

CASE NO.

VOLUME

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Cite as: R. v. B.W.F., 1998 NSCA 185

B.W.R.

HER MAJESTY THE QUEEN

- and -

(Appellant)

(Respondent)

C.A.C. No. 146512

Halifax, N.S.

Freeman, J.A.

APPEAL HEARD:

September 15, 1998

JUDGMENT DELIVERED:

September 18, 1998

Editorial Notice

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SUBJECT: Criminal Law, sexual assault, ineffective counsel

SUMMARY: The appellant was convicted of sexual assault upon his teenage niece as the result of a number of incidents of touching. The trial judge believed the complainant and another crown witness, but did not find the appellant to be a credible witness. The appellant, relying on **ss. 7 and 11** of the **Canadian Charter of Rights and Freedoms**, appealed on ground that he had not been effectively represented by his counsel. In particular, a witness the appellant considered important was not called. There was no application to admit fresh evidence on the appeal.

ISSUES: Was the appellant deprived of his rights under **ss. 7 and 11** of the **Charter** by ineffective assistance of counsel?

RESULT: The appeal was dismissed. The test in **Schofield v. R.** (1996), 148 N.S.R. (2d) 175 (C.A.) was not met. The omitted evidence the appellant considered important did not raise a realistic concern on a potentially decisive issue, and the record did not disclose that the appellant had been ineffectively represented.

This information sheet does not form part of the Court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 3 pages.