

NOVA SCOTIA COURT OF APPEAL

**Clarke, C.J.N.S.; Hart and Freeman, JJ.A.**

Cite as: R. v. Kenny, 1993 NSCA 181

**BETWEEN:**

HER MAJESTY THE QUEEN

Appellant

- and -

MELVIN JOSEPH KENNY

Respondent

) James C. Martin  
) for the Appellant

) Leo-Rene Maranda  
) for the Respondent

) Appeal Heard:  
) September 21, 1993

) Judgment Delivered:  
) September 21, 1993

**THE COURT:**

Leave to appeal dismissed from a sentence of eight years for an offence contrary to section 465(1)(c) of the **Criminal Code** and a sentence of eight years, to be served concurrently, for an offence contrary to section 4(2) of the **Narcotic Control Act**, per oral reasons for judgment of Clarke, C.J.N.S., Hart and Freeman, JJ.A. concurring.

The reasons for judgment of the Court were given orally by:

**CLARKE, C.J.N.S.:**

The Crown applies for leave to appeal, and if granted, to appeal two sentences imposed on the respondent by Chief Justice Glube on January 8, 1993.

The grounds are that the trial judge failed to apply proper principles and as

a result imposed sentences that are excessively lenient.

The respondent pled guilty to the two offences with which he was charged. On the first, that he unlawfully conspired to traffic in a narcotic contrary to section 465(1)(c) of the **Criminal Code**, he was sentenced to serve eight years in a federal penitentiary. On the second, that he unlawfully had, with others, possession of a narcotic for the purposes of trafficking contrary to section 4(2) of the **Narcotic Control Act**, the Chief Justice sentenced him to serve eight years with the sentence to run concurrently with that imposed for the first offence.

The Chief Justice imposed a ban on the publication "of any facts until the rest of those charged have had their trials", thus making it unnecessary for us to repeat them here. We have read and heard and considered both the written and oral submissions of counsel of each of the appellant Crown and the respondent Melvin Joseph Kenny. We are unanimously of the opinion that leave to appeal is granted but the appeal is dismissed.

C.J.N.S.

Concurred in:

Hart, J.A.

Freeman, J.A.

