

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. MacNeil, 2011 NSSC 73

**Date:** 20110204

**Docket:** PHJSC331346

**Registry:** Port Hawkesbury

**Between:**

Matthew David MacNeil

Applicant

v.

Her Majesty the Queen

Respondent

---

**LIBRARY HEADING**

---

**Judge:** The Honourable Justice Frank Edwards

**Heard:** February 4, 2011 in Port Hawkesbury, Nova Scotia

**Subject:** Criminal Law; Charter ss.8 and 10(b)

**Facts:** Accused charged with impaired driving causing bodily harm after involvement in a serious motor vehicle accident. Police obtain blood samples pursuant to blood demand. Police failed to comply with Code ss.254(3)(a)(ii) and 254(4). Police also infringe accused's 10(b) right to Counsel.

Police later obtain Search Warrant and Production Order related to medical blood samples taken from the accused on the night of the accident. Return on Warrant out of time. Accused alleges s.8 breach re the medical samples.

**Issue:** Admissibility of demand samples and medical samples.

**Result:** Demand samples inadmissible. Failure to comply with Code sections fatal. Even if there had been Code compliance, 10(b) breach would not survive 24(2) analysis.

Medical samples admissible. Warrant to seize lab report upheld. When impugned portions of Information to Obtain excised, there were still sufficient grounds to issue Warrant. Accused's contention that issuing justice misled is rejected. Late return though significant survives 24(2) analysis

**Cases Cited:**     **R. v. Grant** [2009] SCJ No. 32; **B v. Smith** [1991] 1 SCR 714;  
                      **R. v. MacNeil (M) R. v. Noseworth** [1995] O.J. No. 1759; **R.v.**  
                      **Dyment** (1988) 45 CCC (3d) 244 (S.C.C.)

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