

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 THOMAS FRANCIS

Appellant

- and -
FOR

BY:
HER MAJESTY THE QUEEN

Respondent

REASONS

JUDGMENT

JONES,
J.A.