

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

HER MAJESTY THE QUEEN - and -

JOSEPH FREDERICK LONGAPHY

(Appellant)

(Respondent)

CAC161239

Halifax, N.S.

Oland, J.A.

[Cite as: R. v. Longaphy, 2000 NSCA 136]

APPEAL HEARD:

October 11, 2000

JUDGMENT DELIVERED:

November 24, 2000

SUBJECT:**Sentencing - Conditional Sentences - Section 742.1 of the Criminal Code****SUMMARY:**

The respondent pled guilty to the robbery of a convenience store. He was sentenced to two years less a day, to be served as a conditional sentence, in the community and subject to conditions, followed by two years' probation. This was his fifth conviction for robbery or a robbery related offence. At the time of this robbery, he was on parole for an attempted robbery. At the sentencing hearing, a psychologist, a social worker, and others gave evidence that the respondent might be at a "turning point" and with the counselling and support he was now receiving, he might finally be able to break a recurrent behaviour pattern which had always ended in substance abuse and criminal activity. The judge concluded that the greatest hope for the long-term protection of the public was for the respondent to continue therapy and to remain drug free and that it was appropriate that this be by way of a conditional sentence followed by a lengthy period of prohibition.

ISSUE:

Whether the conditional sentence was adequate.

RESULT:

Appeal allowed. While the judge had properly considered the rehabilitation of the respondent, sanctions other than imprisonment and restorative principles of justice, she had failed to give proper weight to other sentencing principles such as denunciation, deterrence, and promoting a sense of responsibility in the respondent. The conditional sentence was vacated and a term of imprisonment of five years and a lifetime prohibition order under s. 109(1) imposed.

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 24 pages.