PROVINCIAL COURT OF NOVA SCOTIA
Citation: R. v. MacNeil, 2012 NSPC 100

Date: 20121005
Docket: Docket Number 2360997
Registry: Sydney

Between:

Her Majesty the Queen

v.

Gerald Paul MacNeil

Judge:	The Honourable Judge Jean M. Whalen
Heard:	October 3, 2012 and October 25, 2012 In Sydney, Nova Scotia
Written decision:	November 21, 2012
Charge:	Section 253(1)(a) *Criminal Code of Canada* Section 264.1(1)(a) *Criminal Code of Canada*
Counsel:	Steve Drake, for the Crown William Burchell, for the Defence

By the Court:

INTRODUCTION:

[1] Mr. MacNeil faced charges pursuant to s. 253(1)(a), s. 254(5), s. 430(4) and s. 264.1(1)(a). On February 21, 2012 he changed his plea to guilty to s. 253(1)(a) and s. 264.1(1)(a). The court heard some facts and imposed a one year driving prohibition. The remainder of the sentence was adjourned for preparation of a pre-sentence report and to call medical evidence.

FACTS:

[2] On August 22, 2011 at 4:30 p.m. the police received a dispatch from a civilian witness who was following a car that he described as "all over the road, swerving, crossing the centre line and going the wrong way in the street".

[3] The police arrived at Edward Street and found a lone male in the driver's seat of a motor vehicle. He showed the usual signs of impairment. He was asked to step out of the vehicle and "could barely stand without assistance".

[4] The police observed two bottles of alcohol in the front passenger seat (750 ml. vodka and 200 ml. rum). The defendant became agitated with the police, yelling at them and refusing to listen. He smashed his head against the police cruiser window and kicked the door.

[5] On August 24, 2011 the police attended the home of Mr. MacNeil and spoke with his wife. She reported he was threatening to harm himself and acting erratically. She stated he had been drinking for seven days and left the house with "pull ties" on his neck. She advised her husband was an alcoholic who goes on binges. She had driven him to the Glace Bay Legion and returned home and called police.

[6] The police located the defendant in a field on his stomach with a plastic bag. He gave his name as Gerry MacNeil when asked. He had a quart bottle of alcohol in his possession.

[7] He was combative, banging his head off the police cruiser and told the police officer "I have a gun. I'll shoot you, unless you shoot me". The defendant was searched but no gun was found. He was taken into custody. Mr. MacNeil told the officer if he was released he would "get a gun and kill the first police officer I see".

[8] During the sentencing hearing Paula McMullen-Beaton, a clinical therapist, testified that Mr. MacNeil began attending community-based counselling on October 12, 2011 and thereafter, nine appointments to April 11, 2012.

[9] She stated Mr. MacNeil was motivated to examine the reasons he consumed alcohol and discussed his childhood history, and current life circumstances. Mr. MacNeil, she says, is committed to remaining alcohol free and has been reading Alcoholics Anonymous literature. Ms. McMullen-Beaton could not say if he has attended any meetings and cannot comment on any mental health issues as she does not work for mental health.

[10] She advised Mr. MacNeil did not cancel any appointments, missed no appointments, nor was there any evidence of a relapse.

[11] Mrs. Elaine MacNeil, wife of the defendant, testified she called the police on her husband as she "feared for his well being". She described her husband as kind, quiet, and a good provider. He does not miss work. When he drinks he becomes loud and obnoxious, "totally out of character", "I think it's a reaction and it causes problems". He has had several long periods of sobriety (the last being eleven years). He does attend Alcoholics Anonymous meetings, the last one was Tuesday (of last week - September 25).

[12] Since these charges her husband has had nothing to drink, he is very motivated to remain sober. He began seeing Dr. Munchi in April / May, 2012 on a regular basis. His next appointment is next week.

[13] On cross-examination she agreed drinking hasn't interfered with his job or their relationship. The only time there is a problem is if he drinks. This is brought on by a trigger (eg. supervisor difficulties). She cannot speak about any childhood issues that would trigger his drinking. In the last three to four years he has drank only three times.

