

SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Ferguson, 2013 NSSC 191

Date: 20130624

Docket: Bwt.411073

Registry: Bridgewater

Between:

Her Majesty the Queen

Appellant

v.

Pamela B. Ferguson

Respondent

Judge: The Honourable Justice C. Richard Coughlan

Heard: May 29, 2013 at Bridgewater, Nova Scotia

Counsel: Sharon A. Goodwin, for the appellant
Richard W. Norman, for the respondent

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Judge: The Honourable Justice C. Richard Coughlan

Subject: Motor Vehicles; Offence - Use of hand-held cellular telephone.

Summary: The accused while operating a motor vehicle held her cellular telephone in her hand. She was not talking on the telephone, did not have the telephone up to her mouth or ear. She was not texting. The accused was checking Google MapQuest. The judge found checking Google MapQuest on the cellular telephone qualifies as a use. The trial judge adapted a definition of “hand-held cellular telephone” once contained in the *Highway Traffic Act* of Newfoundland and Labrador. Using that definition the judge concluded the accused was not using a “hand-held cellular telephone” and acquitted the accused.

Issue: Was the accused using a hand-held cellular telephone?

Result: On the facts a found by the trial judge the accused was using a hand-held cellular telephone while operating a vehicle on a highway. The appeal is allowed, the appeal is set aside and a conviction entered.

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