

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Spin*, 2014 NSCA 1

Date: 20140108

Docket: CAC 408350

Registry: Halifax

Between:

Her Majesty the Queen

Appellant

v.

Rudolph Joseph Spin

Respondent

Judge: Justice David P.S. Farrar

Appeal Heard: September 16, 2013, in Halifax, Nova Scotia

Subject: **Criminal Law. Charter of Rights. Breaches of ss. 7, 8 and 10(b). Admission of Evidence Pursuant to s. 24(2) of the Charter.**

Summary: The appellant was originally convicted of having consumed alcohol such that his blood alcohol level exceeded 80 milligrams of alcohol in 100 millimetres of blood and causing an accident which resulted in bodily injury. He appealed that conviction and was granted a new trial based on a breach of s. 10(b) of the *Charter* (the right to retain and instruct counsel without delay and to be informed of that right). On the retrial, he was acquitted of the charge on the basis that his *Charter* rights had been violated and that the certificate of analysis evidencing his blood alcohol level should be excluded under s. 24(2) of the *Charter*.
The Crown appealed alleging that the trial judge erred in excluding the evidence under s. 24(2) of the *Charter*.

Issues: Did the trial judge err in excluding the Certificate of Analysis?

Result:

Appeal dismissed. Although the trial judge erred in finding a breach of Mr. Spin's *Charter* rights undermined the reliability of the Certificate of Analysis, the Court of Appeal undertook its own s. 24(2) analysis and concluded that the admission of the evidence would bring the administration of justice into disrepute and, despite the error by the trial judge, the evidence ought to be excluded.

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| <p><i>This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 16 pages.</i></p> |
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