

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Thomas*, 2015 NSCA 112

Date: 20151217

Docket: CAC 433623

Registry: Halifax

Between:

Jahmal Leslie Thomas

Appellant

v.

Her Majesty the Queen

Respondent

Judges: The Honourable Chief Justice MacDonald and the Honourable Justice Beveridge

Appeal Heard: September 28, 2015, in Halifax, Nova Scotia

Subject: Criminal law, aggravated assault, assault with a weapon, reasonableness of a verdict, voluntariness of statement to person in authority, *Kienapple* (the rule against multiple convictions), sentencing principles

Summary: Mr. Robert Childs was the victim of an unprovoked stabbing that caused serious wounding. The only issue at trial was whether the Appellant was the aggressor. The trial judge so found and convicted the Appellant of aggravated assault and assault with a weapon. A total sentence of 66 months was imposed. The Appellant now seeks to set aside both the convictions and the sentence.

Issues:

In his appeal the Appellant challenges:

- (1) the admissibility of his police statement,
- (2) the reasonableness of the verdicts,
- (3) being convicted of two offences for the same wrongful act, and
- (4) the fitness of his sentence.

Result:

The appeal is allowed in part:

1. The conviction for aggravated assault is dismissed.
This verdict was reasonable, being grounded in unassailable factual findings.
2. The police statement was properly admitted.
3. The sentence appeal for aggravated assault is dismissed.
4. The appeal from conviction on the assault with a weapon charge is allowed, with a judicial stay entered by operation of the rule against multiple convictions.

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 32 pages.