

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. Legrow, 2007 NSSC 4

**Date:** 20070110

**Docket:** Cr. S.AT. No. 266993

**Registry:** Antigonish

**Between:**

William J. Legrow

Appellant

v.

Her Majesty the Queen

Respondent

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**Judge:** The Honourable Justice Douglas L. MacLellan

**Heard:** October 10, 2006, in Antigonish, Nova Scotia

**Subject:** Criminal Law - Summary Conviction Appeal

**Summary:** Appeal from conviction on charge of care and control of vehicle while over .08. Appellant found asleep in his parked vehicle with engine running. Trial judge found he had rebutted presumption that he was in care and control under Section 258(1)(a) but held that Crown had proven care and control without relying on presumption.

**Issue:** Did trial judge apply proper test to determine if appellant was in care and control of his vehicle when approached by police.

**Result:**

Trial judge applied proper test to facts before him. Case law from Ontario on issue not binding in light of cases from the Nova Scotia Court of Appeal on point. [See *R v. Miller* (1995), N.S.J. No. 28, and *R v. Lockerby* [1999] N.S.J. No. 349]. Appeal dismissed.

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