

**IN THE PROVINCIAL COURT OF NOVA SCOTIA**

**Citation:** R. v. Petrie, 2006 NSPC 53

**Date:** 31 October 2006

**Docket:** 1589108

**Registry:** Halifax

**Between:**

Her Majesty the Queen

v.

Roderick John PETRIE

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**LIBRARY HEADING**

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**Judge:** The Honourable Associate Chief Judge R. Brian Gibson

**Heard:** October 5, 2006 in Dartmouth, Nova Scotia

**Subject:** Admissibility of breath analysis evidence regarding a S.253(b) **Criminal Code** charge where Crown fails to establish reasonable and probable grounds for a S.254(3) breath demand.

**Summary:** **The arresting police officer did not have reasonable and probable grounds to issue a S.254(3) breath demand. The Accused, after receiving advice from legal counsel, provided samples of his breath for analysis of blood alcohol concentration. The Accused alleged that his S.8 and S.9 Charter rights were violated and sought an exclusion of the breath analysis evidence pursuant to S.24(2) of the Charter. The applicability of R. v. Rilling considered.**

**Issue:** **Were the S.8 and S.9 Charter rights of the Accused violated and if so, ought the breath analysis evidence be excluded pursuant to S.24(2) of the Charter.**

**Result:** **The Accused's S.8 and S.9 Charter rights were found to**

**have been violated. The breath analysis evidence was excluded pursuant to S.24(2) of the Charter.**

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
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