

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *R. v. J.D.C.*, 2018 NSCA 5

**Date:** 20180112

**Docket:** CAC 457612

**Registry:** Halifax

**Between:**

J.D.C.

Appellant

v.

Her Majesty the Queen

Respondent

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<b>Restriction on Publication: 486.4 of the <i>Criminal Code</i></b>
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**Judge:** The Honourable Justice Anne S. Derrick

**Appeal Heard:** November 20, 2017, in Halifax, Nova Scotia

**Subject:** **Criminal Law; Inconsistent Jury Verdicts**

**Summary:** The appellant, aged 20, was charged with sexual assault (s. 271 of the *Criminal Code*) and sexual interference (s. 151 of the *Criminal Code*) for sexual activity with a 15-year-old complainant between June 24 and September 4, 2013. The sexual activity was alleged to have included a single instance of sexual intercourse which the appellant denied. The jury acquitted the appellant of sexual assault and convicted him of sexual interference. He appeals against conviction, arguing that the jury made an “unjustifiable compromise” and returned verdicts that are inconsistent.

**Issues:** Was the jury’s conviction for sexual interference inconsistent with the acquittal for sexual assault?

**Result:**

The appellant's conviction for sexual interference is reasonable. The age-related defence raised by the appellant pursuant to sections 150.1(2.1) and (6) of the *Criminal Code* could not have been the basis for the jury's acquittal on sexual assault. A thorough review of the evidence before the jury discloses that the appellant took no steps to determine if the age difference between him and the complainant was less than five years. The explanation for the conviction for sexual interference and the acquittal for sexual assault is found in the language of "force" and "touching" in the two charges and the instructions to the jury that flowed from that language. It can be reasonably inferred that the jury had a reasonable doubt about the allegation of sexual intercourse and consequently acquitted the appellant of that charge. The jury applied the instructions they had been given on sexual interference which emphasized touching and convicted the appellant on that charge. The verdicts can be reconciled. Appeal dismissed.

*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 12 pages.*