

NOVA SCOTIA COURT OF APPEAL

Citation: R. v. Delorey, 2004 NSCA 95

Date: 20040803

Docket: CAC 209338

Registry: Halifax

Between:

Jeffrey Leo Delorey

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Fichaud

Appeal Heard: June 16, 2004

Subject: Criminal law - expert evidence - exclusion of evidence under s. 24(2) of **Charter** - substitution of conviction by appeal court

Summary: Trial judge had ruled that expert evidence needed to establish reliability of blood alcohol analyzer and acquitted. Summary Conviction Appeal Court reversed and substituted a conviction.

Issue: Is expert evidence needed to establish reliability of the instrument? Should hospital evidence have been excluded under s. 24(2) of the **Charter**? Should Appeal Court substitute a conviction for an acquittal, or order a new trial?

Result: Expert evidence not legally required to establish the reliability of the instrument. Hospital evidence not to be excluded under s. 24(2) of **Charter**. Appeal court may substitute a conviction if the trial court has made all the findings of fact needed for a conviction.

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 13 pages.