

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Shea*, 2011 NSCA 107

Date: 20111202

Docket: CAC 324385

Registry: Halifax

Between:

Shawn Michael Shea

Appellant

v.

Her Majesty the Queen

Respondent

Docket: CAC 324542

Registry: Halifax

Between:

Chad Albert Stevenson

Appellant

v.

Her Majesty the Queen

Respondent

Docket: CAC 328759

Registry: Halifax

Between:

Stacey Marie McKenna

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: May 25, 2011

Subject: **Criminal Law • Unreasonable Verdict • Res Gestae • Principled Approach to Exceptions to the Hearsay Rule • Extortion • Unlawful Confinement • Accessory After the Fact • Sentence**

Summary: The appellants Shea and Stevenson were each found guilty of two counts of extortion contrary to s. 346(1.1)(a) of the **Criminal Code of Canada**, R.S.C. 1985, c. C-46 and one count of forcible confinement contrary to s. 279(2) of the **Criminal Code**. Shea was also convicted of breaching a condition of Recognizance contrary to s. 145(3) of the **Criminal Code**. Shea and Stevenson were both sentenced to a period of custody totalling six years and six months.

The appellant McKenna was convicted as an accessory after the fact for assisting Shea and Stevenson in fleeing the scene and assisting them to avoid detection. For her role she received a 12 month conditional sentence.

Shea and Stevenson appeal complaining the trial judge

inappropriately used hearsay evidence in arriving at this verdict. They further say that the trial judge erred in finding that the verdict was the only rational conclusion arising from the circumstantial evidence. Shea also argues that the verdict was unreasonable and that the trial judge failed to properly apply the law of unlawful confinement. Finally, Shea and Stevenson complain their sentences are unduly harsh and seek leave to appeal their sentence.

McKenna argues that, if the principal actors, Shea and Stevenson, have their convictions overturned with respect to the substantive offence of unlawful confinement, she must, legally, be acquitted as an accessory after the fact. She also argues that the doctrine of wilful blindness cannot attract criminal liability on the facts of this case.

Issues: Was the verdict unreasonable or unsupported by the evidence?
Did the trial judge err in his interpretation and application of the law relating to hearsay evidence?
Did the trial judge err in his interpretation and application of the law relating to unlawful confinement?
Was McKenna properly convicted as an accessory after the fact?
Finally, were Shea and Stevenson's sentences improper, unfit or unduly harsh?

Result: Leave to appeal from sentence granted; appeal from convictions dismissed. The trial judge did not err in any of the various ways as suggested by the appellants. He properly applied the law of hearsay. The convictions were amply supported by the evidence.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 32 pages.