

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: R. v. R.D.K., 2003 NSSC 240

Date: 20031208

Docket: Docket Number

Registry: Halifax

Between:

R. D. K.

Appellant

v.

Her Majesty The Queen

Respondent

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Judge: The Honourable Justice Arthur W.D. Pickup

Heard: October 30, 2003 in Sydney

Written Decision: December 8, 2003

Subject: Application to admit fresh evidence pursuant to Section 683 of *The Criminal Code*

Summary: The Appellant was convicted on three counts of sexual assault. The Appellant appealed. The Appellant made application to admit fresh evidence from a witness who had spoken with one of two complainants. The witness testified that the complainant told her that the allegations against the Appellant were fabricated. The witness had contacted the Appellant prior to his trial and subsequent to his conviction offering to testify on the Appellant's behalf. The Appellant did not call the witness at trial.

Issue: Should the fresh evidence be admitted? Has the Appellant exercised due diligence in bringing the evidence forward given that he had known prior to trial about the general nature of this testimony?

Result: Fresh evidence admitted.

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