

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Gallie*, 2015 NSCA 50

Date: 20150520

Docket: CAC 432264

Registry: Halifax

Between:

Gordon Arthur Gallie

Appellant

v.

Her Majesty the Queen

Respondent

Restriction on Publication: Pursuant to s. 486 of the Criminal Code of Canada

Judge: The Honourable Justice Joel E. Fichaud

Appeal Heard: April 1, 2015, in Halifax, Nova Scotia

Subject: Criminal law – improper cross-examination – character evidence – prior consistent statements – jury charges – protection of property defence

Summary: The jury found Mr. Gallie guilty of sexual offences involving two girls, aged nine and ten. The verdict turned on credibility. Mr. Gallie submitted that the jury's assessment of credibility was compromised for several reasons that constituted his grounds of appeal.

Issues: Did the judge's charge sufficiently blunt the effect of the Crown's improper cross-examination of Mr. Gallie? Was a limiting instruction required for character evidence or prior consistent statements? Did the judge's slips in his charge

affect the jury's appreciation of the Crown's burden of proof? Did the judge wrongly refuse to put the defence of property to the jury?

Result:

The Court of Appeal dismissed the appeal. The judge's charge alleviated the impact of the improper question on cross-examination. No limiting instruction was required for character evidence or prior consistent statements. The judge's slips of the tongue in his charge were remedied by repeated and clear instructions elsewhere in the charge. The judge correctly determined that the proposed defence of property had no air of reality.

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 27 pages.