

SUPREME COURT OF NOVA SCOTIA

Citation: *R v. Chickness*, 2011 NSSC 225

Date: 20110610
Docket: CRA 336301
Registry: Pictou

Between:

Her Majesty the Queen

Appellant

v.

John Alfred Chickness

Respondent

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Judge: The Honourable Justice N.M. Scaravelli

Heard: May 20, 2011 in Pictou, Nova Scotia

Oral Decision: June 10, 2011

Subject: Summary Conviction Sentence Appeal

Summary: Offences—assault causing bodily harm Section 267(b) of the *Criminal Code*; possession of a weapon Section 88 of the *Criminal Code*.

Consent Appeal—trial judge erred in law by imposing conditional sentences that exceeded the maximum allowable.

Issue: Jurisdiction of summary conviction appeal court on sentence.

Result: Appeal Court has no jurisdiction to return to trial judge for sentence. Appeal Court to sentence without deference to trial judge. Appeal Court imposed 15 months Conditional Sentence for Section 267(b) charge, three months conditional concurrent for Section 88 charge, and 18 months Probation.

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