

IN THE SUPREME COURT OF NOVA SCOTIA

APPEAL DIVISION

Hart, Pace and Matthews JJ.A.

BETWEEN:

JOHN EARL SILVER)	
)	Craig M. Garson
Appellant)	for the Appellant
)	
- and -)	
)	Kenneth W. F. Fiske
HER MAJESTY THE QUEEN)	for the Respondent
)	
Respondent)	Appeal Heard:
)	February 3, 1989
)	
)	Judgment Delivered:
)	February 3, 1989
)	

THE COURT: Leave to appeal granted and the appeal is hereby dismissed as per oral reasons for judgment of Hart, J.A.; Pace and Matthews, JJ.A. concurring.

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

HART, J.A.

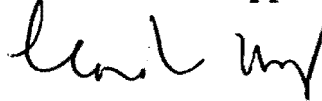
The appellant herein launched an appeal against his conviction and applied for leave to appeal against the severity of his sentence. The conviction appeal was abandoned before hearing and will, therefore, be dismissed.

The offence involved the possession of goods valued at over \$1,000.00 stolen from the Department of National Defence supply depot at Halifax. An elaborate scheme involving the appellant and several service and civilian employees of the government was developed to enable the appellant to obtain possession of large quantities of rope which he resold to wholesale customers at prices under the market value. Upon conviction after trial, he was sentenced by The Honourable Judge Cacchione of the County Court Judges' Criminal Court to a term of imprisonment for a period of two years to be followed by a period of two years probation.

John Paul LeBlanc was the armed forces member involved in the scheme. He pleaded guilty to one count of conspiracy to commit theft and was sentenced to 12 months imprisonment. Paul O'Toole and Nathan Carl Euloth were the civilian employees. They pleaded guilty to theft over \$1,000.00 and O'Toole received a fine and Euloth 12 months imprisonment - none of these three had previous criminal records.

The appellant had a previous criminal record including similar offences and was, in our opinion, the king pin of

the operation and the sentence imposed upon him was a fit one under all of the circumstances. We would, therefore, grant leave to appeal but dismiss the appeal.



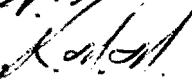
J.A.

Concurred in:

Pace, J.A.



Matthews, J.A.



CANADA

PROVINCE OF NOVA SCOTIA

1987, C.R. 10343

IN THE SUPREME COURT OF NOVA SCOTIA
APPEAL DIVISION

on appeal from the

COUNTY COURT JUDGE'S CRIMINAL COURT
OF DISTRICT NUMBER ONE

BETWEEN:

HER MAJESTY THE QUEEN

- and -

JOHN EARL SILVER

(VOLUME I)

Heard Before: The Honourable Judge Felix Cacchione
Place Heard: Halifax, Nova Scotia
Dates Heard: February 22 - 24, 1988
(Sentencing - April 19, 1988)

Counsel:

Norman Clair, Esq., for the Crown
Craig Garson, Esq., for the Defence

C A S E O N A P P E A L