PROVINCIAL COURT OF NOVA SCOTIA
Citation: *R* v. *Smith*, 2023 NSPC 28

Date: 20230104
Docket: 8275959
Registry: Halifax

Between:

His Majesty the King

v.

Kenneth Charles Smith

Restriction on Publication: Section 486.4

DECISION ON SENTENCE

Judge:	The Honourable Judge Christine Driscoll
Heard:	December 7, 2022, in Halifax, Nova Scotia
Decision	January 4, 2023, in Halifax, Nova Scotia
Charge:	Section 151 of the Criminal Code of Canada
Counsel:	Eric Taylor, for the Crown J. Patrick Atherton, for the Defence

Restriction on Publication:

486.4(1) Subject to subsection (2), the presiding judge or justice may make an order directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way, in proceedings in respect of

(a) any of the following offences:

(i) an offence under section 151, 152, 153, 153.1, 155, 160, 162, 163.1, 170, 171, 171.1, 172, 172.1, 172.2, 173, 213, 271, 272, 273, 279.01, 279.011, 279.02, 279.03, 280, 281, 286.1, 286.2, 286.3, 346 or 347, or

(ii) any offence under this Act, as it read from time to time before the day on which this subparagraph comes into force, if the conduct alleged would be an offence referred to in subparagraph (i) if it occurred on or after that day; or

(b) two or more offences being dealt with in the same proceeding, at least one of which is an offence referred to in paragraph (a).

By the Court:

Introduction

[1] Mr. Smith has entered a guilty plea to one count pursuant to s. 151 of the *Criminal Code* between the dates of the first day of January 2013 and the first day of October 2018. The facts have been filed as exhibit number one as admissions between defence and the crown.

[2] In preparing my decision I have reviewed the briefs of Crown and Defence. I have also reviewed the Pre-Sentence Report (March 5, 2021), plus a Pre- Sentence Report update of November 17, 2022. I have a comprehensive forensic sexual behaviour pre-sentence assessment (February 2, 2021 by Dr. St. Amand-Johnson). I have heard and considered the victim impact statements in person, from both the victim and her aunt. I have also considered the accused's record. The defence has provided me with materials as well which include a psychological assessment by Dr. Andrew Starzomski dated February 11 of 2021.

Position of the Parties

[3] The Crown is seeking five years in custody and a number of ancillary orders. Defence is recommending a Conditional Sentence Order of two years less a day and three years probation.

Facts

[4] With respect to the facts, an agreed statement of facts was filed that state the following:

[5] The complainant C.D. was born in April, 2006. Her mother could not look after her, so from the time she was 18 months old she was raised by her grandmother J.D. J.D. was friends with the accused Kenneth Charles Smith, born July 25, 1949, as they had grown up together, and C.D. became close with the accused as well.

[6] At one point J.D. and C.D. were encouraged by the accused to move into his apartment building in Halifax, Halifax County, Nova Scotia which they did in 2014. C.D. would visit with the accused almost everyday, with her grandmother's permission. He would often buy groceries for C.D. and J.D., and would give C.D. treats regularly.

[7] J.D. became sick with cancer and the accused would come to their apartment almost everyday and help out. At one point J.D. was taken to the hospital and the accused looked after C.D. for a time, including giving a bath to C.D. on at least one occasion.

[8] J.D. died in June of 2016, and C.D., now approximately 10 years old, moved to Moncton to live with her aunt A.D.. A.D. would try to take C.D. to Halifax once a month so C.D. could visit with her biological parents, and because the accused had been such a big part of C.D.'s life A.D. would take C.D. to visit with the accused for an hour or so before returning to Moncton. During these visits the accused would give C.D. snacks and money. He would also take her aside to show her things in his apartment.

[9] On September 30, 2018, when C.D. was 12 years old she and A.D. visited the accused after an access visit with C.D.'s father. At one point during the visit A.D. was in the living room on her phone. The accused asked C.D. to come into the kitchen saying he had something to show her. There he opened the kitchen cupboard doors for her to look inside. As she did he moved behind her, she turned around and he put both his hands down her pants, touching her "butt" and her "vagina" and putting his fingers inside her. She couldn't tell whether his fingers

went inside the front or the back. She tried to get away from him but he would not let go. She was too afraid to call out.

