

**CASE NO.**

Cite as: R. v. Cooke, 1997 NSCA 130

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HER MAJESTY THE QUEEN

**- and -**

MARTIN DAVID COOKE

Appellant

Respondent

C.A.C. No. 134553

Halifax

CHIPMAN, J.A.

**APPEAL HEARD:**

June 5, 1997

**JUDGMENT DELIVERED:**

June 5, 1997

**WRITTEN RELEASE OF ORAL:** June 9, 1997**SUBJECT:****CRIMINAL LAW - SENTENCING - Principles to be applied in imposing conditional sentence****SUMMARY:**

The trial judge imposed a conditional sentence of imprisonment for fraud and related offences. He did not consider that the likelihood of the respondent committing similar offences would endanger the safety of the community.

**ISSUE:**

Whether danger to the safety of the community as referred to in s. 742.1(b) was restricted to physical harm to persons.

**RESULT:**

The Court of Appeal held that the trial judge's interpretation of s. 742.1(b) was too narrow. The risk that the respondent would reoffend presented a danger to the safety of the community. The trial judge erred in interpretation of the statutory precondition to the imposition of the conditional sentence. The Court was required to impose a fit sentence for the offences. Such a sentence mandated imprisonment for the remainder of their term.

<b>THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THIS COVER SHEET. THE FULL COURT DECISION CONSISTS OF 8 PAGES.</b>
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