

CASE NO.**VOL. NO.****PAGE**

SAMUEL ALBERT RILEY

- and -

HER MAJESTY THE QUEEN

(Appellant)

(Respondent)

CAC 161864

Halifax, N.S.

Freeman, J.A.

[Cite as: R. v. Riley, 2000 NSCA 123]

APPEAL HEARD:

October 16, 2000

JUDGMENT DELIVERED:

October 31, 2000

SUBJECT: Criminal Law; Break and Enter; Recent Possession; Credibility; Sentencing.

SUMMARY: The appellant was convicted of break enter and theft after a neighbour and others living in her house had testified he had gone there with the loot in the company of an admitted perpetrator and an alleged perpetrator who had disappeared, and had paid the neighbour \$20. to temporarily store the stolen goods. The appellant testified he had not been present during the burglary, and the admitted perpetrator corroborated his story, as did the appellant's common law wife. The appellant challenged the trial judge's findings of credibility and asserted the guilty verdict was unreasonable. He appealed his 40 month sentence on grounds that the co-accused, who had a similarly lengthy record, pleaded guilty to two burglaries and received only 34 months.

ISSUE: Was the verdict reasonable? Was the sentence fit?

RESULT: The appeals were dismissed. The trial judge made no unreasonable error in his assessment of the credibility of the witnesses. On the facts before him a properly instructed jury acting reasonably could have convicted the appellant. The trial judge did not err in applying sentencing principles and the sentence is not manifestly excessive.

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 6 pages.