[10] A.D. heard noises coming from the kitchen which sounded like the accused whispering and the rubbing of clothing. She entered the kitchen to see the accused behind C.D. with his arms around her. C.D. looked horrified and had tears in her eyes. A.D. took C.D. out of the apartment and asked her if the accused touched her inappropriately and C.D. said yes. A.D. then called the police.

[11] C.D. was interviewed by police and a social worker on the same date, and told them the accused had been doing this since she was 7 or 8 years old, in Grade 2 or 3. It happened almost every time she visited him at his home. She described watching television at his home, he would lock the door, tell her to get up, turn around, sit on the couch, and he would pull her pants down and touch her "all down there". She would return to her home but be too afraid to tell anyone, fearing she would get in trouble or would upset her grandmother.

[12] C.D. was asked how often he would touch her sexually, and she estimated it would take place 30 to 40 times each school year. When her grandmother died and she went to live with her aunt she was 10 and in Grade 5 she would not see the accused except during visits to Halifax, perhaps 4-5 times a year, and he would

touch her sexually during some of those visits. She said while the touching did not occur as often as when she was living in Halifax, the accused would “get more aggressive with it” and “it really hurt”.

[13] C.D. said the accused told her not to say anything, and she was also afraid to tell anyone.

[14] The accused was arrested on the same day, September 30, 2018, for sexual assault and sexual interference, and spoke to a lawyer. He was then interviewed by police. He admitted to knowing C.D. through her grandmother, and had known her for years, since she was in diapers. He indicated A.D. and C.D. were at his apartment for a visit that day, and C.D. joined him in the kitchen. He offered her something for lunch and she said no. She gave him a hug and he hugged her back. During the hug she turned away from him and his hand slipped down into her slacks and touched her “virginia” inside her underwear, and that was when A.D. came in.

[15] The accused said nothing like that had ever happened before. When the interviewing officer left the interview room the accused said to himself “Oh, for fuck’s sakes. That’s all I did, that’s all I did. Come on.” When the officer returned,

he confirmed with the accused that he had never touched C.D. before, and she had never touched him.

[16] The accused was released by police on a promise to appear and an undertaking.

[17] The accused acknowledges multiple incidents of sexually touching C.D. each year over the years, but does not believe it occurred 30-40 times each year as estimated by C.D. in her police interview. Mr. Smith was between sixty-four and sixty-nine years of age when he committed these offences.

Sentencing Principles

[18] The *Criminal Code* sets out the purpose and principles of sentencing that help guide the courts in forming a proper sentence for each unique offender. Section 718 of the *Criminal Code* sets out:

> The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions:
>
> (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
>
> (b) to deter the offender and other persons from committing offences;
>
> (c) to separate offenders from society, where necessary;
>
> (d) to assist in rehabilitating offenders;
>
> (e) to provide reparations for harm done to victims or to the community;

[19] I have to really consider that pursuant to s. 718.01, when a court imposes a sentence for an offence that involved the abuse of a person under the age of eighteen years, that primary consideration shall be given to the objectives of denunciation and deterrence of such conduct.

[20] Further, I have to consider pursuant to s. 718.1, that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[21] As well, pursuant to s. 718.2

> a court that imposes a sentence shall also take into consideration the following principles:
>
> **(a)** a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,
>
> …..
>
> **(ii.1)** evidence that the offender, in committing the offence, abused a person under the age of eighteen years,
>
> **(iii)** evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim,
>
> **(iii.1)** evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation,

[22] Further, pursuant to s. 718.2(b)

> **(b)** a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
>
> **(d)** an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and

> **(e)** all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.,

which is not the situation here.

[23] I also have to promote a sense of responsibility in offenders, and an acknowledgement of the harm done to victims or the community. I have to think about all of the sentencing purposes and principles in sentencing Mr. Smith. Guidance as to how I should interpret and balance these principles and how they should be applied to different types of offences comes from the common law. The best means of addressing the principles and attaining the ultimate objective will always depend on the unique circumstances of each case. Because of that, it has been consistently recognized that sentencing is a delicate and inherently individualized process (***R. v. LaCasse***, **2015 SCC 64** at para. 1 **and *R.* v. *M. (C.A.)***, [**1996] 1 S.C.R. 500**, paras.91-92.)

