

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Gregory*, 2013 NSCA 102

Date: 20130913

Docket: CAC 300542

Registry: Halifax

Between:

Jamie Gregory

Appellant

v.

Her Majesty the Queen

Respondent

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- Judges:** Fichaud, Beveridge and Farrar, JJ.A.
- Appeal Heard:** April 4, 2013, in Halifax, Nova Scotia
- Subject:** Criminal Law: Drunkenness as defence to murder
- Summary:** The appellant was found guilty of second degree murder in a judge alone trial. The sole defence advanced at trial was provocation, which if successful, would have reduced the charge to manslaughter. On appeal, the appellant complains that the trial judge erred in law in failing to consider another partial defence to the charge of murder: voluntary intoxication.
- Issues:** Did the trial judge err in law in failing to address the issue of intoxication as a defence?
- Result:** The appeal is dismissed. Even assuming that it could be an error of law for a trial judge to fail to consider a potential defence that was not raised by an accused, there was no air of reality to the notion that the appellant had consumed intoxicants to the degree that the effect of that consumption created a real issue as to the appellant's having the requisite *mens rea* to commit the offence of murder.

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 14 pages.