

IN THE PROVINCIAL COURT OF NOVA SCOTIA

Citation: R. v. Jessome, 2006 NSPC 65

Date: 20061215

Docket: 1482270

1482271

Registry: Sydney

Between:

Her Majesty the Queen

v.

John Perry Jessome

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Judge: The Honourable Judge A.P. Ross

Heard: June 9, 2006 and October 18th, 2006 in Baddeck, Nova Scotia

Summary: The accused was stopped on the Cabot Trail on suspicion of impaired driving. He had crossed the center line and been observed to weave within his lane. He staggered back to the police car, spoke with a slur, had red eyes, and became agitated when put under arrest and told he would have to give a breath sample. He did not refuse, but no sample was obtained. He was charged under s.253(a).

The accused was found guilty. The degree of impairment and the requirements of proof are discussed in the context of R. v Stellato and R. v Andrews. The evidence is discussed in terms of “conduct evidence” and “non-conduct” evidence. Conduct evidence is itself discussed in terms of “driving evidence” and “non-driving” evidence.

Non-expert opinion evidence is considered. While not creating a special category of evidence, extra weight was given to the opinion of

a qualified technician who had, in the course of his police duties, administered many breath tests on persons who simultaneously displayed indicia of impairment. His view of impairment, and relative level of impairment, was deemed worthy of more weight than the usual non-expert opinion of a regular police officer or civilian. R. v. Graat discussed.

The importance of evidence which compares the conduct or appearance of the accused to some described standard or baseline is emphasized. Here, this included description of the accused as he appeared at subsequent court sessions.

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