

NOVA SCOTIA COURT OF APPEAL
Citation: *R. v. MacKenzie*, 2004 NSCA117

Date: 20040929
Docket: CAC 211367
CAC 213741
CAC 214462
Registry: Halifax

Between:

Daniel John MacKenzie

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: September 22, 2004

Subject: Break and enter with intent s. 348(1)(a). Possession of stolen property, s. 355(b). Breach of recognizance, s. 145(3). DNA order, s. 487.051(b). Reasonableness of the verdict, s. 686(1)(a)(i). Fitness of sentence.

Summary: The appellant was observed departing from a house that had been broken into earlier that same day. The owner gave chase but the appellant sped away on a bicycle. A passing motorist pursued the appellant in his car until police arrived and made the arrest. Among other things, the police found a 10 Euro bill in the appellant's backpack. A Euro note was missing from the house out of which the appellant had fled. A butterknife and a chisel were also found in a sack strapped to his bike.

He appealed his convictions, the DNA order, and his sentence.

Held: Appeals dismissed. There was ample evidence to support the verdicts on the charges for which the appellant was convicted. The trial judge carefully reviewed the evidence, made clear

findings of fact and credibility, and applied the proper standard of proof.

There was no basis for interfering in the sentence imposed, which addressed all relevant circumstances including the appellant's extensive criminal record. Time spent on remand prior to sentencing was taken into account.

The trial judge properly imposed a DNA order in the circumstances.

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 5 pages.