

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. MacIsaac, 2011 NSSC 345

**Date:** 20110914

**Docket:** CR. Ant. 344819

**Registry:** Antigonish

**Between:**

Eric Doyle MacIsaac

Plaintiff

- and -

Her Majesty the Queen

Respondent

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**Judge:** The Honourable Justice A. David MacAdam

**Heard:** July 12, 2011, in Antigonish, Nova Scotia

**Subject:** Appeals, sentencing, conditional discharges

**Summary:** The appellant pleaded guilty to one count of common assault and two counts of assault causing bodily harm. The Provincial Court judge sentenced him to three months imprisonment in respect of the common assault and, consecutive to that, three months concurrent on each count of assault causing bodily harm. The six-month total sentence was to be served in the community on house arrest. The sentencing judge rejected the defence submission for a conditional discharge. Several letters of reference in the appellant's favour failed to reach the sentencing judge, due to having been inadvertently sent by counsel to the wrong fax number.

**Issue:** Was there a denial of natural justice in sentencing the accused in the absence of the letters of reference?

**Result:** The Appeal Court found that the content of the missing letters of reference would reinforce the positive pre-sentence report as well as other evidence in the accused's favour that had been

before the sentencing judge. The court was not satisfied that the letters would have materially affected the sentencing judge's reasoning, or that they would have likely led to a different result, particularly in the assessment of whether it would not be contrary to the public interest to order a discharge. The court was not satisfied that the absence of the reference letters led to any error or denial of natural justice by the sentencing judge.

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