

NOVA SCOTIA COURT OF APPEAL
Citation: *R. v. Bou-Daher*, 2015 NSCA 97

Date: 20151027
Docket: CAC 422634
Registry: Halifax

Between:

Jean (John) Joseph Bou-Daher

Appellant

v.

Her Majesty The Queen

Respondent

Judge: The Honourable Justice Joel E. Fichaud

Appeal Heard: October 9, 2015, in Halifax, Nova Scotia

Subject: Criminal law – unreasonable verdicts – offence of opportunity

Summary: Between 1:00 a.m. and 1:15 a.m. on July 7, 2008, someone deliberately set two fires on the upstairs level of Key Largos, a bar in Lower Sackville. The trial judge found that Mr. Bou-Daher was the only person who had access to that place at the time the fires were set. The judge convicted Mr. Bou-Daher of arson contrary to s. 434 of the *Criminal Code*. Mr. Bou-Daher appealed to the Court of Appeal. He submitted that the verdict is unreasonable and unsupported by the evidence.

Issues: Was the judge’s conclusion unreasonable or unsupported by the evidence under s. 686(1)(a)(i) of the *Code*? In particular, was the judge’s critical finding, that was inferred from circumstantial evidence, the only rational conclusion that a properly instructed trier of fact, acting judicially, could reasonably infer from the whole of the evidence?

Result:

The Court of Appeal dismissed the appeal. The judge's conclusion, that Mr. Bou-Daher had the exclusive opportunity to set the fires, was reasonable. Mr. Bou-Daher's hypothesis, that an unidentified intruder may have set the fires, was irrational and unsupported by any evidence.

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 21 pages.