

SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Prest, 2011 NSSC 244

Date: 20110621

Docket: Ken No. 345579

Registry: Kentville

Between:

Todd Earle Prest

Appellant

and

Her Majesty the Queen

Respondent

LIBRARY HEADING

Judge: The Honourable Justice Gerald R. P. Moir

Heard: May 10, 2011

Subjects: Criminal law: provincial offences; strict liability, defence of due diligence, defence of officially induced error.

Summary: Mr. Prest was convicted of driving while suspended. Unknown to him, the Registrar had suspended his licence after he pleaded guilty to driving without insurance. The prosecutor had misinformed him and the Registrar's notice was waylaid. The trial judge accepted Mr. Prest's evidence. However, she determined that Mr. Prest's error was a mistake of law. Therefore, she rejected a due diligence defence.

Issues: Whether Mr. Prest established the due diligence defence?
Alternatively, whether the evidence supported a defence of officially induced error, which had not been argued before the trial judge?

Result: Summary conviction appeal allowed. The mistake was one of fact and the evidence supported both defences.

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