

J. R. C.
(Appellant)

-and-

Her Majesty the Queen
(Respondent)

L I B R A R Y S H E E T

[Cite as: R. v.J.R.C., 2002 NSSC 1]

HEARD: December 11, 2001 **DECISION:** December 11, 2001 (Orally)

WRITTEN RELEASE: January 2, 2002

SUBJECT: *Criminal Law* - Appeal from Youth Court finding of guilt on charge of breach of probation.

SUMMARY: Appeal from conviction of breach of probation under Section 26 of *Young Offenders Act* as a result of conviction for theft while on probation. At trial, Crown introduced copy of probation order as proof that appellant on probation at time of breach. Issue was whether Section 23(3) of *Young Offenders Act* had been complied with at time appellant was placed on probation. It required Youth Court to provide copy of probation order to parent of offender if parent was present at trial proceeding.

ISSUE: Was compliance with Section 23(3) mandatory for valid probation order?

Was the trial judge correct in concluding that Section 23(3) complied with?

RESULT: Appeal allowed.

Conflicting decisions from Ontario Court of Appeal [*R v. L.M.*] and Alberta Court of Appeal [*R v. D.C.A.*] on issue of whether compliance with Section 23(3) mandatory. *R v. L.M.* was followed which required compliance with Section 23(3).

Trial judge erred in finding that Crown had proven compliance with Section 23(3) of *Young Offenders Act*. Probation order did not indicate that copy of order had been given to parent of appellant. No other evidence on issue.

Conviction for breach of probation quashed because probation order not valid.

**THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION,
QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER SHEET. THE FULL
COURT DECISION CONSISTS OF 8 PAGES.**