NOVA SCOTIA COURT OF APPEAL

Cite as: R. v. Rhynold, 1993 NSCA 129

Jones, Hallett and Matthews, JJ.A.

BETWEEN:

| HER MAJESTY THE QUEEN |) | William D. Delaney for the Appellant |
|-----------------------|--------------|---------------------------------------|
| | Appellant | 101 vii 1 ipp • 1 vii |
| - and - |)) | Kevin C. MacDonald for the Respondent |
| LEIGH ERIC RHYNOLD | 3 | for the respondent |
| | Respondent) | Appeal Heard: May 18, 1993 |
| |))) | Judgment Delivered: May 18, 1993 |
| |))) | |
| |))) | |
| |) | |

THE COURT: Appeal and application for leave to appeal dismissed per oral reasons for judgment of Jones, J.A.; Hallett and Matthews, JJ.A. concurring.

The reasons for judgment of the court were delivered orally by:

JONES, J.A.:

This is an appeal and application for leave to appeal by the Crown from a decision of Judge Bremner granting the respondent a conditional discharge on a charge of assault

causing bodily harm. The Crown is urging a term of imprisonment. The respondent was discharged on conditions prescribed in a probation order for a period of two years. The respondent is a member of the armed services with an excellent record and no previous convictions. While the offence was serious it occurred while the respondent was drinking excessively at a party. We have carefully reviewed the record and heard the representations of counsel and we are satisfied that the learned trial judge applied the proper principles in granting a conditional discharge in this case. In a post-sentence report it is clear that the respondent is complying with all conditions in the probation order. He remains a member of the armed forces. The appeal and application for leave to appeal are dismissed.

J.A.

Concurred in:

Hallett, J.A.

Matthews, J.A.

C.A.C. No.02825

NOVA SCOTIA COURT OF APPEAL

BETWEEN:

HER MAJESTY THE QUEEN

| - and - FOR BY: | Appellant |) | REASONS |
|-----------------------|------------|---------------|----------------|
| | |) | JUDGMENT |
| LEIGH ERIC RHYNOLD | | |) |
| | Respondent |))))))) | JONES, J.A. |