

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** R. v. Mattatall, 2013 NSSC 31

**Date:** 20130123

**Docket:** CRAD 353948

**Registry:** Annapolis Royal

**Between:**

Her Majesty the Queen

Appellant

v.

Shannon Mattatall

Defendant/Respondent

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**Judge:** The Honourable Justice Charles E. Haliburton

**Heard:** January 8, 2013, in Annapolis Royal, Nova Scotia

**Written Decision:** January 23, 2013

**Subject:** Prosecutorial discretion/ s. 155

**Summary:** Upon a third conviction for impaired driving, the accused was sentenced to 60 days incarceration. S. 155 of the Criminal Code mandates a minimum period of 120 days incarceration. After discussing the authority to supervise prosecutorial discretion, it was determined that the trial judge erred in substituting his discretion for that of the prosecutor.

**Issue:** Prosecutorial discretion/minimum sentences

**Result:** Appeal allowed. Sentence to be imposed is a minimum period of 120 days.

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