

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *R. v. Kelsie*, 2017 NSCA 89

**Date:** 20171208

**Docket:** CA 211631

**Registry:** Halifax

**Between:**

Dean Kelsie

Appellant

v.

Her Majesty the Queen

Respondent

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**Judge:** The Honourable Justice David P.S. Farrar

**Appeal Heard:** October 13, 2017, in Halifax, Nova Scotia

**Subject:** **Criminal Law. Murder. Conspiracy to Commit Murder.**

**Summary:** The appellant was convicted of first degree murder and conspiracy to commit murder by a Supreme Court of Nova Scotia Judge with a jury. The appellant challenged the judge's charge to the jury on a number of fronts, including failure to properly charge on the *mens rea* element of aiding and abetting; failing to leave the lesser included offence of manslaughter to the jury; and failure to properly instruct the jury on the use that could be made of co-conspirators hearsay evidence.

**Issues:** Did the trial judge commit reversible error in his charge to the jury?

**Result:** The trial judge failed to properly instruct the jury on the *mens rea* element of aiding and abetting. Further, the lesser

included offence of manslaughter, on the facts of this case, should have been left to the jury as an alternative verdict. Finally, the trial judge erred in his instructions to the jury on what use they could make of the hearsay evidence of co-conspirators.

Appeal allowed. New trial ordered.

*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 47 pages.*