NOVA SCOTIA COURT OF APPEAL Cite as: R. v. Poulain, 1994 NSCA 203

Hallett, Chipman and Roscoe, JJ.A.

BETWEEN:

FLOYD SHELDON POULAIN	Appellant	Daniel A. MacRury for the Appellant
- and -)	Robert C. Hagell for the Respondent
HER MAJESTY THE QUEEN	3))
	Respondent	Appeal Heard: September 15, 1994
	· · · · · · · · · · · · · · · · · · ·	Judgment Delivered: September 15, 1994
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THE COURT: Appeal allowed per oral reasons for judgment of Hallett, J.A.; Chipman and Roscoe, JJ.A. concurring.

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

HALLETT, J.A.

The appellant had been charged with a fraud offence. The learned trial judge

imposed a conditional discharge. The appellant failed to fully comply with the conditions

imposed in the probation order. Although the appellant was not charged with the offence of

failing to comply with the conditions of the probation order, the learned trial judge, in the

absence of the appellent, fined him for the default.

The Crown agrees that the learned trial judge was in error. He exceeded his

jurisdiction in imposing the fine when a charge had not been laid for breach of the probation

order.

We agree that the appeal ought to be allowed and that the order of the learned trial

judge imposing the fine, the victim surcharge and costs in the cumulative sum of \$333.00 be

set aside.

Hallett, J.A.

Concurred in:

Chipman, J.A.

Roscoe, J.A.

NOVA SCOTIA COURT OF APPEAL

BETWEEN:

FLOYD SHELDON P	OULAIN		
- and - FOR BY:	Appellant))	R E A S O N S
HER MAJESTY THE	QUEEN Respondent)	HALLETT, J.A. (orally)
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