

CASE NO.

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IN THE PROVINCIAL COURT FOR THE PROVINCE OF NOVA SCOTIA
[Cite as: **R. v. Boyce, 2004 NSPC 33**]

BETWEEN:

HER MAJESTY THE QUEEN

Versus

SHAWN EDWARD BOYCE

Associate Chief Judge R.
Brian Gibson

Dartmouth, Nova Scotia

2004 NSPC 33

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HEARD: April 15, 2003
March 29, 2004
March 30, 2004
March 31, 2004

DECISION DATE: May 21, 2004

SUMMARY On July 19, 2002 at approximately 10:30 p.m., the accused was driving his all terrain vehicle (ATV) on a recreational trail toward the intersection of that trail with the highway when he was stopped by the police pursuant to Section 17 of the **Off Highway Vehicles Act**. The police, who did not recognize the accused when they first observed him, had a concern that the accused was about to operate his ATV on the highway in contravention of Section 12 of the **Off Highway Vehicles Act**. They stopped the accused to advise him about his obligations under Section 12. The stop subsequently led to a criminal investigation and charges under Section 253(a) and (b) of the **Criminal Code**. The accused alleged that the stop was random and that he was arbitrarily detained thereby violating his Section 9 **Charter** right.

RESULT: Held that the stop amounted to a detention, however the police had articulable cause to initially detain the accused and the detention was thereby ruled not to be arbitrary. A finding of articulable cause for the detention left it unnecessary to determine whether Section 17 of the **Off Highway Vehicles Act** authorizes random stops and, if so, whether such authority is a reasonable limit of the Section 9 **Charter** right pursuant to the provisions of Section 1 of the **Charter**.

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