

CASE NO.**VOL. NO.****PAGE****HER MAJESTY THE QUEEN**

- and -

K.N. (YOUNG OFFENDER)

(Appellant)

(Respondent)

CAC159381

Halifax, N.S.

PUGSLEY, J.A.

[Cite as: R. v. K.N., 2000 NSCA 36]

APPEAL HEARD:

February 10, 2000

JUDGMENT DELIVERED:

February 25, 2000

SUBJECT:**Criminal Law - Young Offenders Act - Transfer of Proceedings to Ordinary Court****SUMMARY:**

KN, 15 at the time, was charged with a number of indictable offences, including attempted murder by striking a fellow high school student between eight to fifteen times on the back of the head with a small baseball bat during school hours. The victim suffered grievous injuries which will have permanent sequela. The Crown's application to transfer the proceedings to ordinary court was unsuccessful. The Crown appealed.

RESULT:

Appeal dismissed.

The court agreed with the trial judge that the offences were of a most serious nature, and the circumstances in which the offences were allegedly committed could "hardly reflect more adversely on" KN. In determining the extent to which the public requires protection, the circumstances of the young person must, as well, be taken into account. The uncontradicted expert evidence was that KN did not suffer from a psychosis, or conduct disorder, and that a three-year period (the maximum custody under the youth court regime) would be ample time to complete a therapeutic program with KN, provided he display the necessary commitment, and put forth a reasonable effort.

KN was confined to the youth facility at Waterville since June, 1999. A report prepared on February 1, 2000, by a psychologist who had seen KN on at least ten occasions, was introduced by consent. The report suggested KN has the commitment, and is putting forth a reasonable effort. The testimony of KN's father confirms such expectations.

While the trial judge took into account the issues of public denunciation of serious crimes, public confidence in the administration of justice, and the reaction of society to such crimes, all of which were relevant factors, it would appear that he did not specifically take into account the issue of general deterrence. It would have been appropriate to have done so, as it is an issue which comes within the purview of the phrase “protection of the public”. It should be assessed in accordance with the principle that deterring others is of diminished importance in relation to young persons.

On the evidence adduced before the youth court, supplemented by the reports introduced at the review hearing, taking into account the factors in s. 16(2) of the **Young Offenders Act**, the objectives of the protection of society and the rehabilitation of KN can be reconciled within the youth court system.

This information sheet does not form part of the court’s judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 34 pages.