

<u>CASE NO.</u>	<u>VOLUME</u>	<u>PAGE</u>
Cite as: R. v. Oakley, 1997 NSCA 171		
KEITH RALPH OAKLEY (Appellant)	- and -	HER MAJESTY THE QUEEN (Respondent)
C.A.C. No. 137887	Halifax, N.S.	FLINN, J.A. (orally)

APPEAL HEARD: October 1, 1997

JUDGMENT DELIVERED: October 1, 1997

WRITTEN RELEASE OF ORAL: October 7, 1997

SUBJECT: **Criminal Law - s. 351(2) and s. 87 - Masked with intent - possession of a weapon**

SUMMARY: The appellant was arrested, having been masked, in possession of a starter pistol, wearing dark clothing over other clothing, and lurking around a residential neighbourhood after dark. He appeals his conviction for offences under s. 351(2) and s. 87 of the **Code**.

RESULT: Appeal allowed in part.

1. Crown concedes that it failed to prove, beyond a reasonable doubt, that the appellant had the intent to commit one or more specific indictable offences. Conviction under s. 351(2) set aside.
2. Considering the circumstances, the starter pistol was a weapon within the definition of s. 2 of the **Code**. It was open to the trial judge to conclude that the appellant was in possession of a weapon for a purpose dangerous to the public - conviction under s. 87 stands.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION, QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER SHEET. THE FULL COURT DECISION CONSISTS OF 7 PAGES.