

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. R.B.*, 2018 NSCA 78

Date: 20181003

Docket: CAC 464683

Registry: Halifax

Between:

[R.C.B.]

Appellant

v.

Her Majesty the Queen

Respondent

<p>Restriction on Publication: 486(1) of the Criminal Code of Canada, R.S.C. 1985, c. C-46</p>

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: September 21, 2018, in Halifax, Nova Scotia

Subject: **Fresh Evidence. Conviction for Sexual Assault, s. 271 of the Criminal Code of Canada, R.S.C. 1985, c. C-46.**

Summary: Mr. [B.] was charged with sexually assaulting M.M. over a period of seven years from 2004 to 2011, when she was between the ages of 11 and 18. He was tried in Provincial Court. The only person to give evidence was M.M. The defence elected to call no evidence.

The Provincial Court judge found the appellant guilty of sexual assault and sentenced him to 10 months in a provincial institution. Mr. [B.] appeals.

On the appeal he sought to introduce fresh evidence from himself, his daughter and granddaughter to show that he did

not have the opportunity to commit the sexual assaults as alleged. He also says the judge's reasons were insufficient and he failed to properly assess M.M.'s evidence.

Issues:

- (1) Should the fresh evidence be admitted?
- (2) Were the trial judge's reasons insufficient? And
- (3) Did the trial judge err in failing to properly distinguish between reliability and credibility when assessing M.M.'s evidence?

Result:

The motion to adduce fresh evidence was dismissed. The evidence was readily available at the time of trial. More importantly, the proposed evidence did nothing to raise concerns about the reliability of the verdict.

On the issue of the sufficiency of reasons, there was nothing lacking in the trial judge's decision. The appellant would not be left in any doubt as to why he was convicted upon reading the judge's decision.

Finally, the trial judge committed no error in assessing the evidence of M.M. for reliability and credibility.

Appeal 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 18 pages.