Denunciation and Deterrence

[24] Denunciation is the means by which a sentence communicates society's condemnation of conduct. As Justice Lamer said in ***R. v. M.* (*C.A), supra***.

> "a sentence with a denunciatory element represents a symbolic, collective statement that the offender's conduct should be punished for encroaching on our society's basic code of values as enshrined within our substantive criminal law." (para. 81)

[25] The goal of specific deterrence is to discourage Mr. Smith from committing further offences. Mr. Smith has a record for sexual assault. He would have concluded his Conditional Sentence Order and Probation fairly shortly before this offending behaviour against C.D. started. He must not have gained any insight from his previous sentence. After that sentence he then embarked on this pattern of abuse against this victim.

Rehabilitation

[26] Rehabilitation contributes to the long-term protection of society. It continues to be a relevant objective, even in cases requiring that denunciation and deterrence be emphasized.

[27] In sexual assault cases or sexual interference cases, rehabilitative efforts usually involve counselling or sexual offender programming to assist the offender in their thinking, and to keep them from engaging in this kind of activity in the future. This is all very complicated by Mr. Smith's current mental status which I will discuss later in my decision.

Proportionality

[28] Section 718.1 says that the fundamental principle of sentencing is that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. It requires that a sentence not be more severe than what is just and appropriate given the seriousness of the offence and the moral blameworthiness of Mr. Smith. It also requires that the sentence be severe enough to condemn his actions and hold him responsible for what he's done and the harm he has caused (***Lacasse, supra*** at para. 12).

[29] Assessing the gravity of the offence requires me to consider both the gravity of these offences in general and the gravity of Mr. Smith's specific offending behaviour.

[30] Sexual interference, in general, is viewed as a very serious offence. This is reflected in the fact that Parliament has increased the maximum sentence, currently to 14 years in custody. Regardless of what the maximum sentence was at the time of the offences, there is a clear message both through legislation and case law that it is to be treated seriously.

[31] Assessing the gravity of Mr. Smith's specific behaviour also requires me to examine his moral responsibility. This includes his level of responsibility at the

time of the commission of the offence. I must also consider broader factors that might affect his general culpability (***R.* v. *Arcand,* 2010 ABCA 363**, at para. 58).

[32] Mr. Smith is solely responsible for this offence. He manipulated the course of this victim's childhood. He inserted himself into her life. Her grandmother came to depend on him. He encouraged her grandmother to move into the same building as him, giving him easy access to C.D. He was aware that the victim's grandmother was a single mother who needed support. He took advantage of that. The offences continued over a lengthy period of time, a number of years. At any point during that time frame he could have, if he felt he couldn't control himself, choose to create some space between he and the victim. Year after year, month after month he didn't do that. He worked the situation to his advantage.

Aggravating and Mitigating Factors

[33] Section 718.2 requires that I consider the aggravating and mitigating factors relating to the offence and the offender. I have already discussed some of these:

Aggravating Factors

- The victim was a child, seven or eight when it started and it continued for five years;
- Mr. Smith was a long-term family friend and caregiver at times to the victim;

- Over the years he provided her with food and treats;
- He has a related record .

Mitigating factors

- Guilty plea – The crown made argument that the matter was dragged out as a result of Mr. Smith and therefore the guilty plea was less mitigating. I would say that this process was difficult for C. D., but also Mr. Smith had some complicated issues to deal with, and he had a change of counsel. I do find that guilty plea to be mitigating, but perhaps slightly less mitigating than if it had happened at the early stages of the process. Given Mr. Smith's mental status, his change of counsel, I find that he does get some mitigation for the guilty plea.

- Mr. Smith has made some expression of remorse and a guilty plea is an acceptance of responsibility. His acceptance of responsibility is tempered somewhat by his comments which seem to place some blame on the victim. These comments are found in the PSR.

Parity and Range of Sentences

[34] I have to consider parity. This means that within reason, a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.

Restraint

[35] I also have to consider restraint. Section 718.2 requires me to consider that an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate, and that all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, and consecutive sentences (which won't apply here) should not be unduly long or harsh.

[36] In this case, proportionality and the objectives of denunciation and general deterrence require a custodial sentence. The principles of parity, restraint and the goal of rehabilitation inform how long that sentence should be.

