

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Cross, 2004 NSCA 156

Date: 20041231

Docket: CAC 214660

Registry: Halifax

Between:

Her Majesty The Queen

Appellant

v.

Kevin Brian Cross

Respondent

Judge: The Honourable Justice Roscoe

Appeal Heard: November 15, 2004

Subject: Criminal law, breach of conditional sentence, s. 742.6(9)

Summary: The respondent was alleged to have breached four conditions of his conditional sentence. Provincial Court judge proceeding under s.742.6 found that he had breached three conditions and directed that the respondent spend three of the remaining 17 months of the sentence in prison. The Crown appealed the finding of “no breach” of the fourth condition.

Issues: Is there a Crown appeal from a finding of no breach?
If so, did the sentencing judge err by not allowing the Crown to call rebuttal evidence at the breach hearing?

Result: Appeal dismissed. There is no appeal by the Attorney General of a finding that an allegation of breaching a term of a conditional sentence was not proven.

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 10 pages.