

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Veinot*, 2011 NSCA 120

Date: 20111229

Docket: CAC 348354

Registry: Halifax

Between:

Kelly Andrew Veinot

Appellant

v.

Her Majesty The Queen

Respondent

JUDGE: MacDonald, C.J.N.S.

APPEAL HEARD: December 6, 2011, in Halifax, Nova Scotia

SUBJECT: Criminal law; arson; parties to offence; hearsay evidence; K.G.B. statements; reasonableness of verdict; prior inconsistent statements; s. 9(2) of the *Canada Evidence Act*, R.S.C., 1985, c. C-5; principles of sentencing.

SUMMARY: One Timothy Robar set fire to the Shelburne home of one Keith Jacklin, a stranger. Robar admitted this to the police and in fact provided a detailed video re-enactment. In his confession, Robar told the police that Veinot hired him to set the fire. He said that Veinot helped him scout out the location and drove him to the scene to carry out the crime. Apparently, Veinot had a score to settle with Jacklin flowing from a recent court case.

At Veinot's trial, Robar was called as a Crown witness but he refused to cooperate, claiming that he could remember nothing despite having given three detailed videotaped confessions, all implicating Veinot. In response, the judge allowed the Crown to

cross-examine its own witness on these statements, an exception permitted in such circumstances under the *Canada Evidence Act*, R.S.C., 1985, c. C-5. As well, the judge granted the Crown's motion to tender Robar's videotaped confessions for the truth of their contents. He did this after finding their admission to be both necessary and sufficiently reliable according to the principles set out by the Supreme Court of Canada in **R. v. B. (K.G.)**, [1993] 1 S.C.R. 740 ("**KGB**").

The three videos included (a) Robar's initial "warned" statement, (b) his detailed re-enactment where he led the police to the scene describing the entire episode in minute detail, and (c) a sworn "**KGB**" statement (routinely taken on the chance Robar would refuse to or otherwise be unavailable to testify). All three consistently implicated Veinot.

At trial, the defence attacked both Robar's credibility as an unsavoury character and his reliability as a mentally unstable person with a drug addiction. Mr. Veinot did not testify in his own defence.

The judge found Robar's statements, along with other circumstantial evidence, to be strong enough to link Veinot's involvement beyond a reasonable doubt. He sentenced him to three years, prompting the present appeal.

ISSUES:

1. The reasonableness of the verdict;
2. the admission of the three Robar videos;
3. the Crown's cross examination of Robar, and
4. the fitness of the sentence.

RESULT:

1. The verdict was not unreasonable;
2. the admission of the videos for the truth of their contents did not reflect error;
3. the Crown's ability to cross-examine its own witness did not reflect reversible error, and
4. the sentence was reasonable.

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 14 pages.