

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** R v. Norton, 2006 NSSC 359

**Date:** 20061107

**Docket:** S.K. 268924

**Registry:** Kentville

**Between:** Her Majesty the Queen

Plaintiff

v.

Corey William Norton

Defendant

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**Judge:** The Honourable Justice Walter R.E. Goodfellow

**Heard:** November 7, 2006 in Kentville, Nova Scotia

**Written Decision:** November 27, 2006

**Subject:** Summary Conviction Appeal, s. 252(1) **Criminal Code**

**Summary:** A retired policeman and his wife passed by a dark car going at a high rate of speed which pulled over and parked on the side of the road. Subsequently a dark car passed again and driver and passenger felt light impact. Subsequently a motorist detained by police after some searching the police officer was able to find scuff marks on right front tire of a dark vehicle and what appeared to be a scuff mark on one of the tires of the vehicle which was passed. Trial judge not certain if an accident took place. Crown appealed arguing interpretation of judge's decision meant that she may have required an actual collision for there to be an accident.

**Issue:** Did trial judge require collision/contact for an accident? It is not the appellate court's duty to re-try an issue where the trial judge saw and heard the witnesses. It is not for the appellate court to interpret the trial judge's decision where clearly it indicated she was not satisfied beyond a reasonable doubt that an accident had actually taken place. Presumption under the **Criminal Code** with respect to leaving the scene of an accident to escape liability only arises when the trial judge makes a finding that an accident occurred.

**Result:** The Crown's appeal from acquittal dismissed.

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