



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

Citation: *R. v. Boalag*, 2019 NLCA 35

Date: May 28, 2019

Docket Number: 201701H0098

BETWEEN:

SOFYAN BOALAG

APPELLANT/APPLICANT

AND:

HER MAJESTY THE QUEEN

RESPONDENT

Coram: Welsh J.A.

Court Appealed From: Provincial Court of Newfoundland and Labrador
St. John's

Appeal Heard: May 28, 2019

Judgment Rendered: May 28, 2019 (Orally)

Memorandum of Disposition filed: May 30, 2019

Counsel for the Appellant/Applicant: Self Represented

Counsel for the Respondent: Lisa Stead

Counsel for the Attorney General: Jessica Pynn

MEMORANDUM OF DISPOSITION

Welsh J.A.:

[1] This is an application by Sofyan Boalag for the assignment of counsel pursuant to section 684 of the *Criminal Code*. The application was granted at the hearing.

[2] On September 23, 2016, following application of the *Kienapple* principle, Mr. Boalag was convicted of three counts of sexual assault with a weapon committed against three different victims, two counts of robbery, one count of possession of a prohibited weapon, one count of overcoming resistance to the commission of an offence by attempting to choke the victim, and one count of resisting arrest. On November 9, 2017, following an application by the Crown, Mr. Boalag was declared a dangerous offender and sentenced to concurrent indeterminate terms of imprisonment (2017 NLPC 0113A00338, 2017 CarswellNfld 430).

[3] In considering the criteria relevant to the application of section 684 of the *Code*, I was satisfied that Mr. Boalag does not have the means to engage legal counsel for his appeal, and that he has been refused legal aid by Legal Aid NL.

[4] Further, I was satisfied that it is desirable in the interests of justice that Mr. Boalag should have legal assistance for his appeal. The imposition of an indeterminate sentence is a very serious consequence. Mr. Boalag has limited ability with the English language and with legal concepts. I am not satisfied that, in the absence of counsel, all the possible issues on appeal would be identified and adequately addressed. While the trial judge provided comprehensive reasons for her decisions, I am not satisfied that the Court would be in a position to effectively hear and decide the appeal without the assistance of counsel.

[5] In the result, I granted Mr. Boalag's application.

B. G. Welsh J.A.