NOVA SCOTIA COURT OF APPEAL

Cite as: R. v. Francis, 1995 NSCA 155 Clarke, C.J.N.S., Jones and Pugsley, JJ.A.

BETWEEN:

CHRISTOPHER THOMAS FRA	NCIS)
	Appellant	Patricia Fricker) Alan Nicholson) for the Appellant)
- and - HER MAJESTY THE QUEEN)) Robert C. Hagell for the Respondent
	Respondent) Appeal Heard:) April 6, 1995)
		Judgment Delivered:May 16, 1995
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THE COURT: Appeal dismissed per reasons for judgment of Jones, J.A.; Clarke, C.J.N.S. and Pugsley, J.A. concurring.

JONES, J.A.:

The appellant, Christopher Francis, was convicted on September 13, 1994 for

failing the breathalyzer contrary to s. 253(b) of the **Criminal Code**. Counsel for the appellant objected to the imposition of a mandatory order under s. 259(1) of the **Code**, prohibiting the appellant from driving. The appellant contended that s. 259(1) of the **Code** violated s. 15 of the **Charter**. The **Charter** challenge was heard at the same time and on the same grounds as raised in **Leonard Penney v. the Queen**. The trial judge rejected the **Charter** challenge and imposed the prohibition under s. 259(1) of the **Code**. The appeal from that decision was heard with the **Penney** appeal. For the reasons given in **Penney** I would dismiss the appeal in this case.

J.A.

Concurred in:

Clarke, C.J.N.S.

Pugsley, J.A.

NOVA SCOTIA COURT OF APPEAL

BETWEEN:

CHRISTOPHER THO	MAS FRANCIS		
- and - FOR	Appellant)	REASONS
BY: HER MAJESTY THE	QUEEN)	JUDGMENT
	Respondent)	JONES, J.A.
)	