

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Nowe, 2004 NSCA 137

Date: 20041116

Docket: CAC 224433

Registry: Halifax

Between:

David Nowe

Appellant

v.

Her Majesty the Queen

Respondent

Restriction on Publication: pursuant to s. 486(3) of the **Criminal Code**

Judge: The Honourable Justice Nancy Bateman

Appeal Heard: November 12, 2004

Subject: Sentence appeal on a sexual assault.

Summary: Offender appeals his sentence for sexually assaulting a young woman between the ages of 12 and 14 years on the basis that the trial judge erred in not imposing a conditional sentence. The trial judge sentenced the offender to 5 months in prison followed by probation.

ISSUE: Did the trial judge err in not ordering a conditional sentence?

RESULT: Appeal dismissed. "We are not persuaded, that in these circumstances, the judge's decision to impose a short period of institutional custody reflects disparity with sentences imposed on similar offenders for similar crimes nor does it otherwise constitute reversible error." Fact specific.

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 3 pages.