Discussion of Reports

[37] In reviewing the PSR, PSR update, the CFSBPA, and the report of Dr. Starzomski I can conclude the following:

- Mr. Smith has low cognitive functioning;
- There is no way to know if his cognitive functioning is worse post-stroke, as there is no baseline testing for comparison;

- Mr. Smith has some legitimate memory loss, and some otherwise intentional situational memory loss, for example when being asked about his offences;

[38] Dr. Armand-Johnson prepared the most comprehensive report and does not connect his offending to his cognitive function. She did make some important observations. At page 15 she states that in the prior conviction and the index offence:

> "he perceived (both then and still now) the victims as non-verbally communicating sexual interest in him"

That may be how he perceived things but the court notes that C.D. was a child. Regardless of what Mr. Smith may or may not have perceived, he was the adult in the situation and should have taken appropriate steps. In no way could this ever be the child's fault or could they have any responsibility for any of the activity. They are solely dependent on adults to care for them.

[39] Page 17 of the same report states that Mr. Smith would struggle with insight and self-reflection, because of his complicated mental status. Behavioural modification based on rules might be helpful, but he could struggle with remembering the rules. External controls and supports are needed.

[40] Dr. Armand Johnson recommends that Mr. Smith receive treatment – low-intensity specialized treatment for sexually offending. The writer adds though, that if he does get a community sentence that he should not attend the FSBPs treatment program due to his cognitive issues. The focus would have to be on external controls. The second recommendation is that he not have unsupervised contact with females under 16. Even if supervised he should not have physical contact except side hugs with female relatives.

[41] This attention to detail and emphasis on what supervision would be needed, underscores the difficulty with sentencing Mr. Smith. Additionally, the writer recommends that his social support network remind him of boundaries and safety strategies. Finally, he should have a proper dementia assessment.

[42] I note that his prior conviction occurred while he was alone with the victim in the victim's apartment. Between 2013 and 2018, Mr. Smith concealed the abuse of the current victim. That tells the court that he knew that these actions were wrong. He made efforts to conceal his actions. This is not a situation of being of such low cognitive function that he was completely unable to control his impulses. He waited until the victims were alone. We sometimes see offenders with such low functioning that they cannot control their impulses in any situation. Mr. Smith knew to get the victims alone before assaulting them.

[43] In the recent report at page 22, Dr. Armand-Johnson noted that Mr. Smith insisted that there was only one incident and that the victim started to develop and hugged him and wouldn't let go, then his hand slipped into her pants. We know of course that this is not true. He is blaming the victim, minimizing his behaviour and is not recognizing, or choosing not to recognize that it is irrelevant whether the victim was developed or hugging him. She was a child, he was an adult, and he had been her caregiver. Not being able to recognize that, even after this extensive legal process is concerning.

Caselaw

[44] I am not going to list every case that has been put before me, but they are listed in Appendix A. I have read all the case law provided and I find the following compelling:

[45] ***R. v. Friesen*** **2020 SCC 9** paragraph 5 –

> " . . .we send a strong message that sexual offences against children are violent crimes that wrongfully exploit children's vulnerability and cause profound harm to children, families and communities. Sentences for these crimes must increase."

[46] I think sometimes in citing the factors and principles in ***Friesen, supra***, the facts get overlooked. Mr. Friesen was 29, he had no record and pleaded guilty. He committed one act. It was a terrible act on a very young child. But it was one

incident. Mr. Friesen had a terrible childhood of neglect and physical and sexual violence. He received a six year sentence.

[47] ***Friesen, supra*** went on to say at paragraph 97;

> "An increase in the maximum sentence should thus be understood as shifting the distribution of proportionate sentences for an offence."

And at Paragraph 98

> "Parliament has repeatedly increased sentences for sexual offences against children starting in 1987."

Para 100

> "Sentencing judges and appellate courts need to give effect to Parliament's clear and repeated signals to increase sentences imposed for these offences"

At paragraph 114 ***Friesen, supra*** quotes ***R. v. DD*** **(2002) 58 O.R. (3d) 788**

> "That message is that mid-single digit penitentiary terms for sexual offences against children are normal and that upper-single digit and double digit penitentiary terms should be neither unusual nor reserved for rare or exceptional circumstances. "

[48] ***Friesen, supra*** also clearly cautioned against focusing on the specific physical act and setting a range based on that act. It also stated that courts should not assume that there is any clear correlation between the type of physical act and the harm done to the victim.

