

NOVA SCOTIA COURT OF APPEAL
Cite as: R. v. J.R.L.J., 1994 NSCA 252

Clarke, C.J.N.S.; Hart and Matthews, JJ.A.

BETWEEN:

J. (J.R.L.)

Appellant

) Chandra Gosine
) for the Appellant

- and -

) Robert E. Lutes, Q.C.
) for the Respondent

HER MAJESTY THE QUEEN

Respondent

) Appeal Heard:
) November 29, 1994

) Judgment Delivered:
) November 29, 1994

THE COURT: Appeal from conviction (s. 348(1)(b)) is dismissed per oral reasons for judgment of Clarke, C.J.N.S.; Hart and Matthews, JJ.A. concurring.....

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

CLARKE, C.J.N.S.:

The appellant, a youth, appeals from his conviction, after trial, of the break and enter of Keddy's Dartmouth Inn and the theft of beer therein contrary to s. 348(1)(b) of the **Criminal Code**.

Judge Dyer of the Youth Court in lengthy and comprehensive reasons found on the evidence that there had been a break and enter of the premises in the evening of December 26, 1993, that there had been a theft of several cases of beer and that within fifteen to twenty minutes thereafter the appellant had "actual physical possession" of one of the cases of beer which police found him pushing uphill, through the snow, from a nearby ravine. He also found that the appellant's possession was recent.

Relying on **R. v. Kowlyk** (1988), 43 C.C.C. (3d) 1 (S.C.C.), Judge Dyer wrote:

There is no evidence, from any source, explaining the accused's possession at the time. In the absence of any explanation, recent possession of stolen goods, standing alone, will also warrant an inference of guilt of breaking and entering, and theft of the goods.

The appellant contends that in addition to the verdict being unreasonable and not supported by the evidence, the judge of the Youth Court made wrong decisions in law, particularly as they relate to the elements of the offence. All of these, he submits, resulted in a miscarriage of justice.

After reviewing, re-examining and reweighing the evidence, as we are required by **R. v. Yebes**, [1987] 2 S.C.R. 168 and **R. v. W. (R.)**, [1992] 2 S.C.R. 122, and after considering the written and oral submissions of counsel, we have concluded there was sufficient evidence to support the findings of fact made by Judge Dyer and the conclusions in law which he reached thereon.

Since we find no errors reversible on appeal, we dismiss the appeal against conviction.

C.J.N.S.

Concurred in:

Hart, J.A.

Matthews, J.A.