

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. LeBorgne*, 2005 NSCA 156

Date: 20051206

Docket: CAC 248661

Registry: Halifax

Between:

Roger Frederick LeBorgne

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Thomas Cromwell

Appeal Heard: October 17, 2005

Subject: Breach of conditional sentence – admissibility of hearsay evidence to prove breach

Summary: The Crown relied on a written statement of a witness to establish that the offender had breached a term of his conditional sentence. The judge ruled the evidence admissible and found that the breach had been proved. The offender appealed.

Issues: Was hearsay evidence admissible on the breach hearing?

Result: Appeal dismissed. By virtue of s. 742.6(5) of the **Criminal Code of Canada**, R.S.C. 1985, c. C-46, the report the supervisor and any included statements of witnesses are admissible in evidence. There is no requirement that the witnesses who made the statements have first hand knowledge of the matters reported. However, the judge must carefully assess the weight, if any, to be given to the witness statements in light of all of the circumstances of the particular case.

The judge did not err in either admitting or in relying on the witness statement in this case which contained the report of an admission made by the offender to the witness.

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 12 pages.