

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Schofield*, 2015 NSCA 5

Date: 20150120

Docket: CAC 424511

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Aaron Troy Schofield

Respondent

Judge:	The Honourable Justice Joel E. Fichaud
Appeal Heard:	November 18, 2014, in Halifax, Nova Scotia
Subject:	Section 254(3) of <i>Criminal Code</i> – reasonable grounds for a breath demand
Summary:	Mr. Schofield was charged with operating a motor vehicle while impaired and with excessive blood alcohol contrary to ss. 253(1)(a) and (b) of the <i>Criminal Code</i> . The trial judge held that the police officer did not have reasonable grounds to demand a breath sample from Mr. Schofield under s. 254(3), and the breath sample violated s. 8 of the <i>Charter</i> . The breathalyzer evidence was excluded. Mr. Schofield was acquitted. The Crown appealed.
Issues:	Did the judge err in determining whether the officer had reasonable grounds for a breath demand under s. 254(3) of the <i>Code</i> ?
Result:	The Court of Appeal allowed the appeal and ordered a new trial. The judge misapplied the principles to determine whether an officer has an objective basis for a breath demand under s. 254(3).

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 17 pages.