set which could be both costly and damaging for the Department in future issues.

I regret that I cannot reply more favourably.

Yours sincerely,



John E. Munro.

c.c. The Honourable Harry W. How, Q.C.

# Aronson, MacDonald Barristers & Solicitors

Stephen J. Aronson  
Leo I. MacDonald

Dartmouth Professional Centre • Suite 305 • 277 Pleasant Street • Dartmouth, N.S. Canada B2Y 4B7 • (902) 463-9131

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May 10, 1983

Douglas J.A. Rutherford,  
Assistant Deputy Attorney General  
Department of Justice  
Ottawa, Ontario K1A 0H8

Dear Mr. Rutherford:

Re: Donald Marshall, Jr. - Your File No. 264580

Thank you for your letter of April 29, 1983. I enclose a photocopy of our Statement of Account of February 28, 1983. There will be no further accounts rendered by me on the Reference.

I believe the account is sufficiently detailed to meet your request. As to actual time spent on the various services provided, I have all along kept my time and have calculated 96 working days spent on the services referred to in our account. Approximately 37 days were occupied by me up to the date of the Reference (June 17th, 1982) in the investigation, client discussions and interviews; discussions and correspondence with the Department of Justice, Attorney General of Nova Scotia, the National Parole Board, the Carlton Centre, Indian and Northern Affairs and the R.C.M.P. The balance of time was spent in the interviewing of witnesses, research, drafting all documentation relating to or arising out of the Reference, and attendances in Court.

I would also like to advise you at this time that I will be leaving the practice of law and as a result the Marshall case at the end of this week. I have taken a position in the Policy Branch of Indian and Northern Affairs commencing on May 16, 1983. This obviously changes my decision somewhat and when I arrive in Ottawa I will give your office a

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Douglas J.A. Rutherford,            - 2 -  
Assistant Deputy Attorney General

May 10, 1983

call to advise you where I may be reached and to discuss the change in my status and how it affects your much-appreciated work on my behalf relating to payment of legal fees.

I should very much like to thank you for your effort in the Marshall case generally and would have only wished that other individuals involved in the case had acted in as responsible and straightforward manner as you.

Yours sincerely,

Stephen J. Aronson

SJA:md  
Enclosures

May 18/83

Felix

Just a note to say hello and pass on the attached letter of April 7/83 from Munro. The handwritten note in lower right hand corner refers to Hays reply, which I haven't seen.

I will be speaking to Doug Rowland (AOT) -  
Justin tomorrow - will give you a call after.



Phone at work - (819) 994-0126  
Mail: 120 Beech St., #101  
Ottawa, Ont.  
K1S 3K2

SA 6187  
 Ref: SA 5020  
 SA 3561  
 SA 7264

The Honourable Harry W. How, Q.C.,  
 Attorney General for Nova Scotia,  
 Provincial Building,  
 Halifax, Nova Scotia.  
 B3J 2L6

Dear Mr. How:

We have received representation from Mr. Stephen Aronson, the lawyer acting for Mr. Donald Marshall in the recent murder trial, seeking funding from this Department for that portion of his bill not covered by legal aid. I have received your letter of January 17, setting out your position in respect of Mr. Aronson's request for a more generous fee arrangement than that provided by legal aid.

Unfortunately, my Department has no capacity to pay Mr. Aronson for his services in this case. Although the case has received a great deal of publicity, it is not unlike many cases which go before the courts regularly and we have no authority to fund these.

I understand the position you outline in your letter but I would ask whether it is possible to reconsider the matter. I am concerned that there might be a serious miscarriage of justice with respect to Mr. Marshall if Mr. Aronson's personal services are not made available to him. I would very much appreciate if you would let me know precisely what Nova Scotia Legal Aid can do, as well as what options there might be both within the Canada/Nova Scotia Legal Aid Agreement and through any other avenues open to your office to deal with special cases such as this.

Yours sincerely,

ORIGINAL SIGNED BY  
 ORIGINAL SIGNÉ PAR  
 JOHN C. MUNRO

John C. Munro.

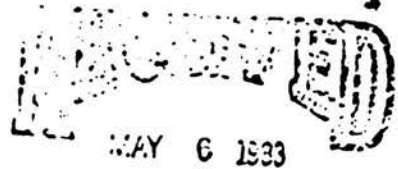
Information: Leask  
 Writer: Baskin/bjm/E32  
 April 7, 1983  
 c.c. Indian Program Secretariat  
 c.c. Legal Services  
 c.c. Mr. J.D. Leask, Director General,  
 Reserves and Trusts

*How's response indicated that N.S. was "willing" to go outside of the N.S./Canada Legal Aid agreement.*



MAY 3 1983

The Honourable Harry W. How, Q.C.,  
Attorney General for Nova Scotia,  
Provincial Building,  
Halifax, Nova Scotia.  
B3J 2L6



ATTORNEY GENERAL

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John C. Munro.





MAY 3 1983  
MAI

Mr. Stephen J. Aronson,  
Aronson, MacDonald,  
Barristers & Solicitors,  
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ORIGINAL SIGNED BY  
ORIGINAL SIGNÉ PAR  
JOHN C. MUNRO

John C. Munro.

c.c. The Honourable Harry W. How, Q.C.

Mtj - E Jr - at Dachau - Sept. 3/81

5'3";

white hair comb-back;

medium build

Roy Ebsary - lives in Sydney, is 67 yrs of age:

Falmouth I.

- some kind of <sup>church</sup> minister

- physical description of R.E. is same as description D.M. gave police.
- only 1 stab wound, but extensive injuries; in newspaper described as extensive wounds

Mitchell Payne, 11 Tunney I., Peterborough - 19

Peterborough

- spoke to Ebsary in October of 1979; met him through a mutual friend; he stayed at Ebsary for 3 months;
- just out of the yard told M.B. he committed the murder; walked through park every night at work; he was alone; mentioned a 3rd party in bush; "Indian had finished him off"; always carried a knife
- did go to police station + took a lie detector test