

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Probert*, 2013 NSCA 38

Date: 20130322

Docket: CAC 397960

Registry: Halifax

Between:

Stephen Patrick Probert

Appellant

v.

Her Majesty The Queen

Respondent

Judges: MacDonald, C.J.N.S.; Farrar and Bryson, J.J.A.

Appeal Heard: March 22, 2013, in Halifax, Nova Scotia

Held: Appeal dismissed per oral reasons for judgment of Farrar, J.A.; MacDonald, C.J.N.S and Bryson, J.A. concurring.

Counsel: Appellant in person
Timothy O'Leary, for the respondent

Reasons for judgment: (Orally)

[1] On May 10, 2012, the self-represented appellant pled guilty and was sentenced to two years less time served on a charge of break, enter and theft and breach of an undertaking. One week later, May 17, 2012, he pled guilty to possession of stolen goods and was given an additional three month sentence. On June 21, 2012, he pled guilty to another charge of break, enter and theft and was sentenced to an additional one year for a total of three years and three months less time served.

[2] The appellant asks this Court to enforce an agreement he says his lawyer negotiated for two years for all of the above-noted charges. He essentially says his lawyer was at fault for failing to complete the agreement. The appellant's argument amounts to an assertion that he had ineffective counsel leading up to his sentencings. There is nothing on the record to support this assertion. The appellant was represented by counsel. However, his counsel withdrew before the sentencings occurred and the appellant was given the option to adjourn the plea to a later date. He chose to plead and as a result of his choice to proceed in the manner he did he received the total sentence of three years and three months. That sentence is well within the acceptable range for these offences. In imposing them the sentencing judges did not err.

[3] We decline to consider the appellant's argument of ineffective counsel. No notice has been given to his previous solicitor nor has the Court received any materials to support the argument.

[4] We are, therefore, of the unanimous decision the appeal should be dismissed.

Farrar, J.A.

Concurred in:

MacDonald, C.J.N.S.

Bryson, J.A.