

CASE NO. VOL. NO. PAGE  
Cite as: R. v. O'Hara, 1997 NSCA 129

**OAK MICHAEL O'HARA** **HER MAJESTY THE QUEEN**  
(Appellant)- and - (Respondent)

C.A.C. No. **133153** Halifax, N.S. **PUGSLEY, J.A.**

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**APPEAL HEARD:** March 26, 1997

**JUDGMENT DELIVERED:** June 10, 1997

**SUBJECT:** Criminal Law - S. 265(4) of the **Criminal Code**

**SUMMARY:** The appellant appeals his conviction by a provincial court judge of sexual assault contrary to s. 271(1)(a) of the **Code**.

The issue is whether the trial judge directed his mind to whether the appellant had an honest belief the victim consented to his actions.

**RESULT:** Appeal allowed and a new trial ordered. The trial judge, in failing to consider the question of the appellant's honest belief in consent, prevented proper consideration being given to the defence advanced on behalf of the appellant.

**This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 5 pages.**