[14] The defendant, Mr. MacNeil, testified that all his family including siblings have an issue with alcohol, resulting in serious health problems and even death. He acknowledges he can't even have a "sip". He did not drink while he was on probation in 2002. While at the mental health unit in August 2011, Mr. MacNeil got the number for Addiction Services and called them. Mr. MacNeil says he has no problem abstaining from alcohol for long periods of time, then there may be a "trigger". Even before counselling he had no problem abstaining. He has no health related issues to alcohol. Mr. MacNeil stated a curative discharge would assist him by motivating him to work towards making him a "stronger" person and he would have no criminal record. [This is incorrect as Defendant has six convictions; one for drinking and driving.]

ISSUE:

[15] Should Mr. MacNeil be granted a curative discharge pursuant to s. 255(5) of the Criminal Code of Canada.

THE LAW:

[16] Section 255(5) of the *Criminal Code of Canada* states:

> (5) Conditional discharge - Notwithstanding subsection 730(1), a court may, instead of convicting a person of an offence committed under section 253, after hearing medical or other evidence, if it considers that the person is in need of curative treatment in relation to his consumption of alcohol or drugs and that it would not be contrary to the public interest, by order direct that the person be discharged under section 730 on the conditions prescribed in a probation order, including a condition respecting the person's attendance for curative treatment in relation to that consumption of alcohol or drugs.

[17] The burden is on Mr. MacNeil to meet the provisions of s. 255(5) and the burden is one of a balance of probabilities.

[18] The leading case is *R. V. Ashberry*, 47 C.C.C. (3d) 138 and case law has evolved from it over the years. *Ashberry* refers to considerations relevant to whether a curative discharge is granted or not.

[19] Justice Griffiths at paragraph 70 states:

> **When is a Discharge for Curative Treatment "Not Contrary to the Public Interest"?**
>
> 70 Parliament has framed the criteria in s. 255(5) of the Code in a positive fashion with respect to the offender, placing the primary emphasis on the need of the offender for curative treatment and only in a negative fashion with respect to the public interest, in that the discharge must not be contrary to the public interest. If the court could be satisfied on the evidence that curative treatment would guarantee that the offender would never again drive a motor vehicle while under the influence of alcohol, then obviously a discharge would be in the public interest. The difficulty is that such absolute assurances can rarely, if ever, be given by those charged with the care and treatment of the alcoholic. However, in those narrow circumstances where the evidence demonstrates that the accused is in need of curative treatment and that his or her rehabilitation is probable, then it would not be contrary to the public interest to grant a discharge subject to stringent terms of probation.
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> 71 Among the considerations relevant to the questions of whether a given case is sufficiently exceptional to warrant recourse to the curative treatment/conditional discharge provisions of s.255(5) of the Code are:
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> > 72 (a) The circumstances of the offence and whether the offender was involved in an accident which caused death or serious bodily injury. The need to express social repudiation of an offence where the victim was killed or suffered serious bodily injury will generally militate against the discharge of the offender. Parliament has seen fit to expressly provide for more onerous sentences in those cases (s. 255(2) and (3)).

73 (b) The motivation of the offender as an indication of probable benefit from treatment. One can expect that a person facing a sentence of imprisonment may quite readily agree that he or she will take treatment for alcoholism and give up alcohol. The important questions is the bona fides of the offender in giving such an undertaking. The efforts of the offender to obtain treatment before his or her conviction is of some importance. If the offender has a history of alcohol related driving offences and has never before sought treatment for his or her condition, then one may regard with some suspicion his or her efforts to obtain treatment at this stage, when faced with a probable term of imprisonment.

74 (c) The availability and calibre of the proposed facilities for treatment and the ability of the participant to complete the program.

75 (d) A probability that the course of treatment will be successful and that the offender will never again drive a motor vehicle while under the influence of alcohol.

76 (e) The criminal record, and in particular the alcohol-related driving record, of the offender. Normally, where the offender has a previous record of alcohol-related driving offences there is a high risk of the offence being repeated and a greater need for a sentence emphasizing specific and general deterrence. The offender with a previous bad driving record will obviously have a higher burden of satisfying the court that his or her case is exceptional and that a discharge with curative treatment is appropriate and in the public interest.

