

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Delaney*, 2009 NSSC 111

Date: 20090325

Docket: Hfx 303424

Registry: Halifax

Between:

Her Majesty The Queen

Respondent

v.

Timothy S. Delaney

Appellant

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Judge: The Honourable Justice M. Heather Robertson

Heard: March 25, 2009, in Halifax, Nova Scotia

Decision: March 25, 2009 (**Orally**)

Written Release: April 8, 2009

Subject: The defence of *due diligence* to the offence of failure to yield pursuant to s. 125(1) of the *Motor Vehicle Act* (pedestrian in a crosswalk)

Summary: The appellant did not yield and drove through a crosswalk where a pedestrian signal was flashing, in the circumstance where the pedestrian stepped off a boulevard three lanes away. The appellant claimed a sudden stop would have resulted in a collision by a vehicle from behind.

Result: The adjudicator erred in failing to consider the defence of *due diligence* and appeared to treat the offence as one of absolute liability. The matter was returned to Provincial Court for a new hearing

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***