

IN THE SUPREME COURT OF NOVA SCOTIA

APPEAL DIVISION

Clarke, C.J.N.S.; Matthews and Freeman, JJ.A.

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

- and -

CHARLES CLARKE ROSS

Respondent

) Kenneth W.F. Fiske
) for the Appellant
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) Alan G. Ferrier
) for the Respondent
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) Appeal Heard:
) April 8, 1992
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) Judgment Delivered:
) April 8, 1992
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THE COURT:

Appeal allowed from sentence for violation of the **Criminal Code**, s. 267(1)(b) only to the extent of imposing a firearms prohibition order of five years, per oral reasons for judgment of Clarke, C.J.N.S.; Matthews and Freeman, JJ.A. concurring.

The reasons for judgment of the Court were delivered orally by:

CLARKE, C.J.N.S.:

The Crown appeals from the sentence imposed on the respondent by Mr. Justice MacIntosh at Amherst on October 18, 1991 for the offence of committing an assault causing bodily harm contrary to s. 267(1)(b) of the **Criminal Code**. The respondent was sentenced to a term of imprisonment of 90 days to be served on an intermittent basis followed by a probation order of two years, 200 hours of community service and a firearms prohibition of one year.

The record, which we have reviewed, reveals that Mr. Justice MacIntosh, a judge of long experience, considered the principles of sentencing that apply to this unusual fact situation that brought grief to both the victim and the respondent. We find that he committed no reversible error and devised a sentence which is fit and appropriate for the circumstances. The exception is that s. 100(1) of the **Criminal Code** requires the firearms prohibition order to be five years rather than one year.

In granting leave to appeal, we allow it but only to the extent of varying the firearms prohibition order upward to five years. In all other respects the appeal is dismissed.


C.J.N.S.

Concurred in:

Matthews, J.A. 

Freeman, J.A. 