

CASE NO. VOL. NO. PAGE
Cite as: **R. v. McCauley, 1997 NSCA 139**

HER MAJESTY THE QUEEN **NORMAN JOSEPH McCAULEY**
(Appellant) - and - (Respondent)
C.A. No. **136187** Halifax, N.S. **Pugsley, J.A.**
(Orally)

APPEAL HEARD: June 13, 1997

JUDGMENT DELIVERED: June 13, 1997

WRITTEN RELEASE OF ORAL: June 17, 1997

SUBJECT: **Criminal Code - s.254(5) of the Criminal Code**

SUMMARY: The Summary Conviction Appeal Court Judge dismissed an appeal by the Crown from the respondent's acquittal on a charge of refusing to comply with a demand to provide a sample for analysis in a roadside screening device.

The sole issue was whether in the circumstances of this case the Crown must establish that the device in the possession of the police officer was an approved roadside screening device.

RESULT: Appeal allowed. The gravamen of the offence of refusing (without reasonable excuse) the demand for a roadside screening test is a valid demand pursuant to s. 254(2) of the **Code** and a refusal to comply with that demand. These prerequisites were established. New trial ordered.

This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 6 pages.