

<u>CASE NO.</u>	<u>VOLUME</u>	<u>PAGE</u>
Cite as: R. v. McNamara, 1998 NSCA 149		
MICHAEL JOHN KENNETH McNAMARA (Appellant)	- and -	HER MAJESTY THE QUEEN (Respondent)
C.A.C. No. 143843	Halifax, N.S.	FLINN, J.A.

APPEAL HEARD: June 10, 1998

JUDGMENT DELIVERED: June 17, 1998

SUBJECT: **Appeal from Conviction for Sexual Assault - Ineffective Assistance of Counsel at the Trial - Similar Fact Evidence**

SUMMARY: The appellant was convicted, following a trial before a Provincial Court judge, of sexual assault contrary to s. 271 of the **Criminal Code of Canada**, R.S.C. 1985, c. C-46. The appellant appeals his conviction claiming that he was not fairly represented by counsel at the trial and that the trial judge improperly admitted similar fact evidence.

RESULT: Appeal dismissed.

1. The appellant has not made out a case for ineffective representation by counsel at the trial.
2. The evidence which the appellant alleges is inadmissible similar fact evidence was relevant to issues in the case. It provided background to the circumstances of the sexual assault. The evidence was relevant to motive and intent. It was also relevant to the appellant's credibility.

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