

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. G.P.*, 2004 NSCA 154

Date: 20041221

Docket: CAC 204237

Registry: Halifax

Between:

G.P.

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 18, 2004

Subject: Sentencing - Joint Submission

Summary: The appellant appeals from the judge's refusal to accept the sentence jointly submitted by counsel after extensive negotiations on sentence. While not clearly stating so, it is reasonable to infer that the judge was concerned that the sentence was not fit. The judge imposed a substantially more onerous sentence without advising counsel that he was considering departing from the joint submission and providing them with an opportunity to make further submissions in support of the proposal. The Crown concedes that the judge erred in not affording this opportunity.

Issue: What sentence should be imposed? (s.687 **Criminal Code**)

Result: Appeal allowed. The Appeal Court entertained the further submissions of counsel in support of the proposed sentence that would have been provided at the sentencing hearing. It appeared that there were important and legitimate considerations which influenced the joint recommendation including potential problems

of proof at trial. Joint submission 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 9 pages.