

Q.B.
No. 193

A.D. 1998
J.C. M.J.

IN THE QUEEN'S BENCH
JUDICIAL CENTRE OF MOOSE JAW

BETWEEN:

KEN KETTLESON

APPELLANT

- and -

HER MAJESTY THE QUEEN

RESPONDENT

Charlene M. Richmond

for the appellant

Brian A. Hendrickson

for the Crown

JUDGMENT
March 24, 1999

MacDONALD J.

[1] This matter came before me on an appeal from summary conviction.

[2] The appellant, Kenneth Carl Angus Kettleison, was convicted of an offence pursuant to s. 446(c) of the *Criminal Code* following a trial of the matter in Provincial Court on July 17, 1998, before Judge Orr.

[3] It is from the decision of Judge Orr that the appellant appeals both his conviction and sentence.

[4] Upon a review of the trial record, it cannot be said that the findings by the trial judge are not supported by the evidence or that the conclusions of the trial judge are so clearly wrong so as to make his decision unreasonable. Likewise, the appellant has not shown an error by the trial judge on a question of law. (*R. v. Andres*, (1979) 1 Sask. R. 96 (C.A.).

[5] The appeal therefore from the finding of guilt is dismissed.

[6] The appeal from sentence is allowed. Since it appears to me on the facts as presented by counsel for the appellant and the Crown that (a) the appellant has no criminal record, (b) it would be in the appellant's best interest not to have a criminal conviction, and (c) it would not be contrary to the public interest; I am setting aside the conviction and directing that Kenneth Carl Angus Kettleson, be discharged upon the fulfilment of the following terms and conditions for a period of two years:

- (a) that he keep the peace and be of good behaviour;
- (b) that he appear before the Court whensoever required to do so by the Court;
- (c) that he report forthwith and thereafter as required to the Chief Probation Officer or his delegate, Department of Justice, 36 Athabasca Street West, Moose Jaw, Saskatchewan;
- (d) that he notify the probation officer in advance of any change in his name or address;
- (e) that he undertake any psychological counselling as may be directed or advised by the probation officer;
- (f) that he refrain from keeping animals other than his current dog and cat(s).

J.