

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Marsman*, 2007 NSCA 65

Date: 20070528

Docket: CAC 270531

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Charles Marlowe Marsman

Respondent

JUDGE:

MacDonald, C.J.N.S.

APPEAL HEARD:

March 30, 2007

SUBJECT: **Criminal law; aggravated assault; fit and proper sentence.**

SUMMARY: The respondent pled guilty to aggravated assault. His victim was a police officer acting in the lawful execution of his duty. Before a judge of the Supreme Court of Nova Scotia, the respondent received a three-year suspended sentence. The Crown appealed.

ISSUE: Whether this sentence was clearly unreasonable in the circumstances.

RESULT: Appeal allowed. This was a vicious assault on an unsuspecting peace officer. A suspended sentence could not adequately address the principles of deterrence and denunciation. This disposition was therefore clearly unreasonable. A period of incarceration was required. However, given the special circumstances of this offender, the substituted term of two years less one day could be served in the community.

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 19 pages.