

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Fifield*, 2004 NSCA 11

Date: 20040127

Docket: CAC 199275

Registry: Halifax

Between:

Andrew David Fifield

Appellant

v.

Her Majesty the Queen

Respondent

Judges: Glube, C.J.N.S.; Hamilton, J.A. and Fichaud, J.A.

Appeal Heard: January 27, 2004, in Halifax, Nova Scotia

Written Judgment: January 28, 2004

Held: Leave is granted, but the appeal is dismissed as per oral reasons for judgment of Fichaud, J.A.; Glube, C.J.N.S. and Hamilton, J.A. concurring.

Counsel: Donnie Doucet, for the appellant
Kenneth W.F. Fiske, Q.C., for the respondent

Reasons for judgment:

[1] As a result of an incident in Port Hawkesbury on October 31, 2001, the Provincial Court convicted the appellant of (1) impaired care or control of a motor vehicle contrary to s. 253(a); (2) refusal to comply with a demand for a breath sample contrary to s. 254(5); (3) mischief to property with value not exceeding \$5,000 contrary to s. 430 (4); and (4) mischief to property valued at over \$5,000 contrary to s. 434(3), all of the *Criminal Code*.

[2] The appellant appealed to the Nova Scotia Supreme Court as Summary Conviction Appeal Court. Justice Edwards dismissed the appeal. The appellant applies for leave to appeal and, if granted, appeals the convictions to this Court under s. 839(1) of the *Code*.

[3] Section 839(1) permits an appeal on a question of law alone.

[4] The appellant's argument was directed at the alleged errors by the Provincial Court. The issue should be whether the Summary Conviction Appeal Court erred in law. In our view, Justice Edwards applied the correct legal principles. There is nothing in the appellant's submissions which supports the conclusion that Justice Edwards erred in law. We grant leave, but dismiss the appeal.

Fichaud, J.A.

Concurring:

Glube, C.J.N.S.

Hamilton, J.A.