77 However, if all other conditions are met, specifically where the evidence establishes both the need for treatment and the probability of rehabilitation, the offender's bad driving record should not by itself deprive the offender of the remedy of a discharge with appropriate safeguards imposed as conditions of probation under s.255(5) of the Code. The multiple offender may well be a more suitable candidate for curative treatment because of his or her chronic alcoholism or drug addiction. In addition, the fact that he or she has on a number of prior occasions received fines or sentences of imprisonment may lead the court to

> conclude that these penalties have had no deterrent effect on the offender and that the public interest would best be served by directing curative treatment under a formal supervised program.
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> 78 One should not overlook the fact that the principle of specific deterrence is not undermined by granting a conditional discharge under s. 255(5), having regard to the strict obligations imposed on the offender under the probation order and the consequences attendant on a breach by the offender of any of these terms. Unlike s. 736, s. 255(5) of the Code does not provide for absolute discharges. The offender who is discharged will always be subject to a probation order with the mandatory condition that he or she attend for curative treatment and, in addition, he or she should be subject to other stringent conditions to afford a measure of protection to the public. The offender should be ordered as a term of his probation to abstain from the consumption of alcoholic beverages, and will be subject to a mandatory order prohibiting him or her from driving under s. 259(1) of the Criminal Code. Under s. 26(3) of the Highway Traffic Act, R.S.O. 1980 c. 198, the court is empowered to extend the licence suspension imposed under that Act for up to three years if it is desirable for the protection of the public. The reported cases with respect to conditional discharges under s. 255(5) indicate that those courts which have granted discharges have ordered probation for periods of between two and three years, usually much longer terms than would be imposed as terms of imprisonment. With respect to the consequences of a breach of probation, I agree with the observation of Tallis J. In R. v. *Beaulieu*, supra, where he said at p. 349:

Under the foregoing section [s. 736(4) of the Code] it is very clear that if the accused fails to abide by the conditions of a probation order the discharge granted can be evoked and the Court may convict him of the offence to which the discharge relates and impose any sentence that could have been imposed if the accused had been convicted at the time he was discharged. I refer to the aforementioned provisions of the *Criminal Code* because it clearly indicates that

any breach by the accused of the terms of his conditional discharge can result in being brought back before the Court for an appropriate sentence. In other words, the effect of failure to comply with or observe the conditions of the probation order carries with it very serious consequences for the appellant and in my view, this offers some measure of protection to the public.

[20] In *R. v Pearson*, 2010 N.S.P.C. 14, J. Campbell discusses the curative discharge provision beginning at para 23:

> Curative discharge provision:
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> 23 The curative discharge provision has been referred to as being an anomaly. It seems to not make sense that when the law seeks to deter drunk driving and make it clear that it is a criminal offence, there is an "out".
>
> 24 It could be argued that it is simply not fair. A person with no alcohol addiction or problem, who has, on one night, underestimated his or her level of consumption ends up with a fine, a driving prohibition and a criminal record. A person who does the very same thing, who has an alcohol problem, can be discharged. That can be difficult to square with the importance of deterrence and the need for strong sanctions.
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> 25 The law recognizes however, that deterrence and strong sanctions are not the only way to protect the public against drunk drivers. There are those situations where a fine and driving prohibition will have the desired effect. Sometimes jail time has to be introduced. Even with those penalties, courts see repeat drunk driving offenders. For them, traditional sanctions of fines and imprisonment seem to have made little impact. Each time they drive the public is placed at risk.
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> 26 The law recognizes that there are times when treatment, along with the incentive of a discharge can provide better long term protection to the public than

fines or imprisonment. A fine and a driving suspension may do little to deter a first time offender who is addicted to alcohol. He or she can usually expect a minimum fine of $1000.00, a one year driving prohibition, a criminal record and non-court imposed consequences such as higher insurance premiums. The untreated alcoholic may be undeterred from driving while drunk again. Court ordered treatment, with a driving suspension and the motivation that comes with knowing that the discharge is conditional, may result in a potential drunk driver being taken off the road permanently.

27 The court has to balance the continuing need for strong sanctions, with that positive potential. There will be times when the sanctions are simply more important. When a person has been involved in an incident where there has been damage to property or injury to another person the need for a strong statement may trump the potential for treatment. When the person has a record of such offences, that can be an issue as well.

28 The prospect of time in jail can have redemptive power that is either apparent or real. Those who find themselves facing jail time may, for a time, become the most fervent of abstainers. A person may make the application simply as a way to avoid the more severe penal sanctions. The extent to which the commitment is a sham or is sincere is important is assessing the prospects of success. The person has to show that he or she is in earnest about obtaining treatment and has to show on the balance of probabilities that there is a reasonable prospect that the treatment will be successful.

