

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *R. v. P.B.T.K.*, 2015 NSCA 57

**Date:** 20150612

**Docket:** CAC 436531

**Registry:** Halifax

**Between:**

P.B.T.K.

Appellant

v.

Her Majesty the Queen

Respondent

**Judges:** Beveridge, Bryson and Bourgeois, JJ.A.

**Appeal Heard:** June 11, 2015, in Halifax, Nova Scotia

**Written Release** June 12, 2015

**Held:** Appeal allowed, per reasons for judgment of the Court

**Counsel:** Alan G. Ferrier, Q.C. for the appellant  
William Delaney, Q.C. for the respondent

**By the Court (orally):**

[1] The appellant was convicted in Provincial Court of possession of child pornography contrary to s. 163.1(4) of the *Criminal Code*.

[2] The only issue at trial was whether the Crown had proved beyond a reasonable doubt that the appellant was in possession of the computer files that contained the prohibited material. The case against the appellant was circumstantial and depended on establishing that he had exclusive access to a particular piece of computer equipment.

[3] The appellant argues that the trial judge misapprehended the evidence set out in an Agreed Statement of Fact and a key witness about details in that agreed statement.

[4] The Crown concedes that the trial judge did misapprehend this evidence and that the misapprehension led to a verdict that was unreasonable or unsupported by the evidence.

[5] The only appropriate remedy where a verdict is unreasonable or unsupported by the evidence is to quash the conviction and enter an acquittal. Accordingly, the conviction is quashed and an acquittal is entered.

Beveridge, J.A.

Bryson, J.A.

Bourgeois, J.A.