

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Keats*, 2016 NSCA 94

Date: 20161229

Docket: CAC 444859

Registry: Halifax

Between:

James Duncan Keats

Appellant

v.

Her Majesty the Queen

Respondent

Restriction on Publication: s. 486.4 of the *Criminal Code*

Judge: The Honourable Justice Duncan R. Beveridge

Appeal Heard: September 22, 2016, in Halifax, Nova Scotia

Subject: Evidence: admissibility of business records

Summary: The appellant was convicted of sexual assault. The trial judge relied, at least in part, on evidence that semen was found on vaginal swabs from the complainant. The semen evidence was recounted by a Crown expert who had no first-hand knowledge. Another Crown expert who had that knowledge was not asked about what she had done. Her notes that recorded her observations were identified by the witness, but she was not asked to adopt them as being true. Defence counsel did not object to any of this evidence. She asked no questions about it. Appellate counsel claims that the evidence was inadmissible hearsay, and the trial judge erred in relying on it.

Issues: Was the evidence inadmissible?

Result: The notes were *prima facie* admissible as business records under the common-law exception, as well as pursuant to the principled approach of demonstrated reliability and necessity. The trial judge committed no error. Therefore, the appeal is dismissed

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 32 pages.