

**CASE NO.**

Cite as: R. v. Tziolas, 1998 NSCA 93

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DIMITRIOS TZIOLAS

**- and -**

HER MAJESTY THE QUEEN

Appellant

Respondent

C.A.C. No. 142926

Halifax

CHIPMAN, J.A.  
(Orally)**APPEAL HEARD:**

April 1, 1998

**JUDGMENT DELIVERED:**

April 1, 1998

**WRITTEN RELEASE OF ORAL:**

April 7, 1998

**SUBJECT:****CRIMINAL LAW - SENTENCING - APPLICATION FOR LEAVE TO APPEAL SENTENCE FROM SUMMARY CONVICTION APPEAL COURT PURSUANT TO S. 839 OF THE CRIMINAL CODE - APPLICATION TO ADDUCE FRESH EVIDENCE****SUMMARY:**

The appellant pled guilty in Provincial Court to a charge of assault causing bodily harm. He was sentenced to three months incarceration, followed by 18 months probation with conditions. An appeal to the Supreme Court under Part XXVII of the **Criminal Code** resulted in a variation of the period of incarceration to a 90 day intermittent term. The terms of the probation were not changed by the Summary Conviction Appeal Court.

On an application for leave to appeal to the Court of Appeal, the appellant tendered fresh evidence directed towards an argument that the Provincial Court judge and counsel for the Crown at the sentencing hearing was biased against him.

**ISSUES:**

- (1) Whether the evidence challenging the trial process should be admitted.
- (2) Whether a point of law arose on the appeal.

**RESULT:**

- (1) The Court of Appeal held that the evidence challenging the trial process failed to raise a serious issue and should not be admitted.
- (2) The Court of Appeal held that the application raised no point of law. Leave to appeal was refused.

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DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THIS COVER  
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