**Condom piercer loses Supreme Court appeal**

**Craig Jaret Hutchinson convicted in December 2011 and sentenced to 18 months behind bars**

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A Nova Scotia man who admitted he tampered with his girlfriend's condoms resulting in her pregnancy has lost his Supreme Court appeal and must now serve the balance of his 18-month jail sentence on a charge of sexual assault.

Canada's top court unanimously upheld Craig Jaret Hutchinson's sexual assault conviction on Friday morning.

Hutchinson's lawyer Luke Craggs said, "It has been a very long battle.

"This matter has been going on for close to seven years. It’s been hard fought and it’s been draining and so obviously it’s a disappointing outcome. But, at the very least, there’s a measure of closure in it.”

In the summer of 2006, Hutchinson thought he could save his flagging relationship by getting his girlfriend pregnant. He surreptitiously poked holes in her condoms.

She eventually became pregnant, but asked for time to think. It was during that period that Hutchinson told her in a series of text messages what he'd done. She called police and had an abortion. A publication ban protects her identity.

“I don’t know if there are going to be any other cases like this. It’s not every day that we normally hear about someone sabotaging the birth control that a woman was counting on," said Craggs.

In Friday's 7-0 decision, [the Supreme Court ruled that Hutchinson deprived the woman of her ability to consent to sex](http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13511/index.do).

"The accused's condom sabotage constituted fraud … the result that no consent was obtained," Chief Justice Beverley McLachlin and Justice Thomas Cromwell wrote on behalf of the court.

"A person consents to how she will be touched, and she is entitled to decide what sexual activity she agrees to engage in for whatever reason she wishes. The fact that some of the consequences of her motives are more serious than others, such as pregnancy, does not in the slightest undermine her right to decide how the sexual activity she chooses to engage in is carried out. It is neither her partner’s business nor the state’s," read the ruling.

"We conclude that where a complainant has chosen not to become pregnant, deceptions that deprive her of the benefit of that choice by making her pregnant, or exposing her to an increased risk of becoming pregnant by removing effective birth control, may constitute a sufficiently serious deprivation for the purposes of fraud vitiating consent."

**Questions about consent**

Crown prosecutor Jim Gumpert said Hutchinson used fraud to get the victim to consent.

“The victim had consented to protected sex. Condom-protected sex. She did not consent to unprotected sex,” he said.

Gumpert stressed the decision didn’t hinge on lying, but the risk of serious bodily harm.

“Someone lying about their age or their social status or where they worked, on that basis being able to convince someone to have sex with them, that is not enough to be convicted of sexual assault. There has to be the second component, not just fraud, but a significant risk of serious bodily harm," he said.

**'Dastardly' actions**

Hutchinson's case has been moving through the Nova Scotia court system for more than six years, including two trials and two appeals.

The judge at Hutchinson's first trial called his actions "dastardly" but acquitted him. The Crown appealed that decision, and Hutchinson was convicted in December 2011 at his second trial.

In January 2013, the Nova Scotia Supreme Court rejected Hutchinson's appeal that the sentence was harsh and excessive and that the woman voluntarily consented to have sex with him.

The conviction was upheld on appeal, but the Nova Scotia Court of Appeal split its decision, with one justice dissenting. That gave Hutchinson an automatic right to appeal, leading to his appearance before the Supreme Court.

Canada's highest court heard arguments on the case in November.

Hutchinson was taken into custody on Thursday night.

At his trial, he was sentenced to 18 months in jail. He also gave a DNA sample and his name was placed on the national sex offender registry.

**FOOD FOR THOUGHT:**

**Hmmm…18 months – too much, too little, or just right? Use your skills in EVALUATION here by strongly supporting your opinion. We’ll talk tomorrow…**