29 If the reasonable prospect for a positive outcome has not been shown, there is little reason for deterrence to make way for treatment. That does not mean, of course, that it must be shown that the treatment will be likely to succeed. A reasonable prospect is not the same as a probability.

30 There is another aspect to the curative treatment provision that can, to some extent, achieve a compromise between deterrence and treatment. Treatment is not without consequences for the person involved. Rather than simply paying a fine and resuming his or her lifestyle, the person can be under court supervision for some considerable time. Many may prefer to take the punitive sanctions rather than be required to spend many months attending counselling with the requirement that they entirely abstain from the consumption of alcohol. A curative discharge is in that respect, not a "pass".

31 The curative discharge provision is an anomaly, but only to some extent. The deterrence and strong sanctions required to respond to drunk drivers are intended to protect the public. The curative discharge provision must be considered within that context. A curative discharge is not grant of absolution but another tool in achieving the goal of public protection.

32 It should be used only when it can be reasonably shown to be potentially effective and in circumstances where it does not feed the misconception that drunk driving is not a serious criminal offence.

[21] In *R v Beaulieu*, 53 C.C.C. (2d) 342, Mr. J. Tallis stated:

8 In most cases, one would expect medical and lay evidence outlining in detail the accused's condition. Furthermore, in considering the public interest there should be evidence before the court, preferably from a medical practitioner, indicating that a careful assessment of the accused has been made and also indicating on the balance of probabilities that the accused is well motivated and has a reasonable chance of overcoming his alcoholism and related problems.

9 In my opinion parliament intended that the court should carefully consider the medical condition of an accused and his need for curative treatment when an application is made under section 236(2) of the Criminal Code. The public interest must be given careful consideration because legislation such as section 236(1) was passed with a view to protecting the public from the hazards associated with drivers who have been drinking. The right or licence to drive a motor vehicle carries with it certain responsibilities and one of those responsibilities is to refrain from driving a motor vehicle while in violation of section 236 of the Criminal Code.

10 From the foregoing it will be seen that the court is charged with the heavy responsibility of weighing the various factors to be considered when sentencing and striking a proper balance between them in any given case. In dealing with the general principles of sentencing I can do no better than to quote from the

unreported judgment of the British Columbia Court of Appeal in *R. v. Shaffer*, unreported, October 18th, 1979, C/A 790230, pp. 9 and 10 [now reported at 50 C.C.C. (2d) 424, at 429]:

> "The principles of sentence have been expressed a countless number of times in various ways. Generally, they relate to the following:
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> 1. the protection of the public;
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> 2. the punishment of the offender;
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> 3. the deterrent effect of the punishment not only on the offender but others who might be tempted to commit such an offence;
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> 4. the reformation and rehabilitation of the offender.
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> How much emphasis will be placed on each of these principles will depend on many circumstances and will, obviously, vary from case to case. In some cases the major, if not the only, concern will be the protection of the public and little, if any, concern will be given to the reformation and rehabilitation of the accused. In other cases the emphasis will be altered. How much weight will be attached to any of these principles will depend on a number of things including (a) the degree of premeditation involved; (b) the circumstances surrounding the commission of the offence;(c) the nature of the crime and the gravity of it; (d)the attitude of the offender after the commission of the crime; (e)the previous criminal record, if any, of the offender; (f) the age, mode of life, character and personality of the offender; (g) any recommendation of a probation officer; and (h) character references. See *R. v. Hinch and Salanski* [1968] 3 C.C.C. 39, 2 C.R.N.S. 350, 62 W.W.R. 205.

11 Having regard to the plain language of section 236(2) I do not think that a Court can now assume that a conditional discharge is not in the best interests of society. Once this section has been proclaimed in a jurisdiction, the Court is entitled to assume that adequate facilities will be provided for curative treatment. In some cases the evidence adduced may indicate that appropriate therapy or curative treatment will probably result in the accused overcoming his problems with alcohol. If such is the case, it is probably in the best interests of society to take that route because such a solution is clearly preferable to repeated incidents of impaired driving which are not deterred by jail terms imposed on a person suffering from chronic alcoholism. In such cases society is only protected when the offender is in jail. In any given case the public interest may best be served by curative treatment as long as proper safeguards are imposed. Each case must be judged on its own merits. If rehabilitation is accomplished, then the public will be protected in the future.

