

IN THE PROVINCIAL COURT OF NOVA SCOTIA

Citation: R. v. Robertson, 2007 NSPC 32

Date: 20070503

Docket: 1676875

Registry: Truro

Between:

Her Majesty the Queen

v.

Christopher Lee Robertson

LIBRARY HEADING

Judge: The Honourable Judge Pamela S. Williams

Trial Heard: March 5, 2007 in Shubenacadie, Nova Scotia

Oral Decision: May 3, 2007

Subject: Failure to comply with an approved screening device demand - Criminal Code of Canada Section 254(2)

Summary: Demand by police officer for sample of accused's breath into a roadside approved screening device made approximately 30 minutes after: a. officer formed reasonable suspicion that accused had alcohol in his body and b. accused had been detained for said purpose. Accused refused to provide sample of his breath and was charged with failure to comply with the demand.

Main Issue: Whether the demand was made forthwith.

Result: There were no unusual circumstances to justify the 30 minute delay from the time the officer formed her reasonable suspicion and detained the accused to the time of making the demand. The Crown had not proven that the demand and provision of the sample were made forthwith, that is, as soon as reasonably possible. The demand was not a valid demand. Whereas it is not an offence to fail to comply with an invalid demand, accused acquitted.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this library sheet.