

**SUPREME COURT OF NOVA SCOTIA**

**Citation: R. v. Delorey, 2011 NSSC 234**

**Date: 20110613**

**Docket: CR Ant 312887**

**Registry: Antigonish**

**Between:**

**Her Majesty the Queen**

**v.**

**Kyle Anthony Delorey**

---

**LIBRARY HEADING**

---

**Judge:** The Honourable Justice Glen G. McDougall

**Heard:** February 21, 22 and 23, 2011

**Oral Decision:** June 13, 2011

**Written Decision:** June 15, 2011

**Subject:** Dangerous operation of a motor vehicle causing bodily harm: s. 249(3)CC  
Dangerous operation of a motor vehicle causing death: s. 249(4)CC

**Summary:** The accused operated a motor vehicle at excessive speed, on a wet highway, at night, after having consumed alcohol which was estimated to be in the range of 72 mg to 112 mg per 100 ml of blood. There were four other passengers in the vehicle along with the accused driver. One passenger received serious injuries and another died as a result of the injuries he sustained. The accused had been previously convicted on both counts but the Court of Appeal over-turned those verdicts and sent the matter back for re-trial based on the trial judge's incorrect ruling that the accused had a duty to inspect the loaner vehicle's tires prior to taking possession of it from a car dealership.

**Issue:** Was the accused's operation of the motor vehicle, when viewed objectively, dangerous to the public, having regard to all the circumstances and, if so, did his objectively dangerous conduct amount to a marked departure from the standard of care that a reasonable person would observe in the accused circumstances?

**Result:** Guilty on both counts.

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