

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Griffin, 2011 NSCA 103

Date: 20111122

Docket: CAC 334772

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Erica Marie Griffin

Respondent

Judge: The Honourable Justice Peter M. S. Bryson

Appeal Heard: April 8, 2011

Subject: Criminal law – sentencing – robbery – personal injury offence – availability of condition sentence.

Summary: Appeal by Crown from a conditional sentence of two years less a day and two years probation. Accused pleaded guilty to robbery of store with a knife, which accused tapped on counter while demanding all the cash in the till. Appeal allowed. Accused committed act of violence and therefore a personal injury offence. Conditional sentence not available under s. 742.1 of the *Criminal Code*. Sentence of 16 months incarceration imposed, together with probation.

Issue: Did accused commit a personal injury offence such that conditional sentence not available?

Result: Appeal allowed. Robbery with use of a knife constituted violence and thus was a “personal injury offence”. A conditional sentence was not available under s. 742.1. Conditional sentence set aside. A sentence of 16 months followed by 32 months probation was imposed. Because the accused had fulfilled conditional sentence to date and had a

very favourable post sentence report, justice would not now be served by her being incarcerated. The time served under conditional sentence order was applied against the 16 month custodial sentence with result of it being considered fully served.

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 14 pages.