

**NOVA SCOTIA COURT OF APPEAL**

**Citation: *R. v. Fraser*, 2011 NSCA 70**

**Date:** 20110721

**Docket:** CAC 330167

**Registry:** Halifax

**Between:**

Antoine Fraser

Appellant

- and -

Her Majesty the Queen

Respondent

- and -

Lawrence William Scaravelli

Intervenor

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**Judge:** The Honourable Mr. Justice Jamie W.S. Saunders

**Appeal Heard:** June 1 and 2, 2011

**Subject:** **Ineffective Assistance of Counsel. Crown Disclosure. Challenge for Cause. Fresh Evidence. Credibility. Miscarriage of Justice.**

**Summary:** Following trial by judge and jury, the appellant, a black high school teacher, appealed his conviction of touching for a sexual purpose a white, former student of his, contrary to s. 153(a) of the **Criminal Code**. He claimed that the representation he received from his trial counsel was ineffective and resulted in a miscarriage of justice, and that the Crown breached its ongoing duty to disclose.

**Held:** Fresh evidence admitted. The appellant did not receive a fair trial. The legal representation he received fell far short of the mark reasonably expected of any defence counsel. The appellant's constitutional right to make full answer and defence was compromised. A miscarriage of justice occurred. The verdict is unsafe and must be set aside.

The appeal is allowed, the conviction is overturned, and a new trial is ordered.

The Crown met its disclosure obligations which were ongoing and persisted throughout the trial process.

**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 35 pages.**