



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

**Citation:** *R. v. Pomeroy*, 2023 NLCA 7

**Date:** March 13, 2023

**Docket Number:** 202101H0039

**BETWEEN:**

HIS MAJESTY THE KING

APPLICANT/RESPONDENT

**AND:**

SARAH POMEROY

RESPONDENT/APPELLANT

**Coram:** D. M. Boone J.A.

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

**Application Heard:** March 13, 2023

**Judgment Rendered (Orally):** March 13, 2023

**Memorandum of Disposition Filed:** March 14, 2023

**Counsel for the Applicant/Respondent:** Sheldon B. J. Steeves

**Counsel for the Respondent/Appellant:** Self-represented, no appearance

**Authorities Cited:**

**CASES CITED:** *R. v. Chaulk*, 2021 NLCA 49, 7 C.A.N.L.R. 70.

**STATUTES CONSIDERED:** *Criminal Code*, RSC, 1985, c. C-46, sections 733.1(1)(b), 145(5)(a), 320.18(1), 320.15(1), 177, 430(1)(c), 320.13, 813, 829-830; *Highway Traffic Act*, RSNL 1990, c. H-3, section 75(5)(b); *Court of Appeal Act*, SNL 2017, c. C-37.002, sections 35(1), 35(2).

**MEMORANDUM OF DISPOSITION**

**Boone J.A.:**

[1] The Crown applied to have this matter transferred to the Supreme Court of Newfoundland and Labrador (General Division). The Crown submitted that the Appellant, Sarah Pomeroy, filed a Notice of Appeal with this Court in error. Ms. Pomeroy, who represents herself in this aspect, was served with notice of the application but did not appear.

[2] On April 28, 2021, before the Provincial Court of Newfoundland and Labrador, Ms. Pomeroy entered guilty pleas and was convicted of breaching sections 733.1(1)(b) six times, 145(5)(a) seven times, 320.18(1) three times, 320.15(1), 177, 430(1)(c), and 320.13 of the *Criminal Code*, RSC, 1985, c. C-46, and section 75(5)(b) of the *Highway Traffic Act*, RSNL 1990, c. H-3.

[3] The Crown proceeded by summary conviction on all matters.

[4] On May 20, 2021, Ms. Pomeroy was sentenced by a Provincial Court judge to 450 days (15 months) imprisonment, less credit for pre-trial custody, two years of probation, and a five-year driving prohibition.

[5] On June 17, 2021, Ms. Pomeroy filed a Notice of Appeal with this Court, appealing her sentence. She filed an Amended Notice of Appeal with this Court the following day, appealing both her convictions and sentence.

[6] The Supreme Court of Newfoundland and Labrador has jurisdiction to hear summary conviction appeals from the Provincial Court of Newfoundland and Labrador (*Criminal Code*, at ss. 813, 829-830). This Court does not have jurisdiction to hear such appeals (*R. v. Chaulk*, 2021 NLCA 49, 7 C.A.N.L.R. 70).

[7] The Notice of Appeal and the Amended Notice of Appeal were thus filed with this Court in error.

[8] This does not mean that Ms. Pomeroy will be denied an opportunity to have her appeal heard. When a proceeding is started in the Court of Appeal but ought to have been brought in the Supreme Court, it may be transferred by Order of this Court (*Court of Appeal Act*, SNL 2017, c. C-37.002, at s. 35(1)).

[9] Ms. Pomeroy will not be prejudiced by the transfer because section 35(2) of the *Court of Appeal Act* provides that proceedings that have been transferred under section 35(1) are considered to be as valid as if they had been taken and made in the court in which the proceedings ought to have been started.

[10] Accordingly, at the hearing of the Crown's application, I ordered that the proceeding be transferred to the Supreme Court of Newfoundland and Labrador (General Division).

[11] I direct that the Crown serve the Respondent with a copy of this Memorandum of Disposition and of the Order under s. 35(1).

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D. M. Boone J.A.