

IN THE PROVINCIAL COURT OF NOVA SCOTIA

Citation: R. v. Crawley, 2009 NSPC 72

Date: 2009 Dec 18

Docket: 1981202

Registry: Halifax

Between:

Her Majesty the Queen

v.

Kyle Andrew Crawley

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Judge: The Honourable Associate Chief Judge R. Brian Gibson

Heard: September 1, 2009 and November 2, 2009 in Dartmouth, Nova Scotia

Written Decision: December 18, 2009

Subject: The accused, who was operating a motor vehicle at Westphal, Nova Scotia on October 26, 2008 was charged with an offence contrary to S.259(4) of the **Criminal Code** for allegedly violating a driving prohibition order issued in Ontario on December 20, 2007 as a result of a conviction for an offence committed in Ontario contrary to S.249.1 of the **Criminal Code**.

Issue: Whether the Crown, in proof of the S.259(4) charge, had established that the Ontario Court of Justice, when issuing the Prohibition Order, complied with the requirements of S.260(1) of the **Criminal Code**.

Result: The Court, relying on R. v. Molina (2008) 231 C.C.C. (3d) 193, held that proof of compliance with the provisions of S.260(1) is a pre-condition for proof of a S.259(4) driving while disqualified charge. In this case the Crown failed to prove S.260(1) compliance leading to

a not guilty verdict. Also considered was whether the crown was entitled to rely upon the “presumption of regularity” to cure deficiencies in the Prohibition Order relative to the provision of full information about S.259(4) as required by S.260(1)(c). Held that in this case the Crown was not entitled to rely upon the “presumption of regularity”.

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