

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Francis*, 2018 NSCA 7

Date: 20180117

Docket: CAC 463816

Registry: Halifax

Between:

Michelle Marie Francis

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Linda Lee Oland

Appeal Heard: November 29, 2017, in Halifax, Nova Scotia

Subject: Self-Defence – s. 34 *Criminal Code* – Consent

Summary: The appellant and a man were in bed when she stabbed him in the back. The trial judge rejected her argument that she had acted in self-defence, and found her guilty of assault causing bodily harm. The appellant appeals from conviction.

Issues:

- (a) Whether the judge erred in his application of the law of self-defence to the facts as found; and
- (b) Whether he erred in his application of the law of consent in the sexual assault context.

Result: Appeal allowed and new trial ordered. Statements in the judge’s reasons were more than simply “confusing” or “poor expression.” They show that he erred in his application of the law of self-defence and the law of consent. His errors had a critical effect on his assessment of whether the act the appellant committed was reasonable in the circumstances and, therefore, on the verdict.

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 10 pages.