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1. SCC on Assessing Credibility

In [R. v. C.L.Y.](#), 2008 SCC 2, the court allowed the appeal from the decision of the Manitoba Court of Appeal (reported at [2006 MBCA 124](#) (CanLII)) and quashed the convictions for sexual assault, ordering a new trial. A 4-3 majority held that the trial judge misapprehended and mischaracterized the evidence of the accused, with the result that the convictions could not be supported, but did not err in her application of the law with respect to assessing credibility. With reference to its earlier decision in [R. v. W. \(D.\)](#), 1991 CanLII 93 (S.C.C.) the court stated that:

...what W.(D.) offered was a helpful map, not the only route. Its purpose was to ensure that triers of fact - judges or juries - understand that the verdict should not be based on a choice between the accused's and Crown's evidence, but on whether, based on the whole of the evidence, they are left with a reasonable doubt as to the accused's guilt.

2. Provincial Court Motions Court

A recent [Notice from the Provincial Court of Manitoba](#) advises that the Court has established a Provincial Court Motions Court in Winnipeg from Monday through Thursday at 10:00 a.m. in courtroom 308. As of February 4, 2008, all Notices of Motion or Notices of Application must be made returnable for any Monday to Thursday at 10:00 a.m. Watch the Manitoba Courts website for Practice Directives outlining the process of filing a contested motion or application.

3. Two Years for Contempt: C.A.

The Court of Appeal, in [R. v. Jacob](#), 2008 MBCA 7 (CanLII) reduced a sentence for contempt of court from 3 years to 2 years stating that:

...the gravity of what Jacob did merits a heavy sentence. Persons inclined to follow Jacob's example need to know that they will pay a high price for preferring misplaced loyalty over their duties as citizens. Jail should not be merely a nominal "cost" of maintaining peer solidarity. There is a heavy price to be paid for the calculated refusal to discharge the obligation placed on every citizen who can give evidence that will assist the administration of justice.

4. Address Arbitrary Detention on Sentencing: P.C.

The court in [R. v. Osiowy](#), 2007 MBPC 61 (CanLII) found that there was an infringement of the accused's [s.9 Charter](#) right not to be arbitrarily detained where the police did not consider the release provisions under [ss. 497 or 498 the Criminal Code](#), but that the facts didn't give rise to a stay under s. 24(1) of the *Charter*, leaving the remedy to be addressed upon sentencing.

5. Mandatory Minimum Sentencing Proposals

The January 28, 2008 issue of [Law Times](#) contains the editorial [The Revolving Door of Mandatory Minimums](#) which considers the potential impacts of the mandatory minimum sentence amendments proposed by [Bill C-26](#), *An Act to amend the Controlled Drugs and Substances Act and to make consequential amendments to other Acts*. The Bill was introduced on November 20, 2007 and is currently in debate before the House.

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