

CASE NO.**VOL. NO.****PAGE**

HER MAJESTY THE QUEEN

- and -

NATHANIEL JAMES HAYDEN

Appellant

Respondent

CAC 171166

Halifax, N.S.

OLAND, J.A. (Orally)

[Cite as: R. v. Hayden, 2002 NSCA 7]**APPEAL HEARD:**

January 15, 2002

JUDGMENT DELIVERED:

January 15, 2002

WRITTEN RELEASE OR ORAL:

January 15, 2002

SUBJECT: Sentencing**SUMMARY:**

The Crown seeks leave to appeal, and if granted, appeals the sentence imposed upon the respondent who had been found guilty of dangerous driving. The sentencing judge discharged the respondent on conditions, prohibited him from operating a motor vehicle for six months, and fined him \$3,000.00.

ISSUE:

Whether the sentencing judge could both grant a conditional discharge and impose a fine.

RESULT:

Leave to appeal is granted, the appeal is allowed, and the sentence varied by setting aside the order to pay a fine. Section 730 of the **Criminal Code** stipulates that an offender discharged of an offence is deemed not to have been convicted. However, under s. 734 a fine is a sentence premised on a conviction.

<p>THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S JUDGMENT. QUOTES MUST BE FROM THE JUDGMENT, NOT FROM THIS COVER SHEET. THE FULL COURT JUDGMENT CONSISTS OF 3 PAGES.</p>
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