[49] Recent cases in Nova Scotia have each interpreted *Friesen* in their own way. In reviewing all of the post *Freisen* decisions from Nova Scotia I find the most similar to be ***R.* v. *Hughes*, 2020 NSSC 376.** A 71 year old offender with debilitating back pain and a dated but related record, received 6 years in custody for a s.151 offence that occurred over a period of time.

Conclusion

[50] This young woman was born into this world with all the potential of any other human being, entitled to all the rights and protections of any resident of this country. As is the case with all children, she relied on the adults around her to provide for her needs. She relied on them to protect her until she was an independent adult.

[51] The course of her life was shaped by Mr. Smith, who inserted himself into her life. What should have been a safe, innocent childhood became one of manipulation and abuse. This has had long lasting effects on her. My hope is she is able to get the help she needs and have a full and rewarding life.

[52] But the reality is, that the actions of Mr. Smith have guaranteed that she will not have the life she could have had, if her childhood had been safe and free of

abuse. She will not know what she would have been like, had this never happened. That's the greatest tragedy of this.

[53] The community effects extend beyond the victim. Her aunt thought she was doing a positive thing by maintaining that relationship between Mr. Smith, and the victim. She made the effort to drive to Halifax to facilitate visits. This has been very distressing for the victim's aunt. Everyone who loves and cares for the victim is affected.

[54] It does not matter if this victim's trauma is more or less than someone else's. There is trauma in all sexual assault cases. The fact that there was not intercourse or specific additional violence does not make these offences any less serious, it just would be more serious if there had been additional physical violence or intercourse.

[55] We need to move away from categorizing activity and setting ranges based on the sexual activity. We need to recognize that sexual offences with a child victim, all mixed in with what appears to be a supportive, and caring relationship, is so destructive. When you combine that, with providing material things, and throw in secrecy and shame, you have a recipe for destroying a childhood.

[56] There is no doubt that Mr. Smith has low cognitive functioning. But I cannot ignore that during all of the offending, the accused lived on his own, took care of his own medication, provided for himself and handled his own finances. He does not have drug or alcohol issues. He does not have debt. He had a positive upbringing. He completed grade 7 or 8 in school but had a 25 year employment history with grocery stores until he suffered an injury that caused him to stop working. He was aware that what he was doing was wrong, because he kept it hidden and denied it when basically caught in the act. His support system in the community (sisters and partner) do not really believe that he is capable of this kind of thing. He minimizes his action, and places blame on the victim even though she was a child.

[57] Dr. St. Armand-Johnson found that he had poor recall with some selective forgetfulness. She was not able to say definitively if there has been a cognitive decline, because there was no baseline created before she met Mr. Smith. She says at para. 4 of the CFSBPA;

> "It is therefore suspected that, in addition to possessing genuine cognitive impairments, Mr. Smith was actively avoiding questions about his sexual offences . . .".

There is no evidence connecting any cognitive decline with the offending behaviour. Dr. Starzomski speculated about this but there is nothing definitive to base it on.

[58] Mr. Smith's current assessment is that he is a low risk to re-offend, but that has been proven wrong in the past. Treatment was not recommended in a particular program because Dr. St. Armand-Johnson stated Mr. Smith cannot follow programming. He is limited cognitively but he is fit. He now may be suffering from dementia. The court is empathetic to that, but does not have evidence to suggest that he cannot serve a sentence. His possibly having dementia is a concern, but it certainly does not make him less dangerous.

[59] Absent his combined age and health problems, the appropriate sentence for this offender in these circumstances would be 6-7 years. He subjected the victim to frequent invasive sexual abuse for years.

[60] It is nowhere near the range of a Conditional Sentence Order. I cannot find that serving it in the community would not endanger the community. It is difficult given Mr. Smith's current state, but all of the sentence purposes and principles support a lengthy custodial sentence.

[61] He has some health issues but nothing that cannot be addressed in the institution. He is a complicated offender because he is low functioning, and would have difficulty with treatment. He has not breached his bail but he is a repeat sex offender.

[62] He needs external controls but his sisters don't accept that he is responsible for his offences. The level of supervision required including what kind of a hug he could give someone, is not something that is realistic in the community, to keep the community safe.

