

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. P.M.*, 2007 NSCA 61

Date: 20070517

Docket: CAC 273599

Registry: Halifax

Between:

P.M.

Appellant

v.

Her Majesty the Queen

Respondent

Restriction on Publication: Pursuant to s. 486(3) of the **Criminal Code of Canada**, R.S.C. 1985, c. C-46, as am.

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: May 10, 2007

Subject: Sexual assault. Diary. Motive to lie. Credibility. Proof beyond a reasonable doubt. **R. v. W.(D.)**, [1991] 1 S.C.R., **R. v. Beaudry**, [2007] S.C.J. No. 5.

Summary: The appellant was convicted of sexually assaulting his stepdaughter. He asked that the verdict be overturned, saying the trial judge misapprehended the evidence and erred in his application of the doctrine of reasonable doubt.

Held: Appeal dismissed. The trial judge recognized that credibility was a key feature, but that deciding guilt was neither a contest between the complainant's accusations and the appellant's denials, nor a matter of resolving which version he preferred. The trial judge was alive to the strong submissions made by the defence that the complainant had a motive to lie, or that her diary entries and what had not been recorded was hardly consistent with her story that she had been sexually assaulted by the appellant.

While the trial judge did not structure the dispositive portions of

his oral decision using the three step process of **R. v. W.(D.)**, his reasons as a whole demonstrate that he understood and met those requirements.

Criminal guilt was established after all of the evidence was properly assessed with the requisite careful eye and intellectual rigour.

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.