

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Dugas*, 2012 NSCA 102

Date: 20120925

Docket: CAC 362840

Registry: Halifax

Between:

Luke Earl Dugas

Appellant

v.

Her Majesty The Queen

Respondent

Judge: The Honourable Justice Linda Lee Oland

Appeal Heard: May 14, 2012, in Halifax, Nova Scotia

Subject: Reasonable Doubt - Questioning by Judge - Ineffective Assistance of Counsel

Summary: The appellant was charged with break and enter into a dwelling with intent. He testified that he was lost and went into the porch to use the phone. The judge asked him several questions after the appellant finished giving his evidence, ending with “It wasn’t because you’d just been in a house, breaking in?” Defense counsel did not confront a witness with her police statement nor did he call one of the investigating officers. The judge found that the appellant had entered the home through a window and found him guilty. The appellant appeals.

Issue: Whether the judge erred in applying the law with respect to reasonable doubt;

Whether the nature and extent of the judge’s questioning of the appellant created an appearance of unfairness in the trial process;

Whether the appellant did not receive effective representation from his trial lawyer.

Result:

Appeal dismissed. The judge's rejection of the appellant's explanation and his finding as to how the appellant entered the home implicitly answered the third part of the test in *W.(D.)*. In this particular case, the judge's questioning of the appellant, either cumulatively or his final question in isolation, did not undermine trial fairness. Defense counsel's failure to put apparent inconsistencies between a witness's statement to the police and her testimony in court, and his decision not to call an officer to testify, did not give rise to a miscarriage of justice.

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 20 pages.