

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *R. v. MacDonald*, 2014 NSSC 442

**Date:** 2014-12-17

**Docket:** Hfx No. 426934A

**Registry:** Halifax

**Between:**

Her Majesty the Queen

Appellant

v.

Cullen Edward MacDonald

Respondent

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**Judge:** The Honourable Justice James L. Chipman

**Heard:** December 17, 2014, in Halifax, Nova Scotia

**Oral Decision:** December 17, 2014

**Written Release of Decision:** December 18, 2014

**Subject:** Section 100D(1) of the *Motor Vehicle Act* R.S.N.S. 1989 c. 293 (the "MVA") pertaining to use of hand-held cellular telephone.

**Summary:** The Respondent was acquitted under the above section on the basis that his use of his cellular telephone did not constitute use pursuant to s. 100D(1). On Summary Conviction Appeal, the acquittal was set aside and the Respondent was convicted.

**Issues:** (1) What constitutes "use" under s. 100D(1) of the *MVA*?

**Result:** Section 100D(1) of the *MVA* is not ambiguous and its clear words should be given effect. The purpose in enacting the section was to prevent drivers from being distracted while operating a motor vehicle. Accordingly, "use" should be

given a broad interpretation to include holding a hand-held cellular telephone and looking at it in anticipation of an incoming text message.

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