

**CASE NO.****VOL. NO.****PAGE****Her Majesty The Queen**  
(Appellant)

- and -

**Bernard Edgar Moore**  
(Respondent)**CAC No. 182118****Halifax, N.S.****HAMILTON, J.A.**

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**[Cite as: *R. v. Moore*, 2002 NSCA151]****APPEAL HEARD:****November 27, 2002****JUDGMENT DELIVERED:****November 27, 2002****SUBJECT:****Criminal Code s.253(b) - right to Counsel - exclusion of evidence-  
s.10(b) and s.24(2) of the Charter****SUMMARY:**

The respondent was convicted in Provincial Court, where the results of his breathalyser tests were admitted, of operating a motor vehicle while having consumed alcohol such that the concentration of alcohol in his blood exceeded the .08 limit prescribed by s.253(b) of the *Criminal Code*. On summary conviction appeal, the judge reversed the conviction, ruling that the respondent's s.10(b) rights were violated when the police failed to include a reference to the availability of legal aid when they purported to read him his charter rights relating to his right to counsel. The summary conviction appeal court judge also excluded the results of the breathalyser pursuant to s.24(2) of the *Charter*.

**ISSUES:**

Were the respondent's s.10(b) *Charter* rights violated, and if so, should the results of the breathalyser tests be included or excluded from the evidence?

**RESULT:**

Appeal dismissed. The summary conviction appeal court judge did not err in finding the respondent's s.10(b) *Charter* rights were violated and in determining that the evidence should be excluded, applying the tests set out in *R. v Collins*, [1987] 2 S.C.R. 265.

<p>This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 2 pages.</p>
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