

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Kagan, 2008 NSSC 26

Date: 20080122

Docket: CR 225051

Registry: Halifax

Between: Her Majesty the Queen

v.

Paul David Kagan

LIBRARY HEADING

Judge: The Honourable Justice Glen G. McDougall

Heard: May 9, 10, 14, 15, 16, 17, 18, 22, 23, 24, 25, 28, 29, June 11, 12, 13, 15, 18, 19 and July 5, 2007 in Halifax, Nova Scotia

Sentencing

Decision: January 22, 2008 (orally); January 28, 2008 (in writing)

Subject: After a re-trial, the accused was convicted of aggravated assault. Sentencing for the offence took place on January 22, 2008.

Summary: The accused was convicted of aggravated assault. He was diagnosed with Asperger's Syndrome, a mild form of autism. This was advanced at trial as the basis for a self-defence argument. The Crown proved beyond a reasonable doubt that self-defence did not exist in this case.

Issue: Given the facts of this case and the offender's diagnosis of Asperger's Syndrome, should he be sentenced to a term of incarceration or should the Court consider a conditional sentence or a suspended sentence as suggested by the defence?

Result: After considering the purpose and principles of sentences along with the objectives to be achieved, the Court decided it was best to sentence the offender to a conditional sentence of twelve months of which six months would be house arrest and the remaining six under a curfew with various other conditions.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET***