

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v .J.B.J.*, 2011 NSCA 16

Date: 20110208

Docket: CAC 332557

Registry: Halifax

Between:

J.B.J.

Appellant

v.

Her Majesty the Queen

Respondent

Publication Ban: pursuant to s. 486.4 of the Criminal Code of Canada

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: January 18, 2011

Subject: Criminal Law, Misapprehension of Evidence, Alibi Evidence

Summary: The appellant was convicted of sexual assault which was alleged to have occurred almost 44 years ago. The appellant raised an alibi defence at trial leading evidence that he could not have committed the crime at the time and place alleged as he was not present. The trial judge rejected the alibi evidence and entered a conviction.

Issues: Whether the trial judge misapprehended the evidence and failed to properly assess it.

Result: Appeal allowed, conviction quashed and a new trial ordered. The trial judge misapprehended the evidence and failed to properly apply the law with respect to alibi. The misapprehension of the evidence was substantial and material and played an essential part in the decision to convict.

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 11 pages.