

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Lawrence*, 2011 NSCA 84

Date: 20110919

Docket: CAC 347403

Registry: Halifax

Between:

James Joseph Lawrence

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Mr. Justice Jamie W.S. Saunders

Appeal Heard: September 19, 2011

Subject: **Joint Sentencing Recommendation. Probation. Restitution. Fine. Error in Principle.**

Summary: The appellant appealed a trial judge's refusal to accept a joint recommendation that he pay restitution of approximately \$4,000 directly to the victim of an aggravated assault for dental expenses related to the man's injuries.

Held: Appeal allowed. The trial judge erred by refusing to accept a perfectly reasonable and appropriate sentence which was jointly recommended by counsel, and then failing to follow well-settled law that must be applied whenever a judge chooses to depart from joint submissions on sentence which accompany negotiated admissions of guilt. The effect of the judge's error was that the amount of restitution which had been agreed to by counsel as owing to the victim would, instead, be paid in the form of a fine to the state, making the potential recovery for the victim even more tenuous.
Appellant ordered to serve a period of probation of three years

which order will include a condition that he make restitution to the victim, to be paid in full within 30 days of the expiry of the order. The trial judge's original order that the appellant pay a fine, is revoked.

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 3 pages.