NOVA SCOTIA COURT OF APPEAL
Citation: *R. v. Young*, 2014 NSCA 84

Date: 2014-09-12
Docket: CAC 424684
Registry: Halifax

Between:

Francis Mark Young

Appellant

v.

Her Majesty the Queen

Respondent

Judges:	Beveridge, Bryson, and Scanlan, JJ.A.
Appeal Heard:	September 12, 2014, in Halifax, Nova Scotia
Written Release:	September 15, 2014, in Halifax, Nova Scotia
Held:	Appeal dismissed, per oral reasons for judgment of Beveridge, J.A.; Bryson and Scanlan, JJ.A. concurring
Counsel:	Nicholaus Fitch, for the appellant Mark Scott, for the respondent

Reasons for judgment (orally):

[1] The Honourable Judge Alan T. Tufts presided at Mr. Young's trial on a sixteen count information. The trial judge convicted the appellant of five counts of possessing stolen property and breach of probation (2014 NSPC 26, unreported). A sentence of nine months incarceration less remand time was imposed, followed by a two year period of probation (2014 NSPC 27, unreported).

[2] The appellant filed his own Notice of Appeal. Counsel then assumed carriage of the appeal. He asks us to find that the judge erred "in his assessment of the evidence", and by "passing a sentence outside the range considering the circumstances".

[3] There is no merit to the complaint of error. The verdicts are reasonable and supported by the evidence. The trial judge was acutely aware of the frailties of some of the evidence.

[4] Two accomplices were forced to testify. Both were uncooperative. However, one of the accomplices adopted her police statement as true (except for one innocuous exception). She then specifically repeated some of the more inculpatory aspects of her statement, including the utterance by the appellant, "Let's go out and hit some cars". The accomplice also described in her evidence as having seen the appellant passing "stuff" to another accomplice. That "stuff" turned out to be some of the property stolen from multiple breaks into vehicles and homes.

[5] We dismiss the appeal from conviction.

[6] We likewise see no merit in the sentence appeal. The appellant does not suggest any error in principle, just that the sentence is too long. The appellant was a 34 year old offender with a woeful criminal record. The trial judge was aware that such a record is not itself an aggravating factor, but can serve to militate against a lenient sentence and inform the need for specific deterrence. The Crown proceeded by indictment. We are not satisfied that the sentence is at all unfit.

[7] The application for leave to appeal from sentence is dismissed.

Beveridge, J.A.

Concurred in:

Bryson, J.A.

Scanlan, J.A.