[22] In *R. v Storr*, C.J.A. Fraser stated in paragraph 13:

Furthermore, in considering the public interest there should be evidence before the Court, preferably from a medical practitioner, indicating that a careful assessment of the accused has been made and also indicating on the balance of probabilities that the accused is well motivated and has a reasonable chance of overcoming his alcoholism and related problems.

14 However, it is evident from these factors that Tallis J. was not purporting to give an exhaustive list of those factors which properly enter into an assessment of whether a curative discharge is contrary to the public interest.

15 The defence also relies on *R. v. Wallner* (1988), 9 M.V.R. (2d) 7 [62 Alta. L.R. (2d) 111], a decision of the Alberta Court of Appeal. But there, too, we do not read Stevenson J.A.'s comments as attempting to provide a complete list of the factors to be taken into account in addressing this issue. In fact, we note two points about that case. First, Stevenson J.A. made it clear that the Court was not invited to attempt to formulate guidelines for the curative discharge and specifically refrained from doing so. Second, in any event, it is apparent that in addition to the considerations identified by Tallis J., Stevenson J.A. added at least one additional factor to the analysis in evaluating the public interest: is there a real

> risk of recidivism and, if so, then a curative discharge would be contrary to the public interest.
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> 16 The curative discharge provision of the Criminal Code focuses on one purpose - the rehabilitation of the accused. As Ayotte J. noted in *R. v. Stupar* (1990) 26 M.V.R. (2d) 81 (Alta. Prov. Ct.) [p. 83]:
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> > It will be seen immediately that this provision, unlike its companions in the fight against the impaired driver, attempts to encourage treatment rather than to threaten detection and punishment. How are we to interpret this island of rehabilitation floating, as it were, in a sea of deterrence?
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> 17 Without attempting to provide a complete list of considerations that should be taken into account in assessing whether a curative discharge would be contrary to the public interest, we are of the view that the trial judge did not give adequate consideration to the following factors, all of which we consider to be relevant in this case.

[23] In *R. v Harding*, 1999 N.S.C.A. 48, J. Cromwell writing for the appeal court states at page 3:

> Mr. Harding's background and circumstances are most sympathetic and we have given them careful consideration. However, these are not the only matters that must be taken into account. In cases of drinking and driving offences, general deterrence, that is, the deterrence of others from committing the offence, is an important, if not the paramount, consideration in sentencing: see, e.g. **R. v**. **Biancofiore** (1997), 35 O.R. (3d) 782 (C.A.). Moreover, drinking and driving, as the appellant knows from his own tragic loss of his mother, creates situations of danger to the public at large and from which the public should be protected by the courts. While we must carefully consider the personal circumstances of the appellant, we must also consider and give appropriate weight to the need to deter others and protect the public.

[24] In *R. v Tardiff*, Provincial Court J. Pullan stated at para 47:

The Ontario Court of Appeal, in dismissing the Crown appeals against sentence and upholding the curative discharges imposed at trial, indicated considerations relevant to the question of whether a given case is sufficiently exceptional to warrant recourse to the curative discharge provision. They are:

(a) The circumstances of the offence and whether the offender was involved in an accident which caused death or serious bodily injury . ...

(b) The motivation of the offender as an indication of probable benefit from treatment. ...

(c) The availability and calibre of the proposed facilities for treatment and the ability of the participant to complete the programme.

(d) A probability that the course of treatment will be successful and that the offender will never again drive a motor vehicle while under the influence of alcohol.

(e) The criminal record and, in particular, the alcohol-related driving record of the offender. ...(at p. 162)

48 It must be noted that these considerations are merely guidelines that a trial judge should consider and not a test that an accused must meet. The common sense considerations are not additional requirements but simply a guide for applying the two statutory conditions (*R. v. Debaie* (1991) 35 M.V.R. (2d) 288 (N.S.Co.Ct.), at p. 292).

49 The interpretation of the curative discharge provision is complicated by the fact that it is an "island of rehabilitation floating, as it were, in a sea of deterrence" (*R. v. Stupar* (1990), 26 M.V.R. (2d) 81 (Alta. Prov. Ct.), at 83).

> 50 Serious recidivists particularly test the meaning of "public interest" in the context of this section.

ARGUMENTS:

[25] Mr. Burchell argues that the Defendant struggles with alcohol as did his mother and siblings. It is the only impediment in his life. He has taken steps (after his hospital admission August 24) to get addiction treatment. He recognizes he is an alcoholic.