[63] This all combines to equal someone who needs to be separated from society.

[64] After considering all of the principles, his guilty plea and declining age and health Mr. Smith is sentenced to 5 years in custody plus the following ancillary orders:

- There will be a prohibition order pursuant to s. 161 for life;
- There will be a primary DNA order (s. 487.051);
- There will be a firearms prohibition order for a period of 10 years (s. 109);

- There will be a prohibition on contact with the victim during the custodial portion of the sentence (s. 743.21(1));
- SOIRA order for life s. 490.013(4).

[65] It is my hope that this sentence sufficiently addresses denunciation and deterrence while considering Mr. Smith's unique circumstances.

[66] The institution should be aware of Mr. Smith's cognitive limitations and his need for supervision by medical professionals as well as an assessment for dementia.

Christine Driscoll, JPC

Appendix A

1. R. v. *Hood*, 2018 NSCA 18
2. R. v. *V.I.C.*, 2005 SKCA 95
3. R. v. *Pouliot*, 2006 QCCA 643
4. R. v. *Thow*, 2010 BCCA 538
5. R. v. *Patricio*, 2011 QCCQ 5261
6. R. v. *C.A.L.*, 2021 NSSC 365
7. R. v. *Delgado*, 2017 NSPC 74
8. R. v. *Lalonde* [*Canada (Attorney General) v. Lalonde*], 2016 ONCA 923
9. R. v. *Butler* (2017), 398 CRR (2d) 94, [2017] N.J. No. 396 (Prov. Ct.)
10. R. v. *E.O.*, 2018 YKTC 9
11. R. v. *Chicoine*, 2019 SKCA 104
12. R. v. *Ross*, 2020 NSSC 70
13. R. v. *Young*, 2022 NSSC 185
14. R. v. *Wright*, 2010 MBCA 80
15. R. v. *Mauger*, 2018 NSCA 41
16. R. v. *Robinson*, 2021 NSPC 20
17. R. v. *Dinn* (1993), 104 Nfld. & P.E.I.R. 263
18. R. v. *S.(F.J.)*, [2005] A.J. No. 1974 (Q.B.) Page | 2
19. Justice Gilles Renaud, "Sentencing Elder Offenders: A Thematic Review of the Principles", ADGN/RP-094
20. R. v. *R.(A.)*, [1994] M.J. No 89, 1994 CanLII 4524 (C.A.)
21. R. v. *Corneau*, 2022 BCSC 1185
22. R. v. *Salehi*, 2022 BCCA 1
23. R. v. *Al-Awaid*, 2015 NSPC 52
24. R. v. *Pond*, 2020 NBCA 54
25. R. v. *T.V.G.*, [1994] N.S.J. No. 348 (S.C.)
26. R. v. *M.(D.A.)*, [1999] N.S.J. No. 468 (S.C.)
27. R. v. *W.(E.M.)*, 2011 NSCA 87
28. R. v. *D.(D.)*, [2002] O.J. No 1061, 2002 CanLII 44915 (C.A.)

29. R. v. *Wood*, 2021 NSSC 253
30. R. v. *Weaver*, [1993] N.S.J. No. 91 (S.C.)
31. R. v. *N.(A.)*, 2009 NSSC 186
32. R. v. *M.(D.)*, 2012 ONCA 520
33. R. v. *A.M.B.*, 2022 NSSC 262
34. R. v. *Hughes*, 2020 NSSC 376
35. R. v. *S.J.M.*, 2021 NSSC 235
36. R. v. *Doyle*, [1991] N.S.J. No. 447 (C.A.)
37. R. v. *S.F.W.*, 2021 NSSC 312
38. R. v. *Young*, 2022 NSSC 122
39. R. v. *S.P.W.*, 2021 NSPC 24
40. R. v. *W.G.L.*, 2020 NSSC 323
41. R. v. *C.A.L.*, 2021 NSSC 365
42. R. v. *B.J.R.*, 2021 NSSC 26
43. R. v. *C.M.S.*, 2022 NSSC 166
44. R. v. *Ndhlovu*, 2022 SCC 38
45. R. v. *Freisen* 2020 SCC 9
46. R. v. *Lacasse*, 2015 SCC 64
47. R. v. *Proulx*, 2000 SCC 5
48. R. v. *Scott*, 2021 NSSC 235