

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: R. v. Hayes, 2007 NSSC 74

Date: 20070308

Docket: S.D. 259464

Registry: Digby

Between:

Keith Jerome Hayes

Appellant

v.

Her Majesty the Queen

Respondent

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Judge: The Honourable Justice Allan P. Boudreau

Heard: November 8, 2006 in Digby, Nova Scotia

Written Decision: March 8, 2007

Subject: Criminal Law - Impaired car or control of a motor vehicle.

Summary: Keith Jerome Hayes was found by police sitting on the driver's seat of his snowmobile, asleep and slumped over the steering mechanism. Mr. Hayes was intoxicated. The snowmobile was stationary in the east bound lane of Highway 201 in Nictaux, N.S. It appears the snowmobile had been immobilized at some time due to a problem with the track which propels the machine along the snow and ground. The Trial judge found that Mr. Hayes had care or control of the snowmobile while impaired by alcohol and he found him guilty of that charge. Mr. Hayes contends that he should not have been found to have had care or control in the circumstances. A second issue had arisen at trial because Mr. Hayes was charged on two separate informations with offences under Sections 253(a) and 253(b) of the **Criminal Code**.

The informant on both informations was Constable Harris. He testified that he swore to both informations with one oath only. Mr. Hayes contended that swearing only one oath rendered both informations a nullity. The trial judge ruled that both informations were valid and the trial proceeded on the Section 253 (a) charge only. Mr. Hayes also appeals that ruling.

Issue:

1. Was the information a nullity?
2. Did the trial judge err when he convicted the accused of care or control of a motor vehicle while impaired?

Result:

- Found information was valid.
- Found that no risk or danger established.
- Allowed appeal and acquitted.

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