



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

Citation: *R. v. Power*, 2022 NLCA 59

Date: November 8, 2022

Docket Number: 202001H0083

BETWEEN:

LOUIS POWER

APPELLANT

AND:

HIS MAJESTY THE KING

RESPONDENT

Coram: Boone J.A.

Court Appealed From: Provincial Court of Newfoundland and Labrador,
Harbour Grace

Application Heard: November 8, 2022

Judgment Rendered (Orally): November 8, 2022

Memorandum of Disposition Filed: November 8, 2022

Counsel for the Appellant: Self-Represented

Counsel for the Respondent: Sheldon B.J. Steeves

Authorities Cited:

STATUTES CONSIDERED: *Criminal Code*, RSC 1985, c C-46, section 268.

RULES CONSIDERED: *Court of Appeal Criminal Appeal Rules (2002)*, SI/2002-96, rule 10(2)(a).

MEMORANDUM OF DISPOSITION

Boone J.A.:

[1] On December 15, 2020, after a trial in Provincial Court, Louis Power was convicted of several offenses under the *Criminal Code*, RSC 1985, c C-46, including aggravated assault contrary to section 268 of the *Code*. He was sentenced to an aggregate of 600 days imprisonment. He was given credit for time in remand and therefore his sentence remaining to be served amounted to 262 days. The Crown says that Mr. Power has served his sentence and been released from prison.

[2] Mr. Power appealed his conviction for aggravated assault. He grounded his appeal on a decision by the trial judge to admit into evidence, and base his decision to convict, upon the complainant's police statement which was inconsistent with her testimony at trial.

[3] Mr. Power's Notice of Appeal was filed on December 30, 2020. The trial transcript was filed on February 12, 2021. The Crown filed the Appeal Book on April 21, 2022. On May 25, 2022, the matter was called for status before the Chief Justice. Mr. Power was served with a notice of that status hearing, but he did not attend and he did not contact the Crown or the Registry to explain his failure to attend.

[4] The Crown filed an Application on October 25, 2022, under rule 10(2)(a) of the *Court of Appeal Criminal Appeal Rules (2002)*, SI/2002-96, for an order striking out the Notice of Appeal. I granted that order following the hearing today.

[5] Mr. Power did not attend the hearing. Mr. Power was served with the Application and Notice to Appellant on October 26, 2022. He did not contact

either the Crown or the Registry to explain his failure to attend. I considered the submissions made by the Crown at the hearing. Rule 10(2)(a) of the *Criminal Appeal Rules* provides that the Court may strike an appeal where the Appellant fails to perfect it within a period of 6 months after the filing of the transcript. Mr. Power did not perfect the appeal within the required time. Moreover, although he had notice of both hearings, he failed to attend the status hearing in May and he failed to attend today. He has not communicated an intention to proceed with the Appeal. He has already served his sentence. I struck the Appeal because the Appellant failed to perfect it within the requisite time and there is no reason to believe that he would if the Court allowed more time for him to so do, or appear to argue the Appeal if the Court set a date for that purpose.

[6] The Appeal is struck.

D.M. Boone J.A.