[26] While on probation in 2002 he abstained. As of August 24, 2011 he has abstained, attending counselling (beginning October 12, 2011) and alcoholic anonymous meetings and has begun to see a psychiatrist (since April / May, 2012). Mr. MacNeil went of his own volition to get help, he was not under the threat of imprisonment. There has been nothing in the Defendant's presentation to suggest he has been drinking. He is motivated to seek treatment and counsel suggests a conditional discharge would be much more onerous than a fine.

[27] Mr. Drake argues that a curative discharge should only be granted in exceptional cases. This is "an everyday impaired driving". Mr. MacNeil is not facing jail; crown is seeking a fine and probation (impaired charge).

[28] The crown agrees the guidelines in *Ashberry* are just that and not binding on the court. In considering the "bona fides" of the defendant Mr. Drake says the defendant doesn't need a curative discharge, he can abstain from drinking and has done so for long periods of time without assistance. This is a typical case. Mr. Drake also argues Mr. MacNeil is not a recidivist, his one and only impaired driving file was in 1992. He urges the court to consider general deterrence and public protection. The defendant has good intentions but they are not good enough.

[29] The crown argues there are no exceptional circumstances here:

I. Defendant already has a record.
II. Defendant is not losing his job.
III. There is no marital / family strife.

[30] "The only issue the defendant faces is that if he does it again and gets caught a curative discharge would nullify the 'Notice of Increased Penalty' and he would not go to jail".

[31] The crown urges the imposition of a period of probation which will achieve what the defendant says he needs, which is assistance with his "drinking".

PREVIOUS CRIMINAL RECORD

[32] Mr. MacNeil has six previous convictions:

1992 - 254 (5)(a)	- $800.00; one year driving prohibition.
May 2002 - 264.1(1)(a)	- conditional discharge - 6 months probation
Oct. 2002 - 129 (a))	- suspended sentence - probation 18 months
733.(1))	- suspended sentence - probation 18 months
249.(l))	- suspended sentence - probation 18 months
Oct. 2006 - 129(a)	- suspended sentence - probation 6 months

[33] Mr. MacNeil has only one previous drinking and driving related offence but testified all the other (five) involved alcohol ("when he drinks he gets in trouble").

ANALYSIS:

[34] In looking at the factors considered by other courts:

a) Circumstances of the offence:

This was a typical motor vehicle infraction. There was no accident, nor injuries.

b) Motivation of defendant:

Mr. MacNeil is not facing jail (1st and only conviction in 1992). He sought services himself in August, 2011; saw a clinical therapist in October, 2011.

He attends Alcoholics Anonymous meetings, and will see a psychiatrist this month. Mr. MacNeil has abstained since offence date and has had long periods of sobriety.

c) Ability to complete program, etc:

The defendant works around his job schedule. He has not cancelled any appointments with clinical therapist.

d) Probability treatment will be successful and defendant will never drive again:

There is no assessment by a doctor or clinical therapist. All the clinical therapist says is defendant is motivated. She offers no opinion that defendant has a reasonable chance of overcoming his other issues or alcohol consumption.

e) Criminal record:

(1) Drinking and driving - 1992.

(5) Other criminal code matters, which defence counsel says alcohol was involved. There are no *Liquor Control Act* offences. Defendant says if he drinks he gets in trouble.

[35] Does the evidence establish both the need for treatment and the probability of rehabilitation? Has Mr. MacNeil shown he is earnest about obtaining treatment on balance of probabilities or that there is a reasonable prospect that treatment will be successful?

FINDINGS:

[36] Based on all of the circumstances before me I do not believe a curative discharge should be granted. Mr. MacNeil is to be commended for seeking assistance and abstaining since August, 2011. However, this is not the first time he has abstained, his last period of sobriety he says was for eleven years, without intervention. Given the prevalence of drinking and driving the court must consider the public interest and the principle of deterrence in the circumstances.

DISPOSITION:

[37] s. 253(1)(a)
$1,500.00 + $150.00 victim fine surcharge + $112.41 court costs
= $1,762.41

s. 264.1(1)(a)
One day in jail - served by defendant's appearance in Court. No victim fine surcharge.

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Dated at Sydney, Nova Scotia, this 21st day of November, 2012.

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Jean M. Whalen, J.P.C.