



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

Citation: *R. v. Flynn*, 2016 NLCA 5

Date: February 10, 2016

Docket: 201501H0060

BETWEEN:

GARY FLYNN

APPLICANT

AND:

HER MAJESTY THE QUEEN

RESPONDENT

Coram: Welsh J.A.

Application Heard: February 10, 2016

Decision Rendered: February 10, 2016 (Orally)

Memorandum of Disposition Filed: February 10, 2016

Counsel for the Applicant: Self Represented

Counsel for the Respondent: Lloyd M. Strickland

MEMORANDUM OF DISPOSITION

Welsh J.A:

[1] Gary Flynn is appealing his convictions under section 433(a) of the *Criminal Code*, arson with disregard for human life, and section 733.1(1)(b), breach of probation.

[2] The issues on appeal raised by Mr. Flynn relate to the failure of his counsel at trial to bring evidence that Mr. Flynn felt to be relevant. In the circumstances, I was satisfied that it was desirable in the interests of justice that Mr. Flynn should have legal counsel. Legal aid is not available since his grounds of appeal relate to the conduct of counsel at trial, that counsel being employed by the Legal Aid Commission. Given the nature of the grounds of appeal, it was not possible to conclude that the appeal is frivolous.

[3] Accordingly, pursuant to section 684 of the *Criminal Code*, I ordered that counsel be assigned for purposes of the appeal.

B. G. Welsh J.A.