

**NOVA SCOTIA COURT OF APPEAL**

Cite as: R. v.C.L., 1997 NSCA 62

**Clarke, C.J.N.S.; Hart and Jones, JJ.A.**

**BETWEEN:**

L. (C.)

- and -

HER MAJESTY THE QUEEN

Appellant

Respondent

) Lou Ann Thomson  
) for the Appellant

) Robert E. Lutes, Q.C.  
) for the Respondent

) Appeal Heard:  
) February 13, 1997

) Judgment Delivered:  
) February 13, 1997

**THE COURT:**

Appeal dismissed from disposition imposed by a Judge of the Youth Court, per oral reasons for judgment of Clarke, C.J.N.S.; Hart and Jones, JJ.A. concurring.

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**BETWEEN:**

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REASONS FOR  
JUDGMENT BY:

CLARKE, C.J.N.S.  
(Orally)

The reasons for judgment of the Court were delivered orally by:

**CLARKE, C.J.N.S.:**

After pleading guilty to the following five offences contrary to the **Criminal Code**, C.L., then seventeen years old, was given dispositions which are hereafter described.

1. Unlawfully attempting to steal a motor vehicle - sections 334(a) and 463 - eighteen months probation.
2. Unlawfully resisting a Peace Officer - section 129(a) - eighteen months probation (concurrent).
3. Unlawful possession of a motor vehicle - section 355(a) - six months open custody.
4. Unlawful operation of a motor vehicle dangerous to the public - section 249(1) - six months open custody (concurrent).
5. Being at large on an undertaking and failing to comply with the condition of an undertaking - section 145(3) - time already spent (26 days) at the Nova Scotia Youth Centre.

The net result was eighteen months probation and six months open custody.

The appellant appeals the disposition of six months open custody on the grounds that it is harsh and excessive and that the Youth Court Judge erred by failing to consider sections 24(1.1) and 24.1(4) of the **Young Offenders Act**, R.S.C. 1985, c. Y-1.

Although the Youth Court Judge did not specifically identify and enumerate each provision of section 24(1.1), it is evident from his remarks at the time the disposition was imposed that he was alive and sensitive to each of subsections (a), (b) and (c). He considered but found on the evidence that there was no other suitable living arrangement available for C.L.; that although personal injury was not involved in the commission of the property offences, they had the potential for personal injury that could not be overlooked; and that in the circumstances six months open custody was the best of the options

available to and considered by the Judge of the Youth Court. (s. 24.1(4))

After reviewing and considering the record, we are satisfied that there was ample evidence to support the considered reasons of Judge Sherar which led him to the disposition he imposed on C.L.

It is our unanimous opinion that the appeal is dismissed.

C.J.N.S.

Concurred in:

Hart, J.A.

Jones, J.A.