

NOVA SCOTIA COURT OF APPEAL

Cite as: R. v. Knickle, 1995 NSCA 189

Freeman, Jones and Pugsley, J.J.A.

BETWEEN:

HAROLD THOMAS KNICKLE

)
Stanley W. MacDonald
) for the Appellant

)
Appellant)

- and -)

)
William D. Delaney
) for the Respondent

HER MAJESTY THE QUEEN)

)
Respondent)

)
Appeal Heard:
) September 13, 1995

)
Judgment Delivered:
) September 13, 1995

THE COURT: Leave to appeal granted, the appeal allowed and the conviction and sentence set aside per oral reasons for judgment of Jones, J.A.; Freeman and Pugsley, J.J.A. concurring

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

JONES, J.A.:

This is an appeal from a decision convicting the appellant with failing to comply

with a condition of his undertaking for his release from custody contrary to s. 145(3) of the **Code**. The appellant contends that the verdict is unreasonable and cannot be supported by the evidence. There was a clear conflict in the evidence adduced by the Crown and the defence. The defence was alibi. The trial judge accepted the evidence of the defence on the alibi issue but resolved the conflict in the evidence in favour of the Crown. The Crown agrees that the verdict is unreasonable and cannot be supported by the evidence. We have carefully reviewed the record and agree with the appellant's submission that the conviction cannot stand. In view of the Crown's agreement that the verdict cannot be supported by the evidence we see no basis for directing a new trial. We grant leave to appeal, allow the appeal and set aside the conviction and sentence.

J.A.

Concurred in:

Freeman, J.A.

Pugsley, J.A.

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FOR

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