

IN THE SUPREME COURT OF NOVA SCOTIA

APPEAL DIVISION

Jones, Hallett and Freeman, JJ.A.

BETWEEN:

DONALD CHRISTOPHER KEANS)	Del Atwood
)	for the Appellant
Appellant)	
)	
- and -)	Gordon S. Gale, Q.C.
)	for the Respondent
)	
HER MAJESTY THE QUEEN)	
)	
Respondent)	Appeal Heard:
)	January 15, 1991
)	
)	Judgment Delivered:
)	January 15, 1991
)	
)	
)	
)	

THE COURT: Application for leave to appeal granted but appeal dismissed, per oral reasons for judgment of Jones, J.A.; Hallett and Freeman, JJ.A. concurring.

The reasons for judgment were delivered orally by:

JONES, J.A.:

This is an application for leave to appeal against a sentence of five years imprisonment imposed on the appellant by His Honour Judge Cacchione on September 12, 1990. On that date the appellant entered a plea of guilty to ten counts in an indictment containing eleven counts.

On May 18, 1990, the appellant and two other men broke into the residence of Grace Downey, 416 Main Street, Milton, Queens County. The premises were ransacked and extensively damaged. Cash and jewellery valued at \$4,000.00 was stolen from the premises together with a 1990 Buick automobile. The three men then drove to the old Garden Road near Middlefield where they broke into six cottages. Items were stolen from five of the cottages. They then proceeded to the River Road near Milton where they smashed the car repeatedly into the Power Commission gate in an attempt to enter the Commission property. The car worth \$25,000.00 was demolished. The appellant was 19 years of age when these offences were committed. He had a previous record as a young offender with 26 convictions. He has a grade 8 education. For breaking and entering the Downey residence the trial

judge imposed a term of three years. With regard to the breaks into the cottages the trial judge imposed a term of two months for each offence consecutive to each other but concurrent to the total sentence. The remaining sentences ranged from one to six months and were consecutive for a total term of five years.

On this appeal the appellant contends that the sentence is excessive having regard to the appellant's age, the totality principle and the sentence imposed on a co-accused. The appellant also contends that the trial judge placed undue emphasis on the damage to property.

We see no merit in this appeal. This court has stated on many occasions that break and enter into a private dwelling can warrant a sentence of three years imprisonment. Starting at that point and having regard to the number of offences involved particularly the break and entries it is not difficult to see how the trial judge arrived at the sentence even having regard to the appellant's age. It is clear that he considered the totality of the sentence. As stated by the trial judge the appellant showed a total disregard for the law and other people's property. We see no error on the part of the trial judge in imposing sentence and according while leave

to appeal is granted the appeal is dismissed.

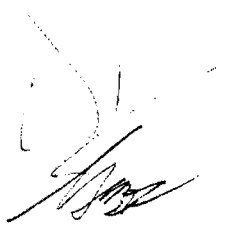


J.A.

Concurred in:

Hallett, J.A.

Freeman, J.A.



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PROVINCE OF NOVA SCOTIA
COUNTY OF QUEENS SS

C. LP. 3402

IN THE COUNTY COURT OF DISTRICT NUMBER TWO

JUDGE'S CRIMINAL COURT

BETWEEN:

HER MAJESTY THE QUEEN

- against -

DONALD CHRISTOPHER KEANS

HEARD BEFORE: The Honourable Judge Felix A. Cacchione

HEARD AT: Liverpool, N.S. (September 12, 1990)

COUNSEL: Craig Harding, Esq. for the Informant
Del Atwood, Esq. for the Defendant

Sections: 334(a), 334(b)(i), 348(1)(b),
430(4), 145(3)

SENTENCING
