

CASE NO.

VOLUME

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Cite as: R. v. Jackson, 1997 NSCA 133

HER MAJESTY THE QUEEN

JOHN ALEXANDER JACKSON

- and -

(Appellant)

(Respondent)

C.A.C. No. 134665

Halifax, N.S.

FLINN, J.A.

APPEAL HEARD:

May 16, 1997

JUDGMENT DELIVERED:

June 17, 1997

SUBJECT:

Summary conviction appeal - circumstantial evidence - whether the trial judge misdirected himself

FACTS:

The respondent was convicted of two offences under the **Fisheries Act Regulations**. A summary conviction appeal court judge ordered a new trial because he decided that the decision of the trial judge left the impression that the trial judge imposed a burden on the accused (respondent) to explain away the circumstantial evidence against him, or be convicted.

ISSUE:

Did the summary conviction appeal court judge err in law in deciding that the trial judge had applied an inappropriate test in finding the respondent guilty?

RESULT:

Appeal allowed.

Reviewing the decision of the trial judge as a whole, the trial judge fully recognized that there was no obligation on the accused to explain away suspicious circumstances failing which he would be convicted. Further, the trial judge fully recognized that the burden on the Crown, of proof beyond a reasonable doubt, remains the same throughout the trial. The summary conviction appeal court judge erred in his conclusion that the trial judge applied an inappropriate test in finding the respondent guilty. The decision of the trial judge was restored.

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