

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Pitts*, 2016 NSCA 78

Date: 20161103

Docket: CAC 439939

Registry: Halifax

Between:

Jason Troy Pitts

Appellant

v.

Her Majesty the Queen

Respondent

Restriction on Publication: s. 468.4 of *Criminal Code* relating to charges under s. 163.1

Judge: The Honourable Justice Cindy A. Bourgeois

Appeal Heard: September 22, 2016, in Halifax, Nova Scotia

Subject: Sentencing; conspiracy to commit the indictable offence of sexual assault on a child.

Summary: On October 27, 2014, the appellant pled guilty to a number of charges: one charge of possessing child pornography; one charge of accessing child pornography; one charge of making child pornography; and eight charges of conspiring to commit the indictable offence of sexual assault on a child. He received a global sentence of seven years; the conspiracy charges netting five years concurrent. On appeal, it is only the disposition rendered in relation to the eight conspiracy charges which the appellant challenges.

There was no factual dispute as to the appellant's conduct. He participated via the web in a number of "live shows" where he directed adults, located in the Philippines, as to how pre-

pubescent children should be engaged in a variety of sexual acts. The appellant directed the nature of the abuse inflicted upon the children, for his own sexual gratification.

At the sentencing hearing, the judge noted the appellant's involvement was at the "highest end of the scale" in terms of gravity, and his conduct was "horrendous in its impact". The appellant had been assessed as being a high risk to re-offend against children.

The appellant argued the five year sentence was harsh and excessive. He argued that the Crown and sentencing judge could not locate any case authorities in which a conspiracy to commit sexual assault arose in factually similar circumstances, and as such, his sentence was not supportable.

Issue: Did the sentencing judge err in the imposition of a five year sentence for the conspiracy offences?

Result: Appeal dismissed. The lack of a reported case involving a similar offender committing a factually similar offence does not serve to render a sentence harsh or excessive. With or without precedential assistance, a sentencing judge must apply the principles of sentencing to the nature of the offender and offence before him or her to craft an appropriate disposition. Here, the sentencing judge considered the appropriate principles of sentencing. The five year sentence was not harsh or excessive in the circumstances of this offender and his conduct